

# ArbiterSports

## Terms of Service

Monday, November 05, 2012

### TERMS AND CONDITIONS

This web page is a legal document (this "*Agreement*") between you (the "*Subscriber*") and the Company (defined below). This Agreement states the terms and conditions under which you may use the ArbiterSports Web Site (defined below). Please read this Agreement carefully before accessing and using the ArbiterSports Web Site. By using and accessing the ArbiterSports Web Site, you agree that you have read and understand this Agreement and further agree to be bound by this Agreement. If you do not accept this Agreement, do not access and use the ArbiterSports Web Site. The Company may revise this Agreement at any time without notice by updating this Agreement on the ArbiterSports Web Site. Any such revisions made to this Agreement shall be effective immediately upon posting to the ArbiterSports Web Site. You should visit this web page periodically to review this Agreement. Your continued use of the ArbiterSports Web Site means that you accept and agree to any revisions to this Agreement. If you disagree with this Agreement (as amended from time to time) or are dissatisfied with the ArbiterSports Web Site, your sole and exclusive remedy is to discontinue accessing and using the ArbiterSports Web Site.

### ARTICLE I: DEFINITIONS

Section 1.01 -- Definitions: The following definitions shall apply:

- (1) Access: The term "access" and variants thereof (including, without limitation, "accessing" and "accessible") shall mean to upload to, store data in, retrieve data from or otherwise approach, display, reproduce, frame, establish a Link to, or make use of (directly or indirectly) through electronic means or otherwise.
- (2) Affiliate: The term "Affiliate" shall mean, with respect to a specified entity, any entity that, directly or indirectly, controls, is controlled by, or is under common control with the specified entity. For this purpose, the term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity.
- (3) ArbiterSports Web Site: The term "ArbiterSports Web Site" shall mean the Web Site which is located on the Internet at [www.arbitersports.com](http://www.arbitersports.com), including without limitation any and all Company Technology used, incorporated, stored or accessible therein, and made accessible to Subscriber through the Internet using the Password.
- (4) Company: The term "Company" shall mean ArbiterSports, LLC, a Utah limited liability company, and its Affiliates, with offices located at 235 W. Segoe Lily Dr., Suite 200, Sandy, UT 84070, and their successors and assigns. References to "Company" shall be interpreted to refer to each of the foregoing companies, as well as to both of the foregoing companies, as appropriate.

- (5) Company Marks: The term "Company Marks" shall mean all trademarks, trade names, service marks and trade dress of the Company, including, without limitation, "ArbiterSports."
- (6) Company Technology: The term "Company Technology" shall mean any and all Technology developed by or for the Company.
- (7) Effective Date: The term "Effective Date" shall mean the date the Subscriber receives the Password from the Company or accesses the ArbiterSports Web Site, whichever occurs first.
- (8) Internet: The term "Internet" shall mean that certain global network of computers commonly referred to as the Internet, including (without limitation) the World Wide Web.
- (9) Link: The term "Link" shall mean text, icons, and graphic symbols that, upon selection or activation, link or associate to, execute, access or retrieve an off-screen Web Site or Technology.
- (10) Password: The term "Password" shall mean that certain password and Subscriber name assigned by the Company to Subscriber for accessing the ArbiterSports Web Site as may be modified from time to time as provided hereunder.
- (11) Policy Statement: The term "Policy Statement" shall mean any written statements of policies (in printed or electronic form) concerning access to the ArbiterSports Web Site as may be adopted or modified by the Company from time to time and posted on the ArbiterSports Web Site.
- (12) Subscriber: The term "Subscriber" shall mean the individual or entity assigned the Password used to access the ArbiterSports Web Site.
- (13) Technology: The term "Technology" shall mean information, data, ideas, works of authorship, computer software, source code, object code, executable code, software libraries, documentation, databases, database designs, data dictionaries, data models, fields, records, scripts, texts, interfaces, interface designs, screen displays, Web Sites, web pages, Links, visual works, graphic images, audio, video, compilations, formulas, methodologies, techniques, processes, procedures, adaptations, derivative works, computers, hardware, peripherals, components, networks, product lists, supplier lists and customer lists.
- (14) Term: The term "Term" shall mean a period of time starting on the Effective Date and ending on the date either party cancels the Password as provided hereunder.
- (15) Unauthorized Access: The term "Unauthorized Access" shall mean any access to the ArbiterSports Web Site other than access during the Term for the exclusive purpose of viewing, browsing, retrieving, uploading and posting information on, and requesting services of the Company through, the ArbiterSports Web Site using the Password on behalf of Subscriber in accordance with this Agreement.
- (16) Unauthorized User: The term "Unauthorized User" shall mean any individual who accesses the ArbiterSports Web Site other than Subscriber and any employees or agents of Subscriber authorized by Subscriber to access the ArbiterSports Web Site for purposes of viewing, browsing, retrieving, uploading and posting information on, and requesting services of the Company through, the ArbiterSports Web Site during the Term using the Password on behalf of Subscriber in accordance with this Agreement.
- (17) Web Site: The term "Web Site" shall mean a multimedia interactive product which is a

compilation of data, information, computer software, graphics, audiovisual, components and coding formatted for use on the world wide web of the Internet and commonly referred to as a web site.

## **ARTICLE II: SCOPE OF USE**

Section 2.01 -- Access: The Company hereby grants Subscriber a non-exclusive, non-transferable and revocable license to access the ArbiterSports Web Site, during the Term, solely for viewing, browsing, retrieving, uploading and posting information on, and requesting products and services of the Company through, the ArbiterSports Web Site, subject to the terms and provisions of this Agreement.

Section 2.02 -- Policy Statement: During the Term, Subscriber shall comply with all Policy Statements, which the Company may modify from time to time in its sole discretion. All Policy Statements and any such modifications shall be effective immediately upon posting to the ArbiterSports Web Site. Subscriber is solely responsible for ensuring Subscriber's compliance with all Policy Statements, as such may be amended from time to time, and should visit the ArbiterSports Web Site periodically to review the Policy Statements of the Company.

Section 2.03 -- Password: Subscriber's right to use the ArbiterSports Web Site is not transferable. Any Password, account identifier or right given to a Subscriber to access the ArbiterSports Web Site and obtain information or use the products and services on the ArbiterSports Web Site is not transferable. Subscriber hereby accepts responsibility for, and shall be solely liable for, all access to the ArbiterSports Web Site in connection with such Password, including, without limitation, any and all actions, omissions, losses and damages occurring in connection with such access. Subscriber shall be solely responsible for maintaining the confidentiality and security of the Password. Subscriber shall immediately notify the Company of any unauthorized use of Subscriber's account or of any other breach of security related to the Password. Modification of the Password shall be subject to the approval of the Company.

Section 2.04 – Compliance; Unauthorized Access: Subscriber agrees to comply, and to ensure the compliance of its Affiliates, officers, directors, members, managers, employees, independent contractors, joint venturers and agents, with the terms of this Agreement and all local, state, and federal laws, statutes, ordinances, and regulations that apply to Subscriber's use of the ArbiterSports Web Site and the products and services offered through the ArbiterSports Web Site. Subscriber shall prevent Unauthorized Users from accessing the ArbiterSports Web Site. Subscriber shall also prevent Unauthorized Access to the ArbiterSports Web Site.

Section 2.05 – Access Limitations; Cancellation: Notwithstanding any other provision of this Agreement, the Company reserves the right to change, suspend, disable access to, discontinue or remove any services, products, content or other materials comprising the ArbiterSports Web Site at any time without notice. Further, the Company reserves the right to cancel the Password, for convenience and in the exclusive discretion of the Company, upon providing written notice of such cancellation to Subscriber in accordance with Section 5.08 of this Agreement. In no event will the Company be liable to Subscriber or any third party for exercising such rights. Upon cancellation of the Password, Subscriber shall immediately cease and desist any and all access to and attempts to

access the ArbiterSports Web Site. Subscriber will remain liable for all amounts due in connection with Subscriber's use of the ArbiterSports Web Site, and any products or services offered through the ArbiterSports Web Site.

Section 2.06 -- Subscriber Submissions: Subscriber understands and acknowledges that Subscriber is solely responsible for all information and materials submitted, transmitted or uploaded to the ArbiterSports Web Site for purposes of using the products and services provided by the Company. Subscriber represents and warrants to the Company that all such information and material (i) is property of Subscriber or is provided with the express permission of the owner of such information or material; (ii) is provided by Subscriber in accordance with any agreements and all laws applicable to Subscriber's collection, use and transmission of such information and material and does not infringe upon or violate the rights of any other party; (iii) is true, accurate, complete and current at all times; and (iv) may be used, stored and relied upon by the Company without liability to Subscriber or third parties. SUBSCRIBER UNDERSTANDS AND AGREES THAT THE SUBMISSION OF ANY SUCH INFORMATION AND MATERIAL IS AT SUBSCRIBER'S SOLE RISK, AND THE COMPANY HEREBY DISCLAIMS ANY AND ALL LIABILITY TO SUBSCRIBER FOR ANY LOSS OR LIABILITY RELATING TO SUCH INFORMATION AND MATERIAL IN ANY WAY.

Section 2.07 -- Privacy Policy: The Company's use of Subscriber's confidential information, and Subscriber's responsibilities in connection with protecting Subscriber's privacy, are described in the Company's "Privacy Policy," which is posted on the ArbiterSports Web Site and is incorporated by reference into this Agreement. The Company may revise the Privacy Policy at any time without notice by updating the Privacy Policy on the ArbiterSports Web Site. Any such revisions made to the Privacy Policy shall be effective immediately upon posting to the ArbiterSports Web Site. You should visit the ArbiterSports Web Site periodically to review the Privacy Policy.

### **ARTICLE III: INTELLECTUAL PROPERTY**

Section 3.01 -- Ownership and Title: The content, organization, graphics, design, compilation, magnetic translation, digital conversion, Company Technology and other matters related to the ArbiterSports Web Site are the property of the Company and are protected pursuant to applicable copyright, trademark and other proprietary and intellectual property rights laws. Subscriber is licensed to use the Company's content, products and services only as specifically set forth herein, and any use outside of or in conflict with the terms of this Agreement is strictly prohibited and may lead to civil and criminal penalties, including possible monetary damages. Subscriber does not acquire ownership rights to any content, document or other materials viewed, created or downloaded through the ArbiterSports Web Site, with the exception of any information and material submitted by Subscriber in connection with Subscriber's use of the ArbiterSports Web Site. The Company's posting of information or materials on the ArbiterSports Web Site does not constitute a waiver of any right in such information and materials.

Section 3.02 -- Unauthorized Use: Subscriber shall not copy or download any material or information from the ArbiterSports Web Site without the prior written consent of the Company. Subscriber shall not access, download, modify, reverse engineer, reproduce, copy, create derivative works from,

display, perform, rent, lease, license, loan, sell or distribute, including without limitation by framing or similar means, the Company Technology without the prior written consent of the Company.

Subscriber will not exploit the ArbiterSports Web Site, the Company Technology, or any material or information from the ArbiterSports Web Site in any unauthorized way whatsoever. Subscriber understands and agrees that the ArbiterSports Web Site and certain products offered through the ArbiterSports Web Site contain security technology. Subscriber understands and agrees that such security technology is an inseparable part of the ArbiterSports Web Site and such products, and shall not violate, circumvent, reverse-engineer, decompile, disassemble or otherwise tamper with any such security technology for any reason or attempt to assist another person to do so. Subscriber shall not, directly or indirectly, promote, advertise, market or provide any Web Site that is similar to or competitive with the ArbiterSports Web Site.

Section 3.03 -- Trademarks: The Company shall retain all rights, title and ownership interests in the Company Marks and goodwill associated therewith. Subscriber shall not download, copy, imitate or use the Company Marks without the prior written consent of the Company. Subscriber acknowledges that, excepting the Company Marks, all other product, service and company names mentioned in the ArbiterSports Web Site may be trademarks of their respective owners.

Section 3.04 -- Proprietary Information: Subscriber shall hold the Company Technology in strict confidence and shall not access or disclose the Company Technology except as otherwise permitted under this Agreement. Subscriber hereby acknowledges and agrees that the Company Technology (i) derives independent economic value (actual or potential) from not being generally known to other persons who can obtain economic value from its disclosure or use and from not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; (ii) is the subject of reasonable efforts under the circumstances to maintain its secrecy; and (iii) is a trade secret as defined under any applicable law.

Section 3.05 -- No Contest: Subscriber shall not contest or aid in contesting the ownership or validity of the technology, copyrights, trademarks, service marks and trade secrets (as applicable) of the Company used in connection with the ArbiterSports Web Site.

#### **ARTICLE IV: WARRANTY AND INDEMNIFICATION**

Section 4.01 -- Express Warranties: Subscriber hereby acknowledges and agrees that the Company, including any officers, directors, members, managers, employees, independent contractors, joint venturers and agents of the Company, have not made or granted to Subscriber any express warranties concerning the ArbiterSports Web Site or any products and services offered through the ArbiterSports Web Site. Subscriber hereby acknowledges and agrees that the ArbiterSports Web Site does not constitute the grant of an express warranty concerning any products and services offered through the ArbiterSports Web Site, and Subscriber hereby waives any and all claims of any such warranty.

SECTION 4.02 -- WARRANTY LIMITATION: THE ARBITERSPORTS WEB SITE, AND ALL INFORMATION, CONTENT, PRODUCTS AND SERVICES CONTAINED OR PROVIDED THEREIN OR THEREBY, ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. THE COMPANY,

TO THE FULLEST EXTENT PERMITTED BY LAW, HEREBY DISCLAIMS AND SUBSCRIBER HEREBY WAIVES, ALL WARRANTIES BY THE COMPANY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF NONINFRINGEMENT OF THIRD PARTY RIGHTS IN CONNECTION WITH THE ARBITERSPORTS WEB SITE AND ALL PRODUCTS AND SERVICES OFFERED THROUGH THE ARBITERSPORTS WEB SITE. THE COMPANY DOES NOT GUARANTEE, REPRESENT OR WARRANT, AND SUBSCRIBER HEREBY WAIVES ANY GUARANTY, REPRESENTATION OR WARRANTY, THAT USE OF OR ACCESS TO THE ARBITERSPORTS WEB SITE BY SUBSCRIBER WILL BE UNINTERRUPTED OR FREE FROM ERROR, LOSS, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING OR OTHER SECURITY INTRUSION, AND THE COMPANY DISCLAIMS ANY LIABILITY RELATING THERETO. FURTHER, SUBSCRIBER AGREES THAT THE COMPANY MAY FROM TIME TO TIME SUSPEND ACCESS TO THE ARBITERSPORTS WEB SITE FOR INDEFINITE PERIODS OF TIME. THE COMPANY DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY, AND SUBSCRIBER HEREBY WAIVES ANY AND ALL SUCH WARRANTIES, AS TO THE RESULTS OBTAINED FROM USE OF THE ARBITERSPORTS WEB SITE OR ANY PRODUCTS OR SERVICES OFFERED THROUGH THE ARBITERSPORTS WEB SITE, OR AS TO THE ACCURACY, COMPLETENESS, TIMELINESS OR RELIABILITY OF THE ARBITERSPORTS WEB SITE. SUBSCRIBER HEREBY ACKNOWLEDGES AND AGREES THAT USE OF THE INTERNET AND THE ARBITERSPORTS WEB SITE SHALL BE AT THE SOLE AND EXCLUSIVE RISK OF SUBSCRIBER AND SUBJECT TO THE RESTRICTIONS, TERMS AND CONDITIONS, RULES, REGULATIONS, POLICIES, APPLICABLE LAWS AND CODES OF CONDUCT GOVERNING THE INTERNET AND THE ARBITERSPORTS WEB SITE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, THE ABOVE EXCLUSION OF IMPLIED WARRANTIES MAY NOT APPLY TO YOU.

SECTION 4.03 -- LIMITATION OF LIABILITY: IN NO EVENT SHALL THE COMPANY OR ANY OF THE COMPANY'S MEMBERS, MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, INDEPENDENT CONTRACTORS, JOINT VENTURERS OR AGENTS BE LIABLE FOR ANY LOST PROFITS OR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA, LOSS OF BUSINESS, LOSS OF GOODWILL OR OTHER INTANGIBLE LOSSES, IN CONNECTION WITH OR ARISING FROM (I) THE USE, PERFORMANCE OR OPERATION OF THE ARBITERSPORTS WEB SITE; (II) THE USE, PERFORMANCE OR OPERATION OF THE INTERNET; (III) ANY PRODUCTS OR SERVICES OFFERED THROUGH THE ARBITERSPORTS WEB SITE; (IV) THIS AGREEMENT; OR (V) THE CONTENT, ACTIONS OR INACTIONS OF THIRD PARTIES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, AND REGARDLESS OF WHETHER THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE OR WHETHER SUCH DAMAGES ARE REASONABLY FORESEEABLE. BECAUSE SOME JURISDICTIONS DO NOT

ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH JURISDICTIONS THE COMPANY'S LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

SECTION 4.04 -- LIMITATION OF DAMAGES: SUBSCRIBER'S SOLE REMEDY FOR ANY REASON AND FOR ANY CAUSE OF ACTION WHATSOEVER IN CONNECTION WITH THIS AGREEMENT, THE ARBITERSPORTS WEB SITE AND ANY PRODUCTS AND SERVICES OFFERED THROUGH THE ARBITERSPORTS WEB SITE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, SHALL BE REFUNDS OF AMOUNTS PAID TO THE COMPANY, AS DETERMINED BY THE COMPANY.

Section 4.05 -- Indemnification: Subscriber shall release, defend, indemnify and hold harmless the Company and its members, managers, officers, directors, employees, independent contractors, joint venturers and agents, from and against any and all expense, loss, cost or liability (including, without limitation, attorney fees, paralegal fees and court costs) arising from any and all claims, demands, damages or actions arising from or related to (i) misuse by Subscriber of the ArbiterSports Web Site or any products or services offered through the ArbiterSports Web Site (including, without limitation, any claims for breach of contract, loss of data, libel, slander, invasion of privacy or false advertising); (ii) Subscriber's negligence or any criminal or tortious acts (or failures to act) of Subscriber, including, without limitation, Subscriber's violation of the rights of any third party; and (iii) any breach by Subscriber of Subscriber's obligations, or any representations and warranties made by Subscriber, under this Agreement.

Section 4.06 -- Links: Subscriber hereby acknowledges that the ArbiterSports Web Site may contain Links to third party Web Sites. Any such Links are provided solely as a convenience to Subscriber and do not constitute an endorsement by the Company of such Web Sites and the third-party content therein. The Company does not warrant and will not have any liability or responsibility for any third-party Web Sites or for any materials, products or services of third parties. Subscriber agrees that Subscriber will not use any third-party materials or Web Sites in a manner that would violate or infringe the rights of any other party and that the Company is in no way responsible for any such use by Subscriber.

## **ARTICLE V: MISCELLANEOUS**

Section 5.01 -- Entire Agreement: This Agreement, the Company's Privacy Policy, any current or future Policy Statements, and any other notices and agreements posted by the Company on the ArbiterSports Web Site, all as may be amended from time to time in the Company's sole discretion, contain the entire understanding between Subscriber and the Company with respect to the ArbiterSports Web Site and the contents, products and services provided by or through the ArbiterSports Web Site. Subscriber understands that Subscriber may also be subject to additional terms and conditions that may apply when Subscriber accesses or uses third-party content, products, services, or software in connection with Subscriber's use of the ArbiterSports Web Site and the products and services offered through the ArbiterSports Web Site.

Section 5.02 -- Amendments and Modifications: This Agreement may be amended at any time from

time to time by the Company without specific notice to Subscriber. The latest Agreement will be posted on the ArbiterSports Web Site, and Subscriber should review this Agreement prior to using the ArbiterSports Web Site. Excepting modifications made to any Policy Statement by the Company and modifications made to this Agreement by the Company, any alteration, modification or amendment of this Agreement shall be void unless such alteration, modification or amendment is in writing and signed by an authorized representative of the Company.

Section 5.03 -- Severability: If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining provisions shall remain in full force and effect.

Section 5.04 – Statutory Exceptions for Public Institutions: If Subscriber is a qualified public educational or government institution and any part of this Agreement, such as, by way of example, all or part of the indemnification provisions of Section 4.05, is invalid or unenforceable against Subscriber because of applicable state or federal law, then that portion shall be deemed invalid and unenforceable, as the case may be, and instead construed in a manner most consistent with applicable law. If the laws of the State of Utah are precluded, this Agreement shall be construed under the laws of the state in which Subscriber's public education or government institution is located.

Section 5.05 -- Governing Law: This Agreement shall be governed by the laws of the State of Utah, without regard to any rules of conflict or choice of laws which may require the application of laws of another state, and venue shall be exclusively in Salt Lake City, Utah.

Section 5.06 – Assignment: Subscriber may not transfer or assign this Agreement, in whole or in part, by operation of law or otherwise, without the Company's prior written consent. The Company reserves the right to transfer or assign this Agreement or any right or obligation under this Agreement at any time.

Section 5.07 -- Captions: The headings and captions of this Agreement are inserted for convenience of reference and do not define, limit or describe the scope or intent of this Agreement or any particular section, paragraph, or provision.

Section 5.08 -- Subscriber Notice: All notices to Subscriber shall be in writing. Notices posted conspicuously on the ArbiterSports Web Site or sent to Subscriber electronically, including without limitation via electronic mail, shall be deemed to be written notices. Notices to Subscriber shall be deemed to have been received (i) within 24 hours after the time such notice is posted conspicuously on the ArbiterSports Web Site or when sent to Subscriber electronically, (ii) upon delivery to Subscriber in person or by courier, or (iii) three (3) days after the date mailed by registered or certified mail, return receipt requested.

Section 5.09 -- Company Notice: All notices to the Company shall be in writing and shall be deemed to have been received (i) upon delivery to the Company in person or by courier or (ii) three (3) days after the date mailed by registered or certified mail, return receipt requested, in all cases to the address for the Company set forth below.

Company Address

ArbiterSports LLC  
ATTN: President & CEO  
235 W. Segoe Lily Dr., Suite 200  
Sandy, UT 84070

Section 5.10 -- Pronouns/Gender: Pronouns and nouns shall refer to the masculine, feminine, singular or plural as the context shall require.

Section 5.11 - Remedies: All remedies under this Agreement are cumulative and in addition to any other rights and remedies available to the Company at law or in equity. The parties hereby acknowledge and agree that any breach or threatened breach of this Agreement by Subscriber may cause irreparable injury to the Company for which monetary damages are inadequate, difficult to compute, or both. Accordingly, the parties agree that this Agreement may be enforced by specific performance, injunction or any other equitable remedy, without requiring the Company to post a bond, in addition to any other remedies available to the Company.

Section 5.12 -- Waiver: The Company's waiver of a breach of this Agreement shall not constitute a waiver of any other breach. The Company's waiver of or failure to enforce any provision of this Agreement shall not constitute a waiver of or estop the Company from enforcing such provision or any other provision. Any waiver of a provision of this Agreement shall not be binding unless such waiver is in writing and signed by the waiving party.

Section 5.13 -- Survival: The terms and provisions of this Agreement shall survive cancellation of the Password and the termination of this Agreement.

Section 5.14 -- Public Announcements: All public announcements concerning the Company or the relationship of Subscriber and the Company shall be subject to the prior written approval of the Company.

Section 5.15 -- Arbitration: Any controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled exclusively through final and binding arbitration, rather than in court, in accordance with the rules and procedures of the American Arbitration Association in Salt Lake City, Utah. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Each party shall have the right of discovery as set forth in the Federal Rules of Civil Procedure.

Section 5.16 -- Litigation Expense: In the event of litigation or arbitration arising out of or relating to this Agreement, each party shall pay its own costs and expenses of litigation or arbitration (excluding fees and expenses of arbitrators and administrative fees and expenses of arbitration, the payment of which shall be governed by the rules and procedures of the American Arbitration Association).

Last updated September 15, 2015.

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