

## Advertiser – Terms and Conditions

These terms and conditions “T&Cs” are accepted by the **Advertiser**, as defined in the relevant insertion order the “IO” made by the Affiliate i.e., **Game Lounge Limited** (hereinafter referred to as the ‘Company’), a company registered in Malta with C53144 as the governing T&Cs of the Affiliate’ services.

The Affiliate and the Advertiser are hereinafter jointly also referred to as the “Parties” and each individually as a “Party”.

Background:

- A. The Advertiser Group (whether via the Advertiser or one of its Group Companies) is the owner and/or Advertiser of one or several online B2C gambling websites (or equivalent applications for mobile devices) which may be supplemented with additional websites/applications from time to time, the “Website(s)”.
- B. GL and its Group Companies are the owners of certain affiliate websites which specialise in marketing and sending persons to other online B2C gambling websites (or equivalent applications for mobile devices).
- C. The Advertiser wishes the GL Group to promote the Advertiser Group’s services and drive persons to the Website(s), and GL agrees to (and procure the GL Group to) do so on and subject to the terms set out herein and as specified in the IO.

Agreed Provisions:

### 1. Definitions and Interpretation

For the purpose of the T&Cs the following capitalised words and expressions have the following meanings:

“Account” means an account identified by a unique username, that GL, directly or indirectly, holds with the Advertiser from time to time.

“Advertiser Group” means the Advertiser and its Group Companies (or any of them as the context requires);

“Affiliate Link” means the link provided to GL by the Advertiser (or via the affiliate system), which enables the Advertiser Group to identify GL as an affiliate of the Advertiser Group or enables the Advertiser Group to identify a visitor to any of the Website(s) as having been directed there from a GL Controlled Source.

“Confidential Information” means all sorts of information including but not limited to commercial, financial, technical, intellectual or essential for any of the Parties. For example, list of customers, records, financial reports and conditions, trade secrets, know-how, prices and sale information, business know-how, products, strategies, database, technology, marketing plans, manners of operation, market opportunities, designs, inventions, developments and personal data of the Company.

“Cookies” means that mechanism used by the Advertiser Group to store and retrieve information about, and identify, a visitor to the Website(s);

“Effective Termination Date” as defined in Clause 4.3;

“Fees” means the fees payable by the Advertiser to GL hereunder as calculated in accordance with the relevant IO subject to the provisions of Clause 4;

“Group Company” means, in relation to either Party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that Party (and for the purposes of these T&Cs, “holding company” and “subsidiary” shall be as defined in the Maltese Companies Act 2006;

“Lifetime” the period of time, irrespective of and notwithstanding the termination of the Agreement (including the IO and/or any part therein), during which a player, referred by the Affiliate, keeps a deposit and/or account with the Advertiser as a gambling operator and/or with any Advertiser Website and/or is a registered user of, or otherwise active on, any Advertiser Website or any Advertiser platform providing online or digital gambling services or is a registered user of, or otherwise active on, the Website(s).

“Intellectual Property Rights” means any copyrights, patents, trademarks, service marks, inventions, domain names, brands, business names, utility brands, rights in computer software, source codes, rights in databases, and know-how, as well as design rights.

“Marketing Materials” means any marketing or creative materials that have been provided or otherwise made available to one Party (and/or its Group Companies) by the other (and/or its Group Companies) in connection with Affiliate’s services to the Advertiser and/or these T&Cs from time to time.

"Marks" means each Party and its Group Companies' respective brands, logos, devices, trademarks, domain names, service names and/or trade names.

"Player Account" means a uniquely identifiable account or profile that enables a Referred Player, or a prospective Referred Player, to participate in any of the services offered via the Website(s) from time to time.

"Affiliate Controlled Source" means any source from which Affiliate or a member of the Affiliate Group generates visitors to the Website(s), including but not limited to websites, email marketing, offline campaigns, paid search, banner display advertising, SEO, organic social, paid social and native advertising;

"GL Group" means GL and its Group Companies (or any of them as the context requires);

"Qualified Player" means a Referred Player who after opening a Player Account makes a first deposit of money into the account of a member of the Affiliate Group;

"Referred Player" means a person who (i) has been introduced or referred to the Website(s) via any of the Affiliate Source; (ii) that has not previously held a Player Account; and (iii) registers with any member of the Advertiser Group by either: • using an Affiliate Link or Bonus Code; • using a Cookie provided by Affiliate; and/or • registering through a landing page or page on the Website(s) as it may appear from time for which a URL link is provided to Affiliate, and whether or not such Referred Player is or becomes a Qualified Player;

"Term" as defined in Clause 9.1;

"Tracker" means any method used by the Advertiser Group to positively identify a person as having been introduced or referred to a Website by, or otherwise tracked to, GL whether or not such person is or becomes a Qualified Player; and

"Website(s)" as defined in the Background above.

Any references to legislation or provisions in these T&Cs, whether express or implicit, are to those statutes or provisions as amended or re-enacted from time to time. Clause references are to clauses in these T&Cs. The adjectives include and should be interpreted as illustrative rather than restrictive of the meaning or scope of the words before them. Faxes and email are examples of written references. Natural individuals, businesses, partnerships, and other organizations are all referred to as "persons" (whether or not in each case having separate legal personality). The plural is included in the singular, and vice versa.

#### **Other Terms**

The Parties agree that the terms and conditions set forth in this T&Cs will take precedence over any conflicting or contradictory term(s) and/or condition(s) in any other agreement entered into between the Parties.

Any amendments to these T&Cs shall be notified to the Advertiser through email, and shall have effect from the date of notice, unless they are contested within one week. In the event you do not wish to commence, or otherwise wish to terminate this Agreement, you are requested to email the Sales Team at [sales@gamelounge.com](mailto:sales@gamelounge.com) to terminate this Agreement.

#### **Rights and Obligations of the Parties**

All through the Term, GL refer or introduce persons, for which the Advertiser will pay GL the Fees.

All through the Term and for an indefinite period, Advertiser shall track (and will cause the Advertiser Group to follow) every person referred or introduced to a Website by GL, regardless of whether such individual turns into a Referred Player, and further consents to utilize all sensible endeavors to guarantee that all people who ought to be tracked according to these TOS are appropriately tracked at all material times on all Websites.

Advertiser may not eliminate or interfere with Referred Player from a Tracker or in any case change or modify in any capacity the Tracker allotted to a specific person without the earlier written consent by GL (which consent will not unreasonably be retained or deferred).

The Advertiser will not (and will get that no individuals from the Advertiser Group will) interfere with Referred Players in any capacity that brings the Fees due down to GL or in any case make any moves to falsely manipulate or artificially depress the Fees due to GL.

If any person introduced or referred to a Website is moved, transferred, required to create a new player account with or via, or otherwise migrated to any alternative website or equivalent mobile application ("Alternative Website"), irrespective of whether such Alternative Website is, in whole or in part, beneficially owned and/or operated by the Advertiser Group, the Advertiser hereby undertakes that it shall procure that those persons are and remain adequately tracked, to GL's sole satisfaction, on the Alternative Website and the Advertiser shall continue to pay, or procure payment of, the Fees in respect of any such persons in full as would otherwise have been payable by the Advertiser to GL had no migration event or similar occurred.

3.6 If the Advertiser receives a warning or a notification from any governmental body in relation to non-compliance, the Advertiser shall immediately notify GL of such warning or notification.

#### **4. Fees and Payment**

4.1 In consideration for GL referring (or procuring the referral of) persons to the Website(s), the Advertiser shall pay GL the Fees in accordance with the terms of the IO and these T&Cs.

4.2 The Advertiser agrees that it shall not at any time vary the calculation of the Fees as set out in the IO without the written consent of GL.

4.3 The Advertiser agrees that, notwithstanding any termination of GL's Services (the date of any such termination taking effect being the "Effective Termination Date"), the Fees payable to GL:

- (a) in respect of all Qualified Players referred by GL before the Effective Termination Date; and
- (b) in respect of all Referred Players who are referred by GL before the Effective Termination Date and then become Qualified Players after the Effective Termination Date, shall in each case be payable on a Lifetime basis if there is an applicable profit share deal between the Parties.

4.4 GL may elect (at its absolute discretion) by notice in writing to the Advertiser not to receive any Fees in connection with Referred Players registered as resident in certain countries and/ or regions within countries. In the event of the provision of such notice to the Advertiser, the Advertiser undertakes to comply with its terms.

4.5 The Advertiser shall pay GL in satisfaction of any invoice within twenty one (21) days of the date of that invoice.

4.6 The Advertiser shall make all payments to GL in full via bank wire transfer to the bank account designated by GL from time to time by an authorized representative of GL. All amounts stated in the IO or these T&Cs are exclusive of Value Added Tax (VAT) (which shall be payable if appropriate following receipt of a valid VAT invoice) and any other tax, duty, levy or similar charge which may from time to time be imposed. All payments shall be free and clear of any set off or other deduction unless expressly agreed hereunder.

4.7 The acceptance by GL of a part payment of any sums required to be paid under these T&Cs shall not constitute a waiver or release of the right of GL to payment in full of such sums.

4.8 All Accounts shall be treated separate, and no negative carry-over shall apply.

4.9 Without prejudice to any other action permitted by applicable law, if the Advertiser fails to pay any sums owed to GL by the due date, GL shall be entitled to charge interest on the overdue amount at the rate of 4 per cent over the then current interest rate as established by the European Central Bank, which shall be charged from the day following the date on which the outstanding amount(s) fell due for payment up to the date of actual payment.

#### **5. Reporting and Audit**

5.1 GL shall, throughout the Term and for an indefinite period thereafter, as/if applicable, have the right to request from the Advertiser (and the Advertiser shall promptly upon such request deliver to GL) a report or reports in such format and frequency as GL may reasonably request, which shall contain all information necessary to enable GL to verify the accuracy of the payments received from the Advertiser under the IO and these T&Cs, including the following information as it relates to the relevant period:

- (a) user identification, login and account names of each Referred Player and Qualified Player received by the Advertiser during the relevant period, including Tracker identification and date of registration;
- (b) the GL Controlled Source that referred the Qualified Player to the Advertiser;
- (c) the date the relevant referral was made; and
- (d) details of amounts deposited and revenue per player, broken down by individual products/ offerings.

5.2 No more than twice in any calendar year, GL may appoint an independent accountant to examine and audit the books and records kept by the Advertiser Group to verify compliance of the Advertiser with its payment obligations hereunder. The Advertiser shall be entitled to anonymise such player personal data as may be necessary in order to comply with its privacy obligations.

5.3 If the independent accountant determines that any amount paid pursuant to these T&Cs should be adjusted, the Advertiser shall make the adjustment payment within five (5) business days of such determination. In addition to such adjustment payment, the Advertiser shall pay to GL interest on the adjustment amount, from the due date up to the date of actual payment, at the rate of 8% over the then current interest rate as established by the European Central Bank.

5.4 Any inspection or audit in accordance with this Clause 5 shall be at GL's expense unless the inspection reveals a discrepancy in excess of 5% of sums due in which case the Advertiser's shall reimburse GL for the costs of any such audit.

## **6. Warranties**

6.1 Each Party represents and warrants to the other that:

- (a) it is duly authorised to sign and execute these T&Cs;
- (b) it acts as agent for itself and all of its Group Companies and that it has the requisite rights, powers and authority to do so;
- (c) it has and will retain throughout the Term all right, title and authority to enter into these T&Cs, to grant to the other Party the rights and licences granted in these T&Cs and to perform all of its obligations under these T&Cs; and
- (d) it has obtained and will maintain in force all necessary registrations, authorisations, consents and licences to enable it to fulfil its obligations under these T&Cs and that it fully complies with all applicable laws and regulations.

6.2 Each Party agrees to (i) perform any further act/s and execute and deliver any further document(s) which may be reasonably required to carry out the provisions of these T&Cs; and

(ii) at all times act in good faith so as to preserve for the other Party the benefits intended under these T&Cs.

## **7. Indemnity**

7.1 Each Party shall hold the other Party and its directors, officers, agents and employees, harmless from and against any and all liabilities, claims, suits damages, judgments, costs and expenses, including reasonable external legal fees, directly arising out of, or in connection with:

- (a) any negligence or intentional acts or omissions of the indemnifying Party in performing its duties or obligations under these T&Cs;
- (b) any breach of any applicable laws or regulations; and/or
- (c) any breach by the indemnifying Party of any warranty, representation or undertaking by the indemnifying Party contained in these T&Cs.

## **8. Intellectual Property Rights**

8.1 The Advertiser hereby grants to GL (for itself and each member of the GL Group) for the Term a non-exclusive, irrevocable licence to use the Advertiser Marks and Marketing Materials for the purpose of fulfilling its obligations under these T&Cs and the Standard Affiliate Agreement.

8.2 The Advertiser represents and warrants that the use by GL and its Group Companies of the Advertiser's Marks and Marketing Materials as permitted hereunder shall not infringe any intellectual property and/or other rights of any third party.

8.3 GL (or the relevant member of the GL Group) is and shall remain the owner of all Intellectual Property Rights in any Marketing Materials which it creates or provides to the Advertiser (or any of its Group Companies), except only to the extent that such Marketing Materials contain the Advertiser's Marks or Marketing Materials.

## **9. Term and Termination**

9.1 These T&Cs shall take effect from the Effective Date and shall continue indefinitely and in full force until such time as it is terminated in accordance with the provisions set out herein (the "Term").

9.2 These T&Cs may be terminated by either Party at any time, by providing two (2) weeks' written notice to the other Party in accordance with the notice requirements set out in Clause 10. Each Party shall be entitled to immediately terminate these T&Cs:

- (a) if the other Party is in material breach of any term, condition or provision of these T&Cs and does not remedy such breach within seven (7) days of being required by written notice to do so; or
- (b) by either of the Parties by giving notice in writing (including by email) to the other Party if the other Party is declared bankrupt or insolvent by court order or if any bankruptcy or insolvency proceedings are commenced against the other Party or in the event of any similar situation indicating that the other Party is insolvent.

(c) Affiliate may also terminate this Agreement immediately by giving notice in writing (including by email) for business reasons or for any other reason in accordance with its internal policies, standards and controls.

Affiliate terminates this Agreement in accordance with this sub-clause 9.2 (c), it shall endeavor to provide a minimum of thirty (30) days' prior notice in writing of such termination, however, where this is not feasible, termination may be affected by Affiliate at such earlier day and without the requirement of notice. In such case, the Affiliate shall nevertheless be entitled to compensation.

9.3 These T&Cs are valid as long as an IO is applicable between the parties. Any termination of the IO shall automatically result in the termination of these T&Cs.

9.4 Termination of these T&Cs and/or the IO shall be without prejudice to the Advertiser's obligation to (a) make payment to GL of any amounts accrued up to the date of such termination; or (b) to pay the Fees on a Lifetime basis as specified in Clause 4.3.

## 10. Notices

10.1 All notices or other communications required or permitted by these T&Cs will be in writing and will be sufficiently given if delivered as follows:

If to GL:

To the email address the Advertiser regularly uses to contact GL, or such other as indicated by the Advertiser.

If to the Advertiser:

To the email address GL regularly uses to contact the Advertiser, or such other as indicated by GL.

10.2 Any such emailed notices or communications will be deemed to have been effective upon the date of sending the email.

10.3 Any email address set forth or referred to in this Clause may be changed by written notice of such change provided as contemplated in this Clause.

## 11. Confidentiality

11.1 Each Party undertakes that it will not at any time disclose or permit the disclosure of any Confidential Information, except:

- a) to the extent required by applicable law or stock exchange rules or by any competent authority but in that case only after consultation with the other Party about the timing and content of such disclosure;
- b) to its professional advisers subject to a duty of confidentiality and only to the extent necessary for any lawful purpose; and
- c) to the extent that such Confidential Information is or comes into in the public domain other than as a result of the breach of these T&Cs.

11.2 The provisions of this Clause 11 shall survive the termination of these T&Cs, howsoever occurring.

## 12. Applicable Law and Jurisdiction

12.1 These T&Cs shall be governed by and construed in accordance with the laws of Malta.

12.2 In the event of any dispute, controversy or claim arising out of or relating to these T&Cs, or the breach, interpretation, termination, or validity thereof, the parties agree to refer such dispute, controversy or claim to arbitration. The arbitration shall take place under the Rules of Arbitration as established under the Malta Arbitration Act (Cap 387 of the Laws of Malta), as in force at the time the dispute is referred to it. The place of arbitration shall be in Malta. There shall be one arbitrator jointly appointed by both Parties and/or in default of agreement on the arbitrator there shall be three arbitrators appointed in accordance with the said Rules. The arbitration shall be held according to the laws of Malta both insofar as matters of procedure as well as in relation to substantive matters. The language to be used in the arbitral proceedings shall be the English language. The Parties agree that the award of the arbitrators shall be the sole and exclusive remedy between them regarding any claims, counterclaims or other issues arising out of these T&Cs, and the award shall be final and binding.

**13. Insertion Orders**

The Parties may from time to time agree on insertion orders (each a "IO"). All IOs agreed between GL and the Advertiser shall be governed by these T&Cs, if not otherwise specified. In case of any discrepancies between these T&Cs and the IO, the later shall prevail.

**14. Miscellaneous**

14.1 The Advertiser shall remain the sole Party responsible for the content of the Website(s) and for the conduct of its (and the Advertiser Group's) business in general. GL acts purely as an intermediary in the acquisition of persons as customers of the Website(s). The Parties are independent contractors. No partnership or joint venture is intended to be created by these T&Cs, nor any principal-agent or employer-employee relationship. Neither Party has, nor shall attempt to assert, the authority to make commitments for or to bind the other Party in any manner whatsoever.

14.2 No consent by a Party to, nor waiver of, a breach by the other, whether express or implied, shall constitute a consent to or waiver of or excuse for any other different or subsequent breach, unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. Except as otherwise provided herein, no term or provision hereof shall be deemed waived and no breach excused, unless a written notice has been given to that effect.

14.3 These T&Cs shall be binding upon the Parties and each of their respective successors and permitted assigns and transferees.

14.4 Neither Party to these T&Cs shall be entitled, without the prior written consent of the other, to assign, novate or otherwise transfer all or any of its rights or obligations under these T&Cs or the IO.

14.5 A Party shall not be liable for any failure to perform its obligations under these T&Cs or the IO if that failure is beyond the reasonable control of that Party including as a direct result of force majeure.

14.6 You are solely and exclusively responsible to ensure that all information submitted in the GL Information Form is correct, true and kept up to date at all times and accept that the GL Information Form shall form an integral part of this Agreement.

14.7 If a provision of these T&Cs is held to be invalid, illegal, not binding, or unenforceable (either in whole or in part), the remainder of these T&Cs shall continue to be effective to the extent that, in view of the Agreement's substance and purpose, such remainder is not inextricably related to and therefore severable from the invalid, illegal, not binding or unenforceable provision. The Parties shall make every commercially reasonable effort to reach an agreement on a new provision which differs as little as possible from the invalid, illegal, not binding or unenforceable provision, considering the substance and purpose of these T&Cs.

14.8 In case of any discrepancy between the meanings of the English version of this Agreement and any non-English translation of this Agreement, the English version shall prevail. Unless otherwise expressly agreed to in writing by and between the Parties, in case of any discrepancy between this Agreement and any informal or formal, verbal or written understanding, agreement, correspondence and or conversation by and between the Parties relating to the provision of the Affiliate Services by the Affiliate, this Agreement shall be taken to be the prevailing agreement reached by and between the Parties and shall supersede and replace any previous communications, understandings and arrangements previously in place by and between the Parties relating to the subject-matter thereof.

14.9 Affiliate's failure to enforce the Advertiser's adherence to all terms outlined in the Affiliate Agreement shall not be construed to constitute a waiver of the right to enforce such right at any time.

It shall be the sole responsibility of the Affiliate to keep updated with the latest version of this Agreement.

Nothing contained in this Agreement, nor any action was taken by any party to this Agreement, shall be deemed to constitute either party (or any of such party's employees, agents, or representatives) an employee, or legal representative of the other party, nor to create any partnership, joint venture, association, or syndication among or between the parties, nor to confer on either party any express or implied right, power or authority to enter into any agreement or commitment on behalf of (nor to impose any obligation upon) the other party.