

Fast Break Labs, Inc.

Terms of Use Agreement

Last Updated: April 12, 2022

PLEASE READ THIS TERMS OF USE AGREEMENT (“**AGREEMENT**”) CAREFULLY. THIS AGREEMENT IS A LEGAL CONTRACT BETWEEN YOU (“**YOU**,” “**YOUR**” or “**USER**”) AND FAST BREAK LABS, INC. (“**FAST BREAK**,” “**COMPANY**,” “**WE**,” “**OUR**” OR “**US**”).

SECTION 17 OF THIS AGREEMENT IS AN ARBITRATION CLAUSE THAT REQUIRES MOST DISPUTES BETWEEN YOU AND US TO BE RESOLVED ON AN INDIVIDUAL, NON-CLASS ACTION BASIS THROUGH BINDING AND FINAL ARBITRATION INSTEAD OF IN COURT. SEE SECTION 18 FOR MORE INFORMATION REGARDING THIS ARBITRATION CLAUSE, AND HOW TO OPT OUT.

By accessing or using fastbreaklabs.com, or any other website with an authorized link to this Agreement, including but not limited to Fast Break’s companion social media feed (“**Website**”), registering an account or accessing or using any content, information, services, features or resources available or enabled via the Website (collectively, the “**Services**”), or clicking on a button or taking another action to signify your acceptance of this Agreement, you: (1) agree to be bound by this Agreement and any future amendments and additions to this Agreement as published through the Services; (2) represent you are of legal age in your jurisdiction of residence to form a binding contract; and (3) represent that you have the authority to enter into this Agreement personally and, if applicable, on behalf of any company, organization or other legal entity on whose behalf you use the Services. **Except as otherwise provided herein, if you do not agree to be bound by this Agreement, you may not access or use the Services.**

Your use of the Services is also subject to any additional terms, conditions and policies that we separately post on the Services (“**Supplemental Terms**”), including any official rules and regulations associated with a Fast Break Contest (as defined below), which are incorporated by reference into this Agreement. To the extent there is any conflict between this Agreement and the Supplemental Terms, the Supplemental Terms will control.

Subject to Section 17.9 of this Agreement, Fast Break reserves the right to modify this Agreement or its policies relating to the Services at any time, effective upon posting of an updated version of this Agreement or any applicable Supplemental Terms on the applicable Services. You should regularly review this Agreement, as your continued use of the Services after any such changes constitutes your agreement to such changes.

1. HOW FAST BREAK WORKS. Fast Break provides the Services to enable Users to participate in weekly and other time bound fantasy basketball-related contests (“**Contests**”) and win lootboxes, cryptocurrency, NFTs and/or honor based on individual fictional player performances. The rules for any such Contests will be presented to you on the Website, and be considered Supplemental Terms, which are incorporated by reference into this Agreement.

2. **USE OF THE SERVICES AND FAST BREAK PROPERTIES.** The Website, the Services, and the information and content available on the Website and on the Services (each, a “**Fast Break Property**” and, collectively, the “**Fast Break Properties**”) are protected by copyright laws throughout the world. Subject to the terms of this Agreement, Fast Break grants you a limited license to reproduce portions of Fast Break Properties for the sole purpose of using the Services for your personal or internal business purposes. Unless otherwise specified by Fast Break in a separate license, your right to use any and all Fast Break Properties is subject to the terms of this Agreement.

2.1 **Updates.** You understand that Fast Break Properties are evolving. As a result, Fast Break may require you to accept updates to Fast Break Properties that you have installed on your computer or mobile device. You acknowledge and agree that Fast Break may update Fast Break Properties with or without notifying you. You may need to update third-party software from time to time in order to use Fast Break Properties.

2.2 **Certain Restrictions.** The rights granted to you in the Agreement are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit Fast Break Properties or any portion of Fast Break Properties, including the Website, (b) you shall not frame or utilize framing techniques to enclose any trademark, logo, or other Fast Break Properties (including images, text, page layout or form) of Fast Break; (c) you shall not use any metatags or other “hidden text” using Fast Break’s name or trademarks; (d) you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of Fast Break Properties except to the extent the foregoing restrictions are expressly prohibited by applicable law; (e) you shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to “scrape” or download data from any web pages contained in the Website (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Website for the sole purpose of and solely to the extent necessary to create publicly available searchable indices of the materials, but not caches or archives of such materials); (f) you shall not access Fast Break Properties in order to build a similar or competitive website, application or service; (g) except as expressly stated herein, no part of Fast Break Properties may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and (h) you shall not remove or destroy any copyright notices or other proprietary markings contained on or in Fast Break Properties. Any future release, update or other addition to Fast Break Properties shall be subject to the terms of this Agreement. Fast Break, its suppliers and service providers reserve all rights not granted in this Agreement. Any unauthorized use of any Fast Break Property terminates the licenses granted by Fast Break pursuant to this Agreement.

2.3 **Third-Party Materials.** As a part of Fast Break Properties, you may have access to materials that are provided by another party. You agree that it is impossible for Fast Break to monitor such materials and that you access these materials at your own risk.

3. **REGISTRATION.**

1.1 **Registering Your Account.** In order to access certain features of Fast Break Properties you may be required to become a Registered User. For purposes of this Agreement, a “**Registered User**” is a user who has registered an account on the Website (“**Account**”).

1.2 **Registration Data.** In registering an account, you agree to (a) provide true, accurate, current and complete information about yourself as prompted by the registration form (the “**Registration Data**”); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. You represent that you are (i) an Eligible User (as defined below); (ii) of legal age to form a binding contract; and (iii) not a person barred from using Fast Break Properties under the laws of the United States, your place of residence or any other applicable jurisdiction (including any Excluded States).

You are responsible for all activities that occur under your Account. You agree that you shall monitor your Account to restrict use by minors, and you will accept full responsibility for any unauthorized use of Fast Break Properties by any individuals, including any individuals under the ages set forth above. You are responsible for any use of your credit card or other payment instrument (e.g., Apple Pay, Google Pay, and PayPal) by any individual. You may not share your Account or password with anyone, and you agree to (y) notify Fast Break immediately of any unauthorized use of your password or any other breach of security; and (z) exit from your Account at the end of each session. If you provide any information that is untrue, inaccurate, not current or incomplete, or Fast Break has reasonable grounds to suspect that any information you provide is untrue, inaccurate, not current or incomplete, Fast Break has the right to suspend or terminate your Account and refuse any and all current or future use of Fast Break Properties (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. You agree that you shall not have more than one Account per platform at any given time. Fast Break reserves the right to remove or reclaim any usernames at any time and for any reason, including, but not limited to, claims by a third party that a username violates the third party's rights. You agree not to create an Account or use Fast Break Properties if you have been previously removed by Fast Break, or if you have been previously banned from any Fast Break Property.

2. RESPONSIBILITY FOR CONTENT.

2.1 **Types of Content.** You acknowledge that all Content, including Fast Break Properties, is the sole responsibility of the party from which such Content originated. This means that you, and not Fast Break, are entirely responsible for all Content that you upload, post, e-mail, transmit or otherwise make available ("**Make Available**") through Fast Break Properties ("**Your Content**"), and that you and other Registered Users of Fast Break Properties, and not Fast Break, are similarly responsible for all Content that you and they Make Available through Fast Break Properties ("**User Content**").

2.2 **No Obligation to Pre-Screen Content.** You acknowledge that Fast Break has no obligation to pre-screen Content (including, but not limited to, User Content), although Fast Break reserves the right in its sole discretion to pre-screen, refuse or remove any Content. By entering into the Agreement, you hereby provide your irrevocable consent to such monitoring. You acknowledge and agree that you have no expectation of privacy concerning the transmission of Your Content, including without limitation chat, text, or voice communications. In the event that Fast Break pre-screens, refuses or removes any Content, you acknowledge that better will do so for Fast Break's benefit, not yours. Without limiting the foregoing, Fast Break shall have the right to remove any Content that violates the Agreement or is otherwise objectionable.

2.3 **Storage.** Unless expressly agreed to by Fast Break in writing elsewhere, Fast Break has no obligation to store any of Your Content that you Make Available on Fast Break Properties. Fast Break has no responsibility or liability for the deletion or accuracy of any Content, including Your Content; the failure to store, transmit or receive transmission of Content; or the security, privacy, storage, or transmission of other communications originating with or involving use of Fast Break Properties. You agree that Fast Break retains the right to create reasonable limits on Fast Break's use and storage of the Content, including Your Content, such as limits on file size, storage space, processing capacity, and similar limits described on the Website, the App and as otherwise determined by Fast Break in its sole discretion.

3. OWNERSHIP.

3.1 **Fast Break Properties.** Except with respect to Your Content and User Content, you agree that Fast Break and its suppliers own all rights, title and interest in Fast Break Properties. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying any Fast Break Properties.

3.2 **Trademarks.** Fast Break and all related graphics, logos, service marks and trade names used on or in connection with any Fast Break Property or in connection with the Services are the trademarks of Fast Break and may not be used without permission in connection with your or any third-party products or services. Other trademarks, service marks and trade names that may appear on or in any Fast Break Property are the property of their respective owners.

3.3 **Other Content.** Except with respect to Your Content, you agree that you have no right, title, or interest in or to any Content that appears on or in any Fast Break Property.

3.4 **Your Content.** Fast Break does not claim ownership of Your Content. However, when you as a Registered User post or publish Your Content on or in any Fast Break Property, you represent that you own and/or have a royalty-free, perpetual, irrevocable, worldwide, non-exclusive right (including any moral rights) and license to use, license, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, derive revenue or other remuneration from, and communicate to the public, perform and display Your Content (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or later developed, for the full term of any worldwide intellectual property right that may exist in Your Content.

3.5 **License to Your Content.** Subject to any applicable account settings that you select, you grant Fast Break a fully paid, royalty-free, perpetual, irrevocable, worldwide, royalty-free, non-exclusive and fully sublicensable right (including any moral rights) and license to use, license, distribute, reproduce, modify, adapt, publicly perform, and publicly display Your Content (in whole or in part) for the purposes of operating and providing Fast Break Properties to you and to our other Registered Users. Please remember that other Registered Users may search for, see, use, modify and reproduce any of Your Content that you submit to any “public” area of Fast Break Properties. You warrant that the holder of any worldwide intellectual property right, including moral rights, in Your Content, has completely and effectively waived all such rights and validly and irrevocably granted to you the right to grant the license stated above. You agree that you, not Fast Break, are responsible for all of Your Content that you Make Available on or in any Fast Break Property.

3.6 **Username.** Notwithstanding anything contained herein to the contrary, by submitting Your Content to any forums, comments or any other area on any Fast Break Property, you hereby expressly permit Fast Break to identify you by your username (which may be a pseudonym) as the contributor of Your Content in any publication in any form, media or technology now known or later developed in connection with Your Content.

3.7 **Your Account.** Notwithstanding anything to the contrary herein, you acknowledge and agree that you will have no ownership or other property interest in your Account, and you further acknowledge and agree that all rights in and to your Account are and will forever be owned by and inure to the benefit of Fast Break.

3.8 **Your Profile.** Any Content posted by you in your profile may not contain nudity, violence, sexually explicit, or offensive subject matter. You may not post or submit for print services a photograph of another person without that person’s permission.

3.9 **Feedback.** You agree that submission of any ideas, suggestions, documents, and/or proposals to Fast Break through its suggestion, feedback, wiki, forum or similar pages (“**Feedback**”) is at your own risk and that Fast Break has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Fast Break a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the

foregoing rights, in connection with the operation and maintenance of any Fast Break Property and/or Fast Break's business.

3.10

4. **USER CONDUCT.** In connection with your use of the Services, you will not:

(a) Make Available any Content that: (i) is unlawful, tortious, defamatory, vulgar, obscene, libelous, or racially, ethnically or otherwise objectionable; (ii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (iii) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (iv) is violent or threatening, or promotes violence or actions that are threatening to any other person; or (v) promotes illegal or harmful activities;

(b) harm minors in any way;

(c) impersonate any person or entity, including, but not limited to, Fast Break personnel, or falsely state or otherwise misrepresent your affiliation with a person or entity;

(d) Make Available any Content that you do not have a right to Make Available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under non-disclosure agreements);

(e) Make Available any Content that infringes the rights of any person or entity, including without limitation, any patent, trademark, trade secret, copyright, privacy, publicity or other proprietary or contractual rights;

(f) intentionally or unintentionally violate any applicable local, state, national or international law or regulation, or any order of a court;

(g) register for more than one Account or register for an Account on behalf of an individual other than yourself;

(h) stalk or otherwise harass any other User of our Services; or

(i) advocate, encourage or assist any third party in doing any of the foregoing activities in this section.

2. **INVESTIGATIONS.** Fast Break may, but is not obligated to, monitor or review Fast Break Properties and Content at any time. Without limiting the foregoing, Fast Break shall have the right, in its sole discretion, to remove any of Your Content for any reason (or no reason), including if such Content violates this Agreement or any applicable law. Although Fast Break does not generally monitor user activity occurring in connection with Fast Break Properties or Content, if Fast Break becomes aware of any possible violations by you of any provision of the Agreement, Fast Break reserves the right to investigate such violations, and Fast Break may, at its sole discretion, immediately terminate your license to use Fast Break Properties, or change, alter or remove Your Content, in whole or in part, without prior notice to you.

3. **INTERACTIONS WITH OTHER USERS.**

4.1 **User Responsibility.** You are solely responsible for your interactions with other Registered Users and any other parties with whom you interact; provided, however, that Fast Break

reserves the right, but has no obligation, to intercede in such disputes. You agree that Fast Break will not be responsible for any liability incurred as the result of such interactions.

4.2 Content Provided by Other Users. Fast Break Properties may contain User Content provided by other Registered Users. Fast Break is not responsible for and does not control User Content. Fast Break has no obligation to review or monitor, and does not approve, endorse or make any representations or warranties with respect to User Content. You use all User Content and interact with other Registered Users at your own risk.

5. THIRD-PARTY SERVICES. The Services may contain links to third-party services such as third party websites, applications, or ads ("**Third-Party Links**"). When you click on such a link, we will not warn you that you have left the Services. Fast Break does not control and is not responsible for Third-Party Links. Fast Break provides these Third-Party Links only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to them, or any content, products or services accessible through such links. Your use of all Third-Party Links is at your own risk. When you leave the Services, our Agreement and policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Links, and should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

6. PAYMENT.

6.1 Digital Wallet. In order to use the Services, you must link an electronic wallet that allows you to engage in transactions using cryptocurrency (each, a "**Digital Wallet**") on supported bridge extensions. Before engaging in any transactions using cryptocurrency, you must download a supported Digital Wallet bridge extension and use such extension to connect and unlock your Digital Wallet through the Services. Once you engage in a transaction through the Services, your order is passed on to your Digital Wallet via the applicable extension, which completes the transaction on your behalf. ALL TRANSACTIONS INITIATED THROUGH THE SERVICES ARE AFFECTED BY THIRD-PARTY DIGITAL WALLET EXTENSIONS. BY USING THE SERVICES, YOU AGREE THAT SUCH TRANSACTIONS ARE GOVERNED BY ANY TERMS AND/OR POLICIES APPLICABLE TO THE USE OF THE APPLICABLE EXTENSIONS AND DIGITAL WALLETS.

6.2 Payment Processing. Payment processing for any transactions through the Services will be performed by Fast Break's third-party payment processor(s) ("**Payment Processor**") (e.g., card acceptance, merchant settlement, cryptocurrency wallet bridge extensions, and related services). Your use of the Services and the payment processing provided by the Payment Processor is subject to your ongoing compliance with this Agreement. As a condition of using the Payment Processor's payment processing, you must provide accurate and complete information, and you authorize us to share this information with the Payment Processor and to charge your payment method for all amounts that may become due under this Agreement. We may change or add other payment processing services at any time upon notice to you, which may be subject to additional terms or conditions. Fast Break may add or change any payment processing services for the Website at any time, and such services may be subject to additional terms or conditions. Whether a particular cryptocurrency is accepted as a payment method by Fast Break is subject to change at any time in Fast Break's sole discretion.

6.3 Limitations. You agree that you are solely responsible for your conduct while engaging in any transactions using cryptocurrency through the Services. You agree that you will not:

- Provide false or misleading information to Fast Break;
- Use or attempt to use any Digital Wallet that is not your own;
- Use the Services to carry out any illegal activities in connection with or in any way related to your access to and use of the Services, including but not limited to money laundering, terrorist

financing or deliberately engaging in activities designed to adversely affect the performance of the Services; or

- Engage in or knowingly facilitate any “front-running,” “wash trading,” “pump and dump trading,” “ramping,” “cornering” or fraudulent, deceptive or manipulative trading activities.

7. Indemnification. You agree to indemnify and hold Fast Break, its parents, subsidiaries, affiliates, officers, employees, agents, partners, suppliers, and licensors (each, a “**Fast Break Party**” and collectively, the “**Fast Break Parties**”) harmless from any losses, costs, liabilities and expenses (including reasonable attorneys’ fees) relating to or arising out of any and all of the following: (a) Your Content; (b) your use of, or inability to use, any Fast Break Property; (c) your actual or alleged violation of this Agreement; (d) your violation of any rights of another party, including any Registered Users; or (e) your violation of any applicable laws, rules or regulations. Fast Break reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with Fast Break in asserting any available defenses. This provision does not require you to indemnify any of the Fast Break Parties for any unconscionable commercial practice by such party or for such party’s fraud, deception, false promise, misrepresentation or concealment, suppression or omission of any material fact in connection with the Website or any Services provided hereunder. You agree that the provisions in this section will survive any expiration or termination of your Account, this Agreement and/or your access to Fast Break Properties.

8. DISCLAIMER OF WARRANTIES AND CONDITIONS.

8.1 As Is. YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF THE FAST BREAK PROPERTIES AND SERVICES IS AT YOUR SOLE RISK, AND THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITH ALL FAULTS. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE FAST BREAK PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT ARISING FROM THE FAST BREAK PROPERTIES AND SERVICES.

(a) TO THE FULLEST EXTENT PERMISSIBLE BY LAW, FAST BREAK AND ITS PARENTS, SUBSIDIARIES AND AFFILIATES MAKE NO REPRESENTATION OR WARRANTIES OR ENDORSEMENTS OF ANY KIND WHATSOEVER (EXPRESS OR IMPLIED) THAT: (A) THE SERVICES WILL MEET YOUR REQUIREMENTS; (B) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, VIRUS-FREE OR ERROR-FREE; (C) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; OR (D) ANY ERRORS IN THE SERVICES WILL BE CORRECTED.

(b) FAST BREAK DOES NOT WARRANT THAT YOUR ACTIVITIES OR USE OF THE SERVICES, INCLUDING YOUR PARTICIPATION IN ANY CONTEST, IS LAWFUL IN ANY PARTICULAR JURISDICTION AND, IN ANY EVENT, FAST BREAK SPECIFICALLY DISCLAIMS SUCH WARRANTIES. YOU UNDERSTAND THAT BY USING ANY OF THE FEATURES OF THE SERVICES, YOU ACT AT YOUR OWN RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ENSURING THAT YOUR USE OF THE SERVICES, INCLUDING YOUR PARTICIPATION IN ANY CONTEST OR GAME, ARE LAWFUL IN EACH JURISDICTION WHERE YOU ACCESS OR USE THE SERVICES.

(c) THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. FAST BREAK MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES.

(d) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM FAST BREAK OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

(E) FROM TIME TO TIME, FAST BREAK MAY OFFER NEW "BETA" FEATURES OR TOOLS WITH WHICH ITS USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT FAST BREAK'S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

SOME JURISDICTIONS LIMIT OR DO NOT ALLOW THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES SO THE ABOVE DISCLAIMER MAY NOT APPLY TO THE EXTENT SUCH JURISDICTION'S LAW IS APPLICABLE TO THIS AGREEMENT.

8.2 No Liability for Conduct of Third Parties. YOU ACKNOWLEDGE AND AGREE THAT NONE OF THE FAST BREAK PARTIES SHALL BE LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD ANY OF THE FAST BREAK PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF EXTERNAL SITES, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU.

8.3 No Liability for Conduct of Other Users. YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF FAST BREAK PROPERTIES. YOU UNDERSTAND THAT FAST BREAK DOES NOT MAKE ANY ATTEMPT TO VERIFY THE STATEMENTS OF USERS OF FAST BREAK PROPERTIES.

9. LIMITATION OF LIABILITY.

9.1 Disclaimer of Certain Damages. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE FAST BREAK PARTIES SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUE OR FOR INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES OR COSTS DUE TO LOSS OF DATA, PRODUCTION, OR USE, BUSINESS INTERRUPTION OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER OR NOT FAST BREAK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 Cap on Liability. UNDER NO CIRCUMSTANCES WILL THE TOTAL AGGREGATE AMOUNT THAT THE FAST BREAK PARTIES ARE LIABLE TO YOU EXCEED THE LESSER OF (A) THE TOTAL AMOUNT ACTUALLY PAID TO OR PAYABLE TO YOU BY FAST BREAK DURING THE SIX-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY, (B) THE REMEDY OR PENALTY IMPOSED BY THE STATUTE OR REGULATION UNDER WHICH SUCH CLAIM ARISES, OR (C) ONE HUNDRED DOLLARS (\$100).

9.3 User Content. FAST BREAK ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY CONTENT (INCLUDING, BUT NOT LIMITED TO, YOUR CONTENT AND USER CONTENT), USER COMMUNICATIONS OR PERSONALIZATION SETTINGS.

9.4 Basis of the Bargain. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN FAST BREAK AND YOU.

10. TERMINATION. At its sole discretion, Fast Break may modify or discontinue the Fast Break Properties and/or Services, or may modify, suspend or terminate your access to the Fast Break Properties and/or Services (including, without limitation, disqualifying User from a Contest, refusing to award prizes to User or requiring the return of any Prizes), for any reason, with or without notice to you and without liability to you or any third party. In addition to suspending or terminating your access to the Fast Break Properties and/or Services, Fast Break reserves the right to take appropriate legal action, including without limitation pursuing civil, criminal or injunctive redress. Even after your right to use the Fast Break Properties and/or Services is terminated, this Agreement will remain enforceable against you and unpaid amounts you owe to Fast Break will remain due. Upon the expiration or any termination of this Agreement, all provisions which by their nature are intended to survive termination will survive, including

without limitation, ownership provisions, indemnification provisions, warranty disclaimers, and limitation of liability.

11. **INTERNATIONAL USERS.** Fast Break Properties can be accessed from countries around the world and may contain references to Services and Content that are not available in your country. These references do not imply that Fast Break intends to announce such Fast Break Properties and/or Services or Content in your country. Fast Break Properties are controlled and offered by Fast Break from its facilities in the United States of America. Fast Break makes no representations that Fast Break Properties are appropriate or available for use in other locations. Those who access or use Fast Break Properties from other countries do so at their own volition and are responsible for compliance with local law.

12. **PROCEDURE FOR MAKING CLAIMS OF COPYRIGHT INFRINGEMENT.** It is Fast Break's policy to terminate membership privileges of any Registered User who repeatedly infringes copyright upon prompt notification to Fast Break by the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on Fast Break Properties in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (b) a description of the copyrighted work that you claim has been infringed; (c) a description of the location on Fast Break Properties of the material that you claim is infringing; (d) your address, telephone number and e-mail address; (e) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (f) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for Fast Break's Copyright Agent for notice of claims of copyright infringement is as follows: Fast Break Labs Agent, 3175 Hanover St, Palo Alto, CA 94304

13. **DISPUTE RESOLUTION.** *Please read the following arbitration agreement in this Section ("Arbitration Agreement") carefully. It requires you to arbitrate disputes with Fast Break and limits the manner in which you can seek relief from us.*

13.1 **Applicability of Arbitration Agreement.** You agree that any dispute, claim, or request for relief relating in any way to your access or use of the Website, any Fast Break Properties, any Services, or to any aspect of your relationship with Fast Break, will be resolved by binding arbitration, rather than in court, except that (1) you may assert claims or seek relief in small claims court if your claims qualify; and (2) you or Fast Break may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). **This Arbitration Agreement shall apply, without limitation, to all disputes or claims and requests for relief that arose or were asserted before the effective date of this Agreement or any prior version of this Agreement.**

13.2 **Arbitration Rules and Forum.** The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your dispute or claim or request for relief to our registered agent at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims, counterclaims, or request for relief under \$250,000, not inclusive of attorneys' fees and interest, shall be subject to JAMS' most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other disputes shall be subject to JAMS' most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS' rules are also available at www.jamsadr.com or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. If the arbitrator finds that you cannot afford to pay JAMS' filing, administrative, hearing and/or other fees and cannot obtain a waiver from JAMS, Fast Break

will pay them for you. In addition, Fast Break will reimburse all such JAMS' filing, administrative, hearing and/or other fees for disputes, claims, or requests for relief totaling less than \$10,000 unless the arbitrator determines the claims are frivolous.

You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the country where you live or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

13.3 Authority of Arbitrator. The arbitrator shall have exclusive authority to (a) determine the scope and enforceability of this Arbitration Agreement and (b) resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to, any assertion that all or any part of this Arbitration Agreement is void or voidable. The arbitration will decide the rights and liabilities, if any, of you and Fast Break. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's rules, and this Agreement (including this Arbitration Agreement). The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

13.4 Waiver of Jury Trial. YOU AND FAST BREAK HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and Fast Break are instead electing that all disputes, claims, or requests for relief shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 17.1 above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow this Agreement as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

13.5 Waiver of Class or Other Non-Individualized Relief. ALL DISPUTES, CLAIMS, AND REQUESTS FOR RELIEF WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR COLLECTIVE BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If a decision is issued stating that applicable law precludes enforcement of any of this subsection's limitations as to a given dispute, claim, or request for relief, then such aspect must be severed from the arbitration and brought into the state or federal courts located in the State of California. All other disputes, claims, or requests for relief shall be arbitrated.

13.6 30-Day Right to Opt Out. You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to: community@fastbreaklabs.com, within thirty (30) days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, your Fast Break username (if any), the email address you used to set up your Account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

13.7 Severability. Except as provided in Section 17.5, if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.

13.8 **Survival of Arbitration Agreement.** This Arbitration Agreement will survive the expiration or any termination of your relationship with Fast Break.

13.9 **Modification.** Notwithstanding any provision in this Agreement to the contrary, we agree that if Fast Break makes any future material change to this Arbitration Agreement, you may reject that change within thirty (30) days of such change becoming effective by writing to Fast Break at the following address: Fast Break Labs, Inc., P.O. Box 15553, San Francisco, California 94115.

14. GENERAL PROVISIONS.

14.1 **Electronic Communications.** The communications between you and Fast Break may take place via electronic means, whether you visit Fast Break Properties or send Fast Break e-mails, or whether Fast Break posts notices on Fast Break Properties or communicates with you via e-mail. For contractual purposes, you (a) consent to receive communications from Fast Break in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Fast Break provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights, including but not limited to the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq. (“E-Sign”).

14.2 **Assignment.** The Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without Fast Break’s prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

14.3 **Questions, Complaints, Claims.** If you have any questions, complaints or claims with respect to Fast Break Properties, please e-mail us at community@fastbreaklabs.com. We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation.

14.4 **Exclusive Venue.** To the extent the parties are permitted under this Agreement to initiate litigation in a court, both you and Fast Break agree that all claims and disputes arising out of or relating to the Agreement will be litigated exclusively in the state or federal courts located in San Francisco County, California.

14.5 **Governing Law.** THIS AGREEMENT AND ANY ACTION RELATED HERETO WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF CALIFORNIA, CONSISTENT WITH THE FEDERAL ARBITRATION ACT, WITHOUT GIVING EFFECT TO ANY PRINCIPLES THAT PROVIDE FOR THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS DOES NOT APPLY TO THIS AGREEMENT.

14.6 **Notice.** Where Fast Break requires that you provide an e-mail address, you are responsible for providing Fast Break with your most current e-mail address. In the event that the last e-mail address you provided to Fast Break is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by the Agreement, Fast Break’s dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Fast Break at the following address: Fast Break Labs, Inc., P.O. Box 15553, San Francisco, California 94115. Such notice shall be deemed given when received by Fast Break by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

14.7 **Waiver.** Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

14.8 **Severability.** If any portion of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner to reflect, as nearly as possible, the original intention of the parties, and the remaining portions shall remain in full force and effect.

14.9 **Export Control.** You may not use, export, import, or transfer any Fast Break Property except as authorized by U.S. law, the laws of the jurisdiction in which you obtained any Fast Break Property, and any other applicable laws. In particular, but without limitation, Fast Break Properties may not be exported or re-exported (a) into any United States embargoed countries, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using Fast Break Properties, you represent and warrant that (y) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (z) you are not listed on any U.S. Government list of prohibited or restricted parties. You also will not use Fast Break Properties for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by Fast Break are subject to the export control laws and regulations of the United States. You shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer Fast Break products, services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

14.10 **Consumer Complaints.** In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (800) 952-5210.

14.11 **Entire Agreement.** This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.