

NBA | WNBA | G LEAGUE
Terms of Use

Updated: 10/1/2017

NBA TERMS OF USE

The following notice of the NBA's rights to the NBA/WNBA/G LEAGUE Content and Licensed NBA/WNBA/G LEAGUE Marks (which notice may be updated from time to time by the Company or the NBA):

This service includes proprietary data of the NBA Entities which may only be used by individual consumers as part of this service for authorized purposes. Further reproduction, use, and distribution of such data is not permitted. The team names, logos, and team-related identifying marks are trademarks of the teams indicated. All rights reserved.

A prohibition against the use of robots, spiders and other automated devices or processes that are used to monitor or copy content of the Customer's site or application, including the NBA/WNBA/G LEAGUE Content. CUSTOMER UNDERSTANDS AND AGREES THAT NBA CONTENT MUST NOT BE USED IN CONNECTION WITH GAMBLING OR GAMBLING RELATED ACTIVITIES.

1. Definitions

1.1 "**Game**" shall mean each NBA, WNBA, G League and pre-season game, as applicable.

1.2 "**G League**" shall mean the NBA minor league.

1.3 "**Marks**" shall mean names, logos, symbols, designations, emblems, designs, trade dress and uniforms and all identifications, labels, insignia or indicia thereof.

1.4 "**NBA**" shall mean the National Basketball Association and/or NBA Properties, Inc., as applicable.

1.5 "**NBA Content**" shall mean the data, products or other content, as applicable, (including but not limited to, event data, tracking data, historical data and/or data products).

1.6 "**NBA Intellectual Property**" means (i) NBA Content, (ii) NBA Marks, (iii) NBA photos, and (iv) any other intellectual property (and the associated rights) owned (by operation of law and/or pursuant to any other agreement) by or exclusively licensed to the NBA, WNBA and/or G League, or any of their respective teams.

1.7 “**Restricted Ad Categories**” shall mean any gambling, pornography, drugs, tobacco, political statements, and any other adult or reputationally sensitive topics identified by Company from time to time.

1.8 “**WNBA**” shall mean the Women’s National Basketball Association and/or WNBA Enterprises, LLC, as applicable.

2. Additional terms

2.1 Customer shall not use the NBA Content in connection with, or in combination with, any electronic gaming (e.g., simulated game, animated game or electronic trading cards) unless such use has been previously approved by Company in writing.

2.2 Customer shall not use any NBA Content in any way that either (i) alone or in combination with other intellectual property or content (e.g., photos, footage), competes with the live, or near-live viewing of any broadcast or other distribution of any Game or NBA sanctioned event (e.g., a live or near-live graphical simulation or re-creation of any game or material portion thereof) or (ii) incorporates any NBA Intellectual Property without the prior written approval from Company.

2.3 Customer shall not have the right to insert promotions in or around any NBA Content (for example, the following are not permitted: “NBA scores brought to you by [sponsor]” or “[sponsor’s] NBA update/scores”).

2.4 Customer shall not offer, sell or otherwise provide any commercials, entitlements, or other sponsored segments or elements with respect to the NBA Content.

2.5 Customer shall ensure, that the NBA Content is not used other than as set forth in this Agreement and that no text, banner or other advertisements or promotions or other materials in connection with the NBA Content are directly inserted in or in connection therewith. Any material expressly permitted to be inserted into or associated with the NBA Content shall not reflect unfavorably or be reasonably expected to reflect unfavorably on NBA, WNBA and/or any of their respective affiliates, and shall in no event (unless previously approved by Company in each instance) refer to or promote any of the Restricted Ad Categories.

2.6 No license or grant hereunder confers any exclusive rights with respect to the use of NBA Content unless Company or the NBA has provided prior written approval in each case.

2.7 Customer hereby acknowledges that the delivery and accuracy of the NBA Content and data feeds will not be free from errors.

2.8 Customer shall not suggest or imply an association between NBA, WNBA, G League, any team or any player on the one hand, and Customer or its products or services, on the other.

2.9 Customer shall not use, authorize the use of, or refer to the NBA Content (or any data therefrom) in connection with, or in combination with any illegal activity or any other activity which is contrary to applicable law, including, without limitation, illegal gambling.

2.10 Customer shall be solely responsible, at its sole expense, to obtain all approvals of all governmental authorities and other relevant regulatory authorities which may be necessary in connection with its performance of, and the distribution of the NBA Content.

2.11 Customer shall not engage in any activities in furtherance of the purpose of this Agreement and/or activities undertaken in connection or association with any use of the NBA Content that will give rise to any liabilities on the part of NBA, WNBA, G League and/or any of their respective affiliates or entities under any applicable law.

2.12 Customer shall not use or permit the use of NBA Intellectual Property in any manner without the prior written approval of Company or the NBA (e.g., in a manner that suggests or implies (in Company or the NBA's opinion) an association between any third party, on the one hand, and NBA, WNBA, G League any team or player, on the other).

2.13 Customer shall not use or commercially exploit any rights granted hereunder (i) in a way that has a deceptive or misleading effect, (ii) in a way that compromises or reflects unfavorably upon the good name, goodwill, reputation or image of NBA, WNBA, G League, the teams or any player (iii) in a manner that tarnishes any NBA Marks, or (iv) in a manner reasonably likely to result in the unauthorized use of any NBA Intellectual Property.

2.14 This Agreement does not grant to Customer any licenses or rights with respect to the use of NBA players, WNBA players or G League players. Except to the extent that rights have been granted pursuant to a separate agreement with the applicable rights holder, Customer shall not use NBA players, WNBA players or G League players in any manner that may imply or suggest an association between any NBA player, WNBA player or G League player, on the one hand, and Customer on the other.

2.15 Customer shall be solely responsible for, and shall defend, hold harmless and indemnify NBA, WNBA, G League the teams and each of their respective affiliates and each of their respective owners, directors, governors, officers, employees and agents against, any third party claims, demands, disputes (including disputes arising out of or in connection with the Agreement), causes of action or damages, including attorneys' fees (collectively, "**Claims**"), arising out of or relating to:

- i. any (i) distribution, advertisement, promotion, possession, operation, data display, or any other use of the NBA Content or NBA Intellectual Property (collectively, “**General Use**,”) which is, in each case, (y) other than in accordance with this Agreement and/or (z) not in compliance with any applicable laws; and/or (ii) activities in furtherance of the purpose of this Agreement and/or activities undertaken in connection or association with any General Use and that give rise to any liabilities on the part of the NBA, WNBA, G League and/or the teams under any applicable laws, and
- ii. any breach or alleged breach of this Agreement.

5.16 EXCEPT FOR CLAIMS ARISING OUT OF UNAUTHORIZED USE OF INTELLECTUAL PROPERTY, UNDER NO CIRCUMSTANCES SHALL COMPANY, NBA, WNBA, G LEAGUE OR THE TEAMS BE LIABLE TO ANY OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) ARISING FROM BREACH OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS; IN NO EVENT WILL COMPANY, THE NBA, WNBA, G LEAGUE OR THE TEAMS LIABILITY TO THE CUSTOMER IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, EXCEED THE AMOUNTS PAID OR PAYABLE BY CUSTOMER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE CLAIM. THE FOREGOING LIMITATIONS AND EXCLUSIONS WILL APPLY EVEN IF ANY LIMITED REMEDY HEREIN FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING LIMITATIONS AND EXCLUSIONS ARE A FUNDAMENTAL BASIS OF THE BARGAIN HEREUNDER.

2.17 Company and Customer hereby acknowledge and agree that the NBA is a third party beneficiary of this Agreement, including this Addendum, and that, upon Customer’s acceptance of the Agreement, the NBA will have the right (and will be deemed to have accepted the right) to enforce the Agreement against Customer as a third party beneficiary. Company may, by written notice to Customer, transfer its rights and obligations under the Agreement pursuant to a novation agreement in favor of a transferee who accepts all rights and obligations of Company under the Agreement. Customer shall take all necessary actions to give effect to such novation, including the execution of relevant documents.

2.18 Except as expressly provided herein or as otherwise permitted by applicable laws, after the expiration or termination of this Agreement, Customer shall have no further right to use any NBA Intellectual Property.