



PROGRAM OPT-IN AGREEMENT

This CINEMA BUYING ALLIANCE PROGRAM OPT-IN AGREEMENT (“Agreement”) is made between the Cinema Buying Alliance (CBA), an entity wholly owned by the Independent Cinema Alliance (ICA), and the CBA “Participant” signatory below who **opts in** to the specific CBA program detailed in **Appendix A**.

The parties acknowledge their mutual interest in the specific CBA program detailed in Appendix A and the sufficiency of consideration for this Agreement, which includes the acknowledgment that the ability of the CBA to achieve its mission on behalf of independents broadly depends on independents entering in good faith into agreements like this one.

1. Incorporation by Reference of the CBA Master Participation Agreement

The Parties agree that the CBA Master Participation Agreement governs the general relationship of the parties and prevails in all matters not specifically addressed in this Agreement, and its terms are incorporated by reference herein. This Agreement governs only matters pertaining to the specific CBA program set forth in Appendix A. Only CBA participants whose dues are current and who have duly executed a Master Participation Agreement, which Master Participation Agreement remains active, are eligible to execute this Program Opt-In Agreement.

2. Agreement to Opt In

Participant agrees to participate, without condition except as set forth herein, in the CBA program described in Appendix A and thereby contribute to the aggregate buying power of independent cinemas. Participant acknowledges that the CBA relies upon all Opt-Ins, such as Participant’s, to negotiate and obtain the best deal possible.

3. CBA Assurance

The CBA has engaged and will continue to engage in good faith negotiations with the vendor(s) that are the subject of this Agreement, and the CBA’s negotiating posture has been to pursue the best deal possible for independent cinemas, as shaped in part by the level of participation by CBA participants, provided that no specific result is ever guaranteed.

4. Term and Termination

(a) The term of this Agreement is one year (unless the term is specifically modified in Appendix A), whereupon the Agreement automatically renews for one year, unless (1) the CBA announces new Agreement provisions, to which Participant may elect not to assent; (2) Participant timely elects at the end of a term to exit the program by written notice to the CBA; or (3) Participant's Master Participation Agreement is terminated, subject to Section 2(b) of the Master Participation Agreement.

(b) This Agreement may be terminated in the event of:

(1) an assignment of the assets or business of Participant for the benefit of its creditors, or appointment of a trustee or receiver to administer or conduct such Participant's business or affairs, or the filing of a voluntary or involuntary petition in any bankruptcy court;

(2) the death of the Participant, if the Participant is an individual;

(3) the sale or transfer for consideration to a third party, or distribution to Participant's stockholders or equity holders, of substantially all of such Participant's assets, if the Participant is a corporation or other business entity;

(4) the merger or consolidation of Participant into another business entity or the merger or consolidation of another business entity into or with Participant;

(5) the use, by the Participant, of CBA-negotiated terms, conditions, or prices to procure a different deal on equivalent products or services with a vendor other than the CBA-selected vendor in a manner that willfully undermines the purposes of CBA without substantial business justification;

(7) the disclosure without authorization or other misuse of the confidential or proprietary information of the CBA or the ICA; or

(8) the violation of the terms or conditions of this Program Opt-In Agreement or the Master Participation Agreement (and specifically, without limitation, Participant's failure to comply with the terms of Participant's warranties as detailed in the Master Participation Agreement) or any other agreement between Participant and the CBA and/or the ICA.

(c) The termination of Participant's participation in the Program detailed in Appendix A will not release Participant from its obligation to pay any sum then owing to the CBA or the ICA and/or any CBA-selected vendor. Any goods, documents or any other property belonging to the CBA or the ICA which are in the actual or constructive possession of Participant must be promptly forwarded to the CBA or the ICA at Participant's expense.

(d) The Managing Director, subject to the oversight of the ICA and its relevant committee(s), has authority to determine that any of the triggering events in subsection (b) have occurred, and to terminate Participant's participation in the program described in Appendix A, and the ICA Board of Directors may further determine that such triggering events warrant expulsion from the CBA and/or the ICA, or such other penalty as the Board deems appropriate; provided, however, that prior to such termination or penalty becoming effective, Participant receive notice of the basis for the termination or other penalty and a reasonable opportunity to correct the triggering event(s).

(e) To the extent Participant objects to termination or any penalty or other action by the CBA or its principals, Participant agrees to comply fully with the Dispute Resolution procedures described in the Master Participation Agreement.

5. General Program Participation Mechanics

In general, and without committing the CBA to the exact sequence and details described below for every program, the following list generally describes how each CBA program will work.

(a) The CBA Managing Director will communicate potential program parameters to CBA members to determine interest in the program and potential volume (which information will be confidential and non-binding at this stage) but will generally not identify the specific vendor(s) or the specific final pricing at this stage. In negotiations with potential vendors, the CBA Managing Director will sharpen the program parameters based upon anticipated participation.

(b) The CBA Managing Director will communicate more detailed program parameters to interested CBA members. The CBA Managing Director may go back and forth between vendors and Participants multiple times

(c) Interested CBA participants will sign a Program Opt-In Agreement (this Agreement), which includes the Material Participation provisions detailed in Section 6, and, as an addendum to the agreement, the information described in Section 7.

(d) Armed with the foregoing information and confident of the participation level, the CBA Managing Director will negotiate the best final terms and pricing with the vendor, execute the vendor contract, and inform participants of such final terms (including pricing, logistics for obtaining the product or service, and rebates, if any), whereupon Participant's participation in the program commences.

(e) Participant agrees to promptly pay the subject vendor pursuant to the terms agreed upon with such vendor and as invoiced by such vendor. Subject goods or services will be delivered directly to, or performed for, Participant by the subject vendor. Goods and services do not pass through the CBA, and the CBA undertakes no responsibility whatsoever for delivery, storage or transportation, or any issues arising therefrom.

(f) In the event Participant provides confidential or proprietary information to the CBA during this process, the CBA will maintain such confidentiality, provided that the CBA will aggregate all information it receives in the course of obtaining participation commitments to negotiate best terms. The CBA will, wherever possible, avoid disclosing the connection of any specific proprietary information with any specific participant.

(g) The CBA will, as requested, assist Participant with communications regarding the quality or timely availability of the subject products or services, as well as any other concern with a vendor's business practices in connection with administration of the subject program. Participants should promptly inform the CBA Managing Director of any such concerns. To the extent that any such concern may affect Participant's continued participation in the program, Participant must promptly

notify the CBA Managing Director of such concern and give the CBA an opportunity to correct or cure such concern through discussions with the vendor or otherwise.

(h) In the event of any dispute arising under or in any manner connected to this Agreement, Participant agrees to abide by the provisions for Dispute Resolution set forth in the Master Participation Agreement.

6. Material Participation

(a) Participant agrees that its participation will be material, presumptively meaning substantially all of its annual need for the product or service category.

(b) The parties agree to communicate promptly with each other as to arrangements that can potentially be non-exclusive and still benefit both the CBA and the CBA Participant, if any, provided that in the absence of such communication from the CBA, the presumptive participation requirement is substantially all of Participant's annual need for the product or service described in Appendix A.

(c) In the event that satisfaction of this Material Participation provision becomes impossible, through no fault of Participant, Participant agrees to promptly notify the CBA of its inability to satisfy this provision, and the CBA agrees to promptly resolve whether the failure to satisfy this provision is excused.

(d) In the event that satisfaction of this Material Participation provision becomes impossible or commercially impracticable, through only partial fault of Participant, Participant agrees to promptly notify the CBA of its inability to satisfy this provision, and the CBA agrees to promptly resolve whether the failure to satisfy this provision is excused.

(e) Failure to timely notify the CBA of any inability to satisfy this material participation requirement will establish a presumption that such non-satisfaction is not excused.

7. Required Agreement Addendum

(a) As an Addendum to this executed Agreement, Participant will provide the following:

(i) Participant's **annual volume** in the product or service described in Appendix A; and

(ii) a list of **all locations** that Participant owns or operates, including each location name, street address, email address, direct phone (non-recording), and number of screens.

(b) Participant agrees to promptly inform the CBA, in writing, of any change to the foregoing information. In the event the change is a reduction in annual volume, Participant will provide a sound business justification for the volume reduction in order to possibly avoid penalty for non-compliance with the Section 6 Material Participation terms.

[Signatures, which may be electronic, on following page.]

CBA PARTICIPANT

Name: _____

Title: _____

Company: _____

Participant's Telephone: _____

Participant's Email: _____

Date: _____

CINEMA BUYING ALLIANCE

CBA Managing Director, on behalf of the CBA

Appendix A

Name of Program _____

The CBA program that is the subject of the Program Opt-In Agreement to which this Appendix is attached is described as follows:

Addendum

As described in Section 7 of the Program Opt-In Agreement, please provide:

1. Your anticipated **annual volume** in the goods or services described in **Appendix A**, which information may be designated by the Participant as “Confidential.”

2. On a separate sheet, a list of all locations you own or operate, with the following information for *each* location:

- location name
- street address, including city/state/zip
- email address
- direct phone (non-recording)
- number of screens

If the foregoing information concerning locations has been provided in a previous Program Opt-In Agreement, or otherwise, *and has not changed in any* respect, check here: .

You do not need to repeat it.