

Terms of Use for Games

FOR US CUSTOMERS: We have put this up front (and in caps) because it is important:

THESE TERMS OF USE CONTAIN A BINDING INDIVIDUAL ARBITRATION PROVISION AND A CLASS ACTION WAIVER PROVISION FOR US CUSTOMERS. IF YOU ACCEPT THESE TERMS OF USE, AS A US CUSTOMER YOU AGREE TO RESOLVE DISPUTES IN BINDING, INDIVIDUAL ARBITRATION AND WAIVE THE RIGHT TO GO TO COURT INDIVIDUALLY OR AS PART OF A CLASS ACTION, AND GAMIGO AGREES TO PAY YOUR ARBITRATION COSTS FOR ALL DISPUTES OF UP TO \$10,000 THAT ARE MADE IN GOOD FAITH (SEE SECTION 24) IF YOU PREVAIL IN THE DISPUTE. YOU HAVE A TIME-LIMITED RIGHT TO OPT OUT OF THIS WAIVER. SECTIONS 2 AND 24 APPLY EXCLUSIVELY TO US CUSTOMERS.

Contents

- 1 Scope of Application..... 2
- 2 Scope of Application for US Customers 2
- 3 Description of Games 3
- 4 "Free-2-Play" Games..... 3
- 5 Subscription Games 3
- 6 Digital Content 4
- 7 Premium Features..... 4
- 8 Digital Vouchers 5
- 9 Merchandising Articles and Other Goods 5
- 10 Changes of Games and Premium Features 6
- 11 Scope of Services..... 6
- 12 Authorized Users..... 6
- 13 Payment Conditions and Provision..... 7
- 14 INFORMATION CONCERNING THE EXERCISE OF THE RIGHT OF WITHDRAWAL 7
- 15 Prohibited Activities 9
- 16 Duties and Obligations of the User..... 10
- 17 Beta Tests..... 11
- 18 Limitation of Liability 11
- 19 Foreign Content / Responsibility 11
- 20 Industrial Property Rights and Copyrights / User-Generated Content 11
- 21 Termination..... 12
- 22 Data Protection 13
- 23 Amendments to the Terms of Use 13
- 24 US CUSTOMERS: WAIVER OF CLASS ACTION, ARBITRATION, LIMITATION OF LIABILITY 14

1 Scope of Application

- 1.1 These Terms of Use shall apply to all Games, user forums and other services offered by the companies of the gamigo group with reference to these Terms of Use. The respective contractual partner results from the information on the respective website on which reference is made to these Terms of Use ("**Provider**"). They apply to the relationship of the respective user to the Provider of the respective Games offered.
- 1.2 The Provider (hereinafter also referred to as "**gamigo**") objects to the validity of any general terms and conditions of the user. These shall only become part of the contract if the Provider expressly agrees to them in advance and in writing.
- 1.3 Additional terms of use, rules, participation requirements and communication rules of the respective Games (together: "**Game Rules**") established by the respective Provider are published on the Provider's websites or forums or in the Games, as applicable. The user also recognizes these Game Rules as binding with his participation in the respective Game. In the event of any inconsistency between these Terms of Use and the Game Rules, the Terms of Use shall prevail over the Game Rules, unless the Game Rules expressly provide for priority over the Terms of Use.
- 1.4 The Provider may organize individual contests, tournaments, sweepstakes and other special promotions within Games. These may be subject to separate terms and conditions, which may be pointed out to the user separately.
- 1.5 The Provider may use third-party services for the Games ("**Third-Party Services**"), for example app stores and social networks. Third-Party Services are subject to the general terms and conditions of the respective third-party providers. The user's contractual partner for Third-Party Services is the respective third-party provider.
- 1.6 The Games of the Providers are offered and distributed on their own websites or in their own online stores or distributed via third-party websites, online stores or app stores. The operator of the website, online store or app store can be determined from the information provided there. Insofar as distribution is carried out by third-party providers, the general terms and conditions of these third-party providers shall apply to the respective purchase or conclusion of the contract. However, regardless of who distributes the Games, these Terms of Use shall at the minimum apply to the use of the Games and the other offers of the Providers.

2 Scope of Application for US Customers

- 2.1 For residents of the United States ("**US Customers**"), these Terms of Use apply differently in part than for residents of other countries. Cases in which the Terms of Use apply differently to US Customers shall be expressly mentioned in these Terms of Use or gamigo shall indicate this. The following Sections 2.2 and 2.3 apply specifically to US Customers.
- 2.2 As a US Customer, you enter into these Terms of Use in the State of Texas, and these Terms of Use shall be governed by and construed in accordance with the laws of the State of Texas, excluding the choice of law rules. For purposes of these Terms of Use, "**Disputes**" shall mean any dispute, claim or controversy (other than those expressly excluded below) between a US Customer and gamigo relating to the use or attempted use of the Games provided by gamigo generally, including without limitation the validity, enforceability or scope of this section on binding individual arbitration. For all Disputes not subject to binding individual arbitration as provided in the section immediately below, you, as a US customer, and gamigo agree to submit to the exclusive jurisdiction of the State of Texas, Travis County, or, if federal court jurisdiction applies, the United States District Court for the Western District of Texas. The US Customer and gamigo agree to waive any jurisdictional, legal venue or improper legal venue objections to such courts (without prejudice to the right of either party to refer a case to federal court if permitted) and any right to a jury trial. The Convention on Contracts for the International Sale of Goods is not applicable. Any law or regulation stipulating that the wording of a contract shall be construed against the drafter shall not apply to these Terms of Use. This paragraph shall be interpreted as broadly as permitted by applicable law.
- 2.3 As a US Customer, you and gamigo agree to resolve Disputes between both parties in **individual arbitration (not in court)**. We believe that the alternative dispute resolution process of arbitration will resolve any dispute fairly and more quickly and efficiently than a formal court process. Section 24 explains the procedure in detail. To the extent permitted by applicable law, you and gamigo agree to bring Disputes only in an individual capacity and will not attempt to commence, join or participate in any class or representative action, collective or class-wide arbitration or other proceeding ("class action") in which any other person or entity is acting in a representative capacity, or to consolidate or combine individual proceedings or permit an arbitrator to do so, without the express consent of all parties to these Terms of Use and any other action or arbitration. More detailed information is provided in Section 24.

3 Description of Games

- 3.1 "Games" within the meaning of these Terms of Use are all online games, browser games, mobile games, social games and other digital game offerings offered by the Provider for any end devices (e.g. PCs, smartphones, tablets, connected devices such as streaming or set-top boxes, smart TVs and consoles) and/or online platforms (e.g. social networks).
- 3.2 In addition to the "Games", the Provider also offers the purchase of additional services, as the case may be, such as virtual items or so-called "Virtual Currency", which can be exchanged for virtual items, downloadable content, additional bundles, additional features, server changes, in-game name changes or other additional features, and the purchase of virtual items for real currency (together: "Premium Features") as well as the purchase of subscriptions. In addition, the Provider may also offer other free services, especially in the area of communication with other players (e.g. forums, chats, profile pages for users, rankings, etc.), whereby these are provided by the Provider without any contractual obligation to do so. If new functions are introduced, the Provider reserves the right to offer them subject to special terms of use to be agreed separately, which may deviate from and take precedence over these Terms of Use.
- 3.3 Depending on the type of Game in question, the following specific regulations apply. The type of the respective Game can be found in the product descriptions of the respective Game.
- 3.4 The use of specific Games may require the installation of additional software, e.g. so-called launchers, or the creation of a customer account with another Provider or a third-party provider, e.g. a Glyph account. In this case, the product description expressly refers to this.

4 "Free-2-Play" Games

- 4.1. Within the meaning of these Terms of Use, "Free-2-Play Games" are Games that the user can by and large use free of charge. Free-2-Play Games contain Premium Features, i.e. some features or content of Free-2-Play Games can be subject to the payment of virtual or real currency. The provision of a Free-2-Play Game by the Provider constitutes a digital service.
- 4.2. The conclusion of the contract for the use of a Free-2-Play Game takes place online by submitting the registration form on the website of the respective Game or on another website of the Provider, in the Game itself, via the registration function of a social network such as through Facebook Connect, via the respective third-party platform or via another website or landing page with a corresponding registration function (collectively: "Offer of the User") and the acceptance by the Provider by email or the activation of access to the Free-2-Play Game. The Provider reserves the right to make the activation of the Game registration subject to the use of a confirmation link, which will be sent to the user by email.
- 4.3. When purchasing directly via the Provider, the user's right of withdrawal is determined by the provisions pursuant to Section 14.1. of these Terms of Use.**
- 4.4. By concluding the contract, the user acquires a simple, non-transferable right of use, limited in time to the contract term, to use the respective Free-2-Play Game in its current version.
- 4.5. The use of the respective Free-2-Play Game is subject to the system requirements indicated in the respective product description. Compatibility with the user's system is ensured only if at least the minimum requirements are met.
- 4.6. The user may terminate the contract for the use of a Free-2-Play Game at any time by notifying the Provider in text form (e.g. by email) or, if applicable, by using a provided termination button. The Provider may terminate the contract for the use of the Free-2-Play Game at any time by giving two weeks' notice in text form (e.g. by email), unless otherwise agreed in special terms of use.

5 Subscription Games

- 5.1. "Subscription Games" within the meaning of these Terms of Use are Games or Premium Features, in particular Virtual Currency or virtual items, which can be used in exchange for a recurring payment. The provision of a Subscription Game by the Provider constitutes a digital service.
- 5.2. When concluding the contract for the use of a Subscription Game directly via the Provider, the conclusion takes place by selecting the respective subscription and clicking the order button ("Buy Now" or similar) (Offer of the User) and the acceptance by the Provider via email or via the activation of the Subscription Games or Premium Features. When purchasing from third parties, the purchase is carried out according to their terms and conditions.

- 5.3. **When purchasing directly via the Provider, the user's right of withdrawal is determined by the provisions pursuant to Section 14.1. of these Terms of Use.**
- 5.4. By concluding the contract, the user acquires a simple, non-transferable right of use, limited in time to the subscription term, to use the respective Subscription Game in its current version.
- 5.5. The use of the respective Subscription Game is subject to the system requirements indicated in the respective product description. Compatibility with the user's system is ensured only if at least the minimum requirements are met.
- 5.6. In the event of cancellation of a subscription, the agreed payments shall be continued by the user until the end of the subscription period. If a shorter notice period is expressly provided for, e.g. in special terms of use, or if the subscription is for an indefinite period, payments shall continue until the end of the notice period. If the user has concluded a subscription for the recurring purchase of Premium Features, in particular Virtual Currency, and if such subscription is terminated prematurely without good cause by cancellation of the user's account, Section 21.4 shall apply mutatis mutandis with respect to any outstanding payments until the next regular termination date of the subscription. Insofar as the user has already received the services to be provided by the Provider, there is no entitlement to reimbursement. In particular, there will be no refund for Premium Features that the user has ordered from the Provider and already received.
- 5.7. Subject to Section 21.1, the user may terminate a subscription at any time with effect from the next possible termination date by clicking on the appropriate button or by notifying the Provider in text form (e.g. by email). When concluding a subscription via third-party providers, the subscription must be cancelled with the respective third-party provider and not with the Provider. If the user cancels the subscription, the Provider shall not refund any fees already paid and shall also not pay out in real currency the virtual credit balance credited to the user's account, subject to the constellations regulated in these Terms of Use. The Provider may terminate subscription contracts at any time at the end of the term. In the case of contracts with an indefinite term, a subscription contract may be terminated with one month's notice, whereby the usage fees already paid shall be refunded pro rata temporis.

6 Digital Content

- 6.1. For the purposes of these Terms of Use, **Digital Content** means Games or extensions of Games, individual graphics, pieces of music or contents that are offered to the user for download, that do not require an ongoing online service to use and that can be used by the player in exchange for a one-time payment of a sum of money or Virtual Currency.
- 6.2. When concluding the contract for the purchase of Digital Content directly via the Provider, the conclusion takes place by completing the order process and clicking the order button ("Buy Now" or similar) (Offer of the User) and the acceptance by the Provider via email or via the making available of the digital content by the Provider.
- 6.3. **The user's right of withdrawal with respect to Digital Content directly from the Provider is determined by the provisions pursuant to Section 14.2. of these Terms of Use.**
- 6.4. By concluding the contract, the user acquires a simple right of use to use the Digital Content in its respective updated version. Updates include updates to maintain functionality, but do not include the entitlement for successor products or new functionalities that are to be purchased separately to be made available.
- 6.5. The use of the respective Digital Content is subject to the system requirements indicated in the respective product description. Compatibility with the user's system is ensured only if at least the minimum requirements are met.

7 Premium Features

- 7.2. The provision of Premium Features, in particular Virtual Currency, is a digital service by the Provider. Premium Features can only be used in the Games for which they are offered, unless otherwise expressly stated in the product description. Premium Features can be provided permanently or with a term. If a service is subject to payment, the user will be informed of the costs incurred, the terms of payment and other relevant details before the service is used.
- 7.2. In case of purchase directly from the Provider, the user makes an offer to purchase or use Virtual Currency or other Premium Features by selecting the type and quantity and clicking the order button ("Buy Now" or similar). The purchase contract is concluded when the Provider declares acceptance by email, or executes the order and provides the corresponding Virtual Currency or the corresponding Premium Features. This creates a separate contractual relationship regarding the Premium Features, which is subject to these Terms of Use as well as any special terms of

use, as the case may be. When purchasing from third parties, the order process may be regulated differently. In this respect, their terms and conditions apply.

7.3. The user's right of withdrawal with respect to Premium Features is determined by the provisions pursuant to Section 14.1. of these Terms of Use.

7.4. By concluding the contract, the user, if he has purchased a Premium Feature with a term, acquires a simple, non-transferable right of use, limited in time to the respective term, to use the respective Premium Feature. If the user has purchased a Premium Feature without a term, by concluding the contract he acquires a simple, non-transferable right of use, limited in time to the term of the respective contract for the use of the Game or Games, to use the respective Premium Feature. A transfer is only possible if the respective Game mechanics explicitly allow a transfer of Premium Features to other players.

7.5. If the user acquires Virtual Currency that is not game-specific, then it does not expire as long as the respective underlying usage contract between the user and the Provider exists. In the event that the user account is blocked, the Provider shall have a right to refuse service for the duration of the block.

7.6. In the case of the provision of Virtual Currency which the user can also gain by playing, the Provider reserves the right that, when Virtual Currency is used, Virtual Currency purchased with real currency is consumed before Virtual Currency that was gained by playing.

7.7. Due to the ongoing further development of the Games, the Provider reserves the right to offer new Premium Features, in particular Virtual Currencies, and/or to discontinue existing Premium Features in the future or to make them available in the free basic version. The Provider also reserves the right to introduce bonus programs ("**Loyalty Program**"). These may require the user to purchase a certain number of a particular Premium Feature, including Virtual Currencies in particular. A Loyalty Program may also be designed to include multiple Providers. The exact terms and conditions of the respective Loyalty Program will be published separately by the respective Provider or Providers, if applicable.

8 Digital Vouchers

8.1. A **Digital Voucher** entitles the holder of the Voucher to purchase from the Provider or from a third party, according to the content of the voucher, a specific good, a specific Digital Content or a specific Digital Service, or a good for the equivalent value of the voucher.

8.2. When concluding the contract for a Digital Voucher acquired directly via the Provider, the conclusion takes place by completing the respective order process and clicking the order button ("Buy Now" or similar) (Offer of the User) and the subsequent acceptance by the Provider via email or via delivery of the voucher by the Provider.

8.3. The user's right of withdrawal with respect to Digital Vouchers is determined by the provisions pursuant to Section 14.2. of these Terms of Use.

8.4. Digital Vouchers are valid for three years from the end of the year in which the Digital Voucher was purchased.

9 Merchandising Articles and Other Goods

9.1. The conclusion of the contract for the purchase of merchandising articles or other goods, including Games on data carriers, takes place by completing the order process and clicking the order button ("Buy Now" or similar) (Offer of the User) and the subsequent acceptance of the order via email or via shipment of the goods.

9.2. The user's right of withdrawal with respect to the purchase of merchandising articles or other goods is determined by the provisions pursuant to Section 14.3. of these Terms of Use.

9.3. Shipping costs may vary depending on the delivery location and shipping method and will be displayed before completion of the order.

9.4. Unless a delivery period is agreed, delivery shall be made within 14 days from the conclusion of the contract.

9.5. The Provider shall not be responsible for any delay in delivery due to lack of delivery to himself, provided that he has made a timely sufficient covering transaction and is not responsible for the non-delivery.

- 9.6. The Provider is entitled to withdraw from the contract if, despite having concluded a corresponding covering transaction, he is not supplied by his own suppliers for reasons for which he is not responsible and this situation persists for more than 4 weeks from the date of the user's order.
- 9.7. The goods remain the property of the Provider until full payment.
- 9.8. Vouchers in printed form are valid for three years from the end of the year in which the voucher was purchased.

10 Changes of Games and Premium Features

The Provider is entitled but not obligated to make changes to Free-2-Play Games, Subscription Games, Digital Content, Games on data carriers and Premium Features that go beyond what is necessary to maintain conformity with the contract pursuant to Section 327e Paragraphs 2 and 3 BGB (German Civil Code) and Section 327f BGB (German Civil Code). Reasons for changing the Games are: Adapting the Games to new technical environments, changes in the legal framework, increased numbers of users, or changes required for other important operational reasons, as well as improving the user experience, especially by adding new content.

11 Scope of Services

- 11.1 With regard to all Games and Premium Features that require a permanent internet connection, the Provider guarantees an accessibility of 95% on an annual average for each Game or Premium Feature. This does not apply to times when the servers for the respective Games and Premium Features cannot be reached due to technical or other problems beyond the control of the Provider (e.g. force majeure, fault of third parties, etc.). Also excluded are times when routine maintenance is being performed. The Provider may restrict access to the Games and Premium Features if this is required for the security of network or Game operations, the maintenance of network integrity, in particular the avoidance of serious disruptions to the network, software or stored data. These times shall also not be taken into account in the calculation of accessibility. The liability of the Provider for non-availability of the servers in case of intent or gross negligence remains unaffected. The Games and Premium Features of the Provider may not be usable in all countries for legal or licensing reasons. Whether a Game requires a permanent internet connection is indicated in the system requirements of the respective Game.
- 11.2 If and as long as the user does not fulfill his payment obligations, his access to the Premium Features to be provided under the respective contract, in particular the Virtual Currency, may be denied. In this case, already existing claims for payment on the part of the Provider against the user that result from the contract remain unaffected and do not expire.
- 11.3 If access to Premium Features purchased by the user, in particular virtual currencies, is temporarily not possible within the scope of the owed availability pursuant to Section 11.1, such downtimes shall not be appended to the term of the subscription.
- 11.4 Warranty is provided in accordance with the statutory provisions, taking into account Section 18. Additional warranties are only granted within the scope of the respective product description.
- 11.5 The user has no claim to the maintenance or causation of a certain state or functional scope of the respective Game (e.g. game progress, game states, high scores, achievements). Any claims on the part of the user for defects relating to the technical playability of the Game itself, as well as Section 327r Paragraph 2 BGB (German Civil Code), shall remain unaffected.

12 Authorized Users

- 12.1 The Games offered by the Provider are aimed exclusively at consumers. Use of the Games for commercial or business purposes is not permitted.
- 12.2 Use of the service is restricted to persons who have reached the age of 16 and are either of legal age in their country of residence or whose legal representatives have given their consent to use the service. Expressly ineligible to participate are all persons whose user account or Game registration has been blocked by the Provider in accordance with these Terms of Use or who have not yet reached the age of 16.
- 12.3 If the user is a minor, he assures the existence of the consent of his legal representative. The Provider is entitled, but not obliged, to request, at any time, written proof of the user's age of majority or the declaration of consent of the user's legal representative.
- 12.4 As soon as an underage user uses its user account after reaching legal age, all contracts concluded in connection with said user account before reaching full age shall be deemed to have been approved.

13 Payment Conditions and Provision

- 13.1 For payment, the Provider is entitled to offer the user different payment methods (e.g. prepayment, PayPal, payment by credit card), although there is no claim that all payment methods or a specific payment method are always offered. If the payment is processed via a payment service provider (e.g. PayPal), the terms of use and terms of business of the relevant payment service provider shall apply exclusively to the payment processing and shall be referred to separately in this case.
- 13.2 The Provider may, in compliance with the statutory provisions, make the immediate provision of Digital Content or Digital Vouchers conditional upon the user's waiver of any existing rights of withdrawal. If the user does not waive the existing withdrawal rights, the Provider may wait until the expiration of the withdrawal period to provide the Digital Content or the Digital Voucher.
- 13.3 When purchasing Digital Content, Premium Features, in particular Virtual Currency, a Subscription Game, Digital Vouchers, merchandising items or other goods through an app store, a social network or other third-party platform, their respective terms and conditions shall apply in addition to these Terms. In that case, these third-party providers are also to be addressed and responsible for payment processing, warranty or termination of contracts.
- 13.4 Offsetting by the user is only possible with undisputed or legally established counterclaims against the Provider. The user may only exercise a right of retention if his counterclaim is based on the same contractual relationship.
- 13.5 All stated fees include the applicable statutory value added tax, if applicable.

14 INFORMATION CONCERNING THE EXERCISE OF THE RIGHT OF WITHDRAWAL

- 14.1 If the user is a consumer, the user shall, for purchases directly from the Provider, have a statutory right of withdrawal in accordance with the following withdrawal policy with respect to contracts for Free-2-Play and Subscription Games, as well as with respect to Premium Features:

Withdrawal policy

Right of withdrawal

The user has the right to withdraw from this contract within fourteen days without stating any reason.

The withdrawal period will expire after fourteen days from the day of the conclusion of the contract.

In order to exercise his right of withdrawal, the user must inform the Provider (AxesInMotion, S.L.U., Calle Comercio 47, 41927 Mairena del Aljarafe, Sevilla, Spain, Phone: +34 955672914, Email: support@axesinmotion.com) by means of a clear declaration (e.g. a letter sent by mail or an email) of his decision to withdraw from this contract. For this purpose, the user may use the attached sample withdrawal form, which is, however, not mandatory.

In order to comply with the withdrawal period, it is sufficient that the user sends the notification of the exercise of the right of withdrawal before the expiry of the withdrawal period.

Effects of withdrawal

If the user withdraws from this contract, the Provider shall reimburse the user for all payments received by the Provider from the user, including delivery costs (with the exception of additional costs resulting from the fact that the user has chosen a type of delivery other than the most inexpensive standard delivery offered by the Provider), without undue delay and no later than within fourteen days from the day on which the Provider receives the user's notification of withdrawal from this contract. For this reimbursement, the Provider shall use the same means of payment that the user used for the original transaction, unless expressly agreed otherwise with the user. In no case shall the user be charged any fees due to this reimbursement.

If the user has requested that the digital service begin during the withdrawal period, the user shall pay the Provider an adequate amount corresponding to the proportion of the digital services already provided up to the time the user notifies

the Provider of the exercise of the right of withdrawal with respect to this contract, in relation to the total scope of the digital services intended for in the contract.

Premature expiration of the right of withdrawal

The user's right of withdrawal shall expire prematurely if the Provider has provided the digital service in full and has only begun to perform the digital service after the user has given his express consent to this and at the same time confirmed his knowledge that he will lose his right of withdrawal upon full performance of the contract by the Provider.

The sample withdrawal form for the cancellation of contracts with respect to Free-2-Play and Subscription Games, as well as Premium Features can be downloaded [here](#).

14.2 If the user is a consumer, the user shall, for purchases directly from the Provider, have a statutory right of withdrawal in accordance with the following withdrawal policy with respect to contracts for digital contents or Digital Vouchers:

Withdrawal policy

Right of withdrawal

The user has the right to withdraw from this contract within fourteen days without stating any reason.

The withdrawal period will expire after 14 days from the day of the conclusion of the contract.

In order to exercise his right of withdrawal, the user must inform the Provider (AxesInMotion, S.L.U., Calle Comercio 47, 41927 Mairena del Aljarafe, Sevilla, Spain, Phone: +34 955672914, Email: support@axesinmotion.com) by means of a clear declaration (e.g. a letter sent by mail or an email) of his decision to withdraw from this contract. For this purpose, the user may use the attached sample withdrawal form, which is, however, not mandatory.

In order to comply with the withdrawal period, it is sufficient that the user sends the notification of the exercise of the right of withdrawal before the expiry of the withdrawal period.

Effects of withdrawal

If the user withdraws from this contract, the Provider shall reimburse the user for all payments received by the Provider from the user, including delivery costs (with the exception of additional costs resulting from the fact that the user has chosen a type of delivery other than the most inexpensive standard delivery offered by the Provider), without undue delay and no later than within fourteen days from the day on which the Provider receives the user's notification of withdrawal from this contract. For this reimbursement, the Provider shall use the same means of payment that the user used for the original transaction, unless expressly agreed otherwise with the user. In no case shall the user be charged any fees due to this reimbursement.

Premature expiration of the right of withdrawal

In the case of a contract for the supply of Digital Content or Digital Vouchers that are not on a physical medium, the user's right of withdrawal shall expire prematurely if the user has given his express consent to the Provider commencing performance of the contract prior to the expiry of the withdrawal period and the user has confirmed his knowledge that by consenting he loses his right of withdrawal upon commencement of performance of the contract, but not before the Provider has provided the user with a confirmation of the contract setting out the contents of the contract on a durable medium (email will suffice).

The sample withdrawal form for the cancellation of contracts with respect to Digital Content and Digital Vouchers can be downloaded [here](#).

- 14.3 If the user is a consumer, the user shall, for purchases directly from the Provider, have a statutory right of withdrawal in accordance with the following withdrawal policy with respect to contracts for merchandising articles or other goods:

Withdrawal policy

Right of withdrawal

The user has the right to withdraw from this contract within fourteen days without stating any reason.

The withdrawal period expires fourteen days from the day on which the user or a third party named by the user, who is not the carrier, has taken possession of the goods.

In order to exercise his right of withdrawal, the user must inform the Provider (AxesInMotion, S.L.U., Calle Comercio 47, 41927 Mairena del Aljarafe, Sevilla, Spain, Phone: +34 955672914, Email: support@axesinmotion.com) by means of a clear declaration (e.g. a letter sent by mail or an email) of his decision to withdraw from this contract. For this purpose, the user may use the attached sample withdrawal form, which is, however, not mandatory.

In order to comply with the withdrawal period, it is sufficient that the user sends the notification of the exercise of the right of withdrawal before the expiry of the withdrawal period.

Effects of withdrawal

If the user withdraws from this contract, the Provider shall reimburse the user for all payments received by the Provider from the user, including delivery costs (with the exception of additional costs resulting from the fact that the user has chosen a type of delivery other than the most inexpensive standard delivery offered by the Provider), without undue delay and no later than within fourteen days from the day on which the Provider receives the user's notification of withdrawal from this contract. For this reimbursement, the Provider shall use the same means of payment that the user used for the original transaction, unless expressly agreed otherwise with the user. In no case shall the user be charged any fees due to this reimbursement. The Provider can refuse the reimbursement until he has received the goods back or until the user has provided proof that he has sent the goods back, whichever is earlier.

The user shall return or hand over the goods to the Provider without undue delay and in any case no later than within fourteen days from the day on which the user notifies the Provider of the withdrawal from this contract. The period is met if the user sends the goods before the expiry of the period of fourteen days. The user bears the direct costs of returning the goods. The user shall only be liable for any loss in value of the goods if this loss in value is due to handling of the goods in a manner that is not necessary for testing the quality, characteristics and functioning of the goods.

The sample withdrawal form for the cancellation of contracts with respect to merchandising articles and other goods can be downloaded [here](#).

15 Prohibited Activities

15.1 The use of the Provider's services for or in connection with commercial purposes (e.g. dissemination of advertising for third party games, sale of virtual goods) is prohibited, unless such use has been expressly permitted by the Provider in advance and in writing.

15.2 Any activities in connection with the offers that violate applicable law, infringe the rights of third parties or violate the principles of the protection of minors are also prohibited. In particular, the following actions are prohibited:

- the posting, distribution, offering and advertising of pornographic content, games, services and/or products that violate youth protection laws, data protection laws and/or other laws and/or are fraudulent;

- the use of content which insults or defames other users or third parties;
- the use, provision and distribution of content, games, services and/or products that are protected by law or encumbered with third-party rights (e.g. copyrights) without being expressly authorized to do so.

15.3 Furthermore, regardless of any violation of the law, the following activities are also prohibited when using the offers and when communicating with other users (e.g. by sending personal messages):

- the distribution of viruses, Trojans, and other harmful files;
- sending junk or spam emails, and chain letters;
- the distribution of offensive, sexually explicit, obscene or defamatory content or communication as well as such content or communication that is capable of promoting or supporting (explicitly or implicitly) racism, fanaticism, hatred, physical violence, or illegal activities;
- harassment of other participants, e.g. by multiple personal contacts without or against the reaction of the other participant as well as promoting or supporting such harassment;
- requesting other participants to disclose passwords;
- soliciting other participants to disclose personal information for commercial or unlawful purposes;
- the distribution and/or public reproduction of content available in the Games, unless this is expressly permitted by the respective author or expressly provided as a functionality of the respective Game.

15.4 Any action that is likely to impair the smooth operation of the offers, in particular to place an excessive load on the Provider's systems, is also prohibited. In particular, this prohibits the following actions:

- the use or promotion of tools which interfere with the state or the course of the Game (in particular so-called "bots," "hacks," or "cheats");
- the total or partial blocking, overwriting, redirection or modification of the Games or content provided by the Provider,
- buying, selling, giving away, trading, exchanging and offering Premium Features, in particular Virtual Currency, or other content of the Games, including Game characters, in the "real world" for real currency, in particular so-called "Gold Selling";
- the planned exploitation of program errors for one's own benefit (so-called "exploits");
- addressing other users under the pretense of being employed by or working for the Provider.

15.5 The Provider is entitled to remove Premium Features, in particular Virtual Currency, but also other Game content, which the user has obtained through illegal, abusive, non-contractual or otherwise unauthorized use of the Game (especially in the case of so-called "Gold Selling") from the user's account or to refuse the use of the same. The Provider is in no way obligated to provide a refund to the user due to the removal of Premium Features or Virtual Currency from the user's account for the reasons outlined in sentence 1.

15.6 If the user becomes aware of any illegal, abusive, non-contractual or otherwise unauthorized use of the Games, he may notify the Provider at any time. The Provider will then examine the matter and, if necessary, take appropriate steps. If there is any suspicion of illegal or punishable actions, the Provider is entitled and, as the case may be, also obliged to verify the activities of the concerned users and, if applicable, to take appropriate legal steps. This may also include forwarding a case to the public prosecutor's office.

15.7 In the event that the user breaches the Terms of Use, any special terms of use or other Game rules or rules of conduct, the Provider shall be entitled to take appropriate measures in order to ensure that the user will no longer breach these terms in the future. In particular, the Provider shall be entitled to block the user's access to the Games for up to two weeks after the Provider becomes aware of the breach in question, provided that this is appropriate to the violation. Alternatively, the Provider can take milder measures, such as blocking chat options.

16 Duties and Obligations of the User

16.1 The user undertakes to keep the access data required to access the Games (login data, passwords, etc.) strictly confidential and not to disclose them to any third party unless the Provider has given prior consent in text form to the transfer of the user account or the Game registration. The user shall also be obliged to notify the Provider immediately in the event of unauthorized use of his user account or a security breach and to ensure that his user account is protected against further unauthorized access.

16.2 The Provider shall normally communicate with the user by email unless otherwise provided for by these Terms of Use or any other agreement with the user. The user shall be responsible for ensuring that emails sent to the email address provided by the user during registration or communicated at a later date can be delivered. The user shall ensure this

by appropriately adjusting the settings in the spam filter and checking this email address regularly, among other things. In other respects, the Provider reserves the right to choose another suitable form of correspondence.

- 16.3 It is the responsibility of the user not to choose names for his Game characters that allow conclusions to be drawn about his identity or real name.

17 Beta Tests

- 17.1 The Provider may invite the user to participate in or use Games, Game elements, services and content not yet ready for release for testing purposes ("**Beta Test**"). Beta Tests may contain known, unknown and even serious program errors.
- 17.2 These program errors according to Section 17.1 can, for example, lead to crashes of the Game or the user's end device. During Beta Tests the Provider may, at any time, remove or add content, reset Game states, import backups, or create certain Game states, including for purposes of troubleshooting and improving the Game experience. The user has no claim to (re-)creation of a certain Game state.
- 17.3 The Provider may extend, shorten, or completely or partially terminate a Beta Test at any time.

18 Limitation of Liability

- 18.1 To the extent that the Provider demands payment for services, he shall only be fully liable for compensation in the event of intent or gross negligence. In the event of a breach of material contractual obligations, the Provider shall also be liable for minor negligence. Material contractual obligations shall be understood as those obligations which make the proper execution of the contract possible in the first place and on the fulfilment of which the user may regularly rely.
- 18.2 Insofar as the Provider provides services free of charge, the Provider is only liable for damages in the event of damage caused by gross negligence and intent.
- 18.3 In the event of a negligent infringement of material contractual obligations, the obligation for compensation shall be limited in each case to the damage that is usually foreseeable and typical for the contract.
- 18.4 The above limitations of liability shall not apply to liability in the event of death, injury to body and health or in the event that the Provider has assumed a guarantee or in the event of liability under the German Product Liability Act. The liability of the Provider within the scope of application of Section 70 TKG (German Telecommunications Act) shall remain unaffected.
- 18.5 The above exclusions or limitations of liability shall also apply with regard to the liability of the Provider's employees, workers, staff, representatives and vicarious agents, in particular in favor of the shareholders, staff, representatives, bodies and their members with regard to their personal liability.
- 18.6 Strict liability pursuant to Section 536a Paragraph 1 BGB (German Civil Code) for initial defects is expressly excluded.
- 18.7 If you are a US Customer, your and the Provider's liability shall be governed by Section 24.2.

19 Foreign Content / Responsibility

- 19.1 Insofar as the Provider grants the user the opportunity to make his own content available for access by third parties, e.g. as part of a discussion forum or chat, the Provider does not check the content for completeness, correctness, legality, topicality, quality or suitability for a particular purpose. The Provider merely provides the technical platform for the publication of the content posted by the user. The Provider is therefore not responsible for external content or content to which the Provider merely provides access. This also applies to the unmodified intermediate storage of external content. The Provider points out to the user that he only checks content if and insofar as the Provider has been notified of its unlawfulness. The Provider expressly requests the user to report illegal content to the Provider.
- 19.2 The user represents and warrants to the Provider that it is the sole owner of all rights to the content it has posted or is otherwise entitled (e.g. by effective permission from the rights owner) to post the content.

20 Industrial Property Rights and Copyrights / User-Generated Content

- 20.1 In the context of the use of the Games, the Provider provides the user with software (in particular the Game software) in some cases. In this respect, the Provider shall grant the user the non-exclusive right, limited to the duration of the contractual period, to use this software on his respective end device within the framework of a non-commercial use. The user may only make copies of this software for backup and archiving purposes for personal use unless the Provider explicitly allows the user to pass on the software. The user undertakes to keep the intellectual property disclaimers on or in copies of the software and to observe the relevant laws for the use of the software.

- 20.2 The user is not permitted to copy (excluding a necessary backup copy), distribute, sell, auction, rent, lease, lend, modify or create derivative works, edit, translate, perform, exhibit, sublicense or transfer in whole or in part Games or any software. The user is not permitted to reproduce the Game or software for remuneration or to make it available to third parties for remuneration, or to lend the Game or software or the rights thereto for remuneration or to rent it out or transfer it or the rights thereto to third parties in any other form for remuneration or to modify it, translate it, use reverse engineering, decompile or disassemble it or create other derivative works based on the Game or software. Section 69e UrhG (German Act on Copyright and Related Rights) shall remain unaffected.
- 20.3 All content, Games and other information offered on or via the Provider's websites are protected by copyright and trademarks. The intellectual property rights for all of the contents of the Games - with the exception of the contents posted by the user - as well as any other property rights to the Game or the software shall remain the property of the Provider and/or his suppliers and licensors.
- 20.4 The Provider revocably permits the user to produce user-generated content on the basis of content from the Provider's Games and to distribute it in a restricted manner, as long as the Games and the Provider are not disparaged in any way as a result. This permission expressly does not apply to the source code or other non-public parts of the Game, in particular its program logic. The permission applies to Game content, Game scenes, characters, texts, locations, maps, graphics, animations, sounds, film works, works of music and photographs. Such user-generated content includes, for example, videos of a user's own Game session commented on by the user ("Let's Play videos") or the sharing of images from the Game on social networks or making them available on fan pages or in fan forums. The Provider allows the use only for personal, but not for commercial or business purposes. This permission is not transferable. In this context, advertising placed by the operator of a platform independent of the user - for example advertising included on video portals - is not to be regarded as commercial use if the user has no influence on it. This permission can be freely revoked by the Provider at any time. Any further, in particular commercial, use is possible with the prior written consent of the Provider. For this purpose, the user can contact pr@gamigo.com. The Provider reserves the right to publish on his website further guidelines for user-generated content using content from the Games offered by the Provider, which shall apply in a supplementary manner.
- 20.5 Within the scope of the use of the Provider's content for user-generated content pursuant to Section 20.4, the Provider does not warrant the existence of third-party rights or the infringement of third party rights. The Provider will not indemnify the user against any claims of third parties for copyright infringements.
- 20.6 The user grants the Provider the right, insofar as this is necessary to provide the contractual services, to reproduce and process the content uploaded or posted by the user for use within the Games and on the users' end devices, insofar as the processing is necessary to convert the content into a file format suitable for further distribution, and to make the content publicly accessible, broadcast it and otherwise publicly present it, in particular to make the content available for retrieval by any third party via the internet. Furthermore, the user shall also grant the Provider the right to allow any third parties to download the content to their end devices and to use it there in accordance with the intended purpose and to grant the third parties the necessary rights of use for this purpose and to use individual content or excerpts, for example, for preview purposes in order to advertise the Games and to copy, distribute and make publicly accessible or otherwise publicly reproduce the relevant content for this purpose and to grant third parties the necessary rights of use.
- 20.7 The aforementioned granting of rights pursuant to Section 20.6 is effected in each case by the posting or uploading of content. The user assures the Provider that he is entitled and able to grant rights of use to the extent specified above. The Provider is entitled to demand proof from the user that he has the necessary rights of use.

21 Termination

- 21.1 The user may at any time request the Provider to delete his Game registration created with the Provider separately. The same applies to the termination of a user account as a whole. In the event of termination of a user account, this also affects all Games or other services assigned to the user account. Any Premium Features, in particular Virtual Currency, acquired up to that point that are attributed to the deleted Game expire without any right to a refund.
- 21.2 The right of the parties to extraordinary termination for good cause at any time shall remain unaffected by the above provisions. In particular, the Provider shall be entitled to terminate the contract for good cause if
- a. the user culpably breaches laws, these Terms of Use, or special terms of use for Premium Features, in particular Virtual Currency, and repeatedly conducts himself contrary to the rules in the same or a similar manner despite having been warned;
 - b. the user defaults on payment of the fees with an amount of at least EUR 10.00 and fails to pay despite two reminders;
 - c. when using any other of his Game registrations, the user fulfills one of the reasons for termination No. a. or b. or any other good cause;

- d. third parties (e.g. operators of social networks), through whose registration function the user gains access to its Game Registration with the Provider, request the Provider to delete user data and/or take comparable measures; insofar as an alternative granting of access would be unreasonable for the Provider;
 - e. third parties (e.g. operators of social networks), through whose registration function the user gains access to its Game Registration with the Provider, restrict the Provider's access to data, insofar as an alternative granting of access would be unreasonable for the Provider.
- 21.3 In the event of serious breaches, immediate termination is permissible without the need for a prior warning. A serious breach is a breach in the presence of which the Provider cannot reasonably be expected to adhere to the contract. This is generally the case when
 - a. the user violates criminal laws;
 - b. the user uses the user account, a Game Registration or a Game in an illegal manner;
 - c. the user provides false data when registering or paying for paid services;
 - d. the user realizes one of the termination reasons a., b., c. or any other important reason when using any other of his user accounts or Game Registrations.
- 21.4 In the event of a justified termination for due cause by the Provider, the Provider shall be entitled to demand an amount equal to 75% of the sum of all fees that the user would have had to pay during the term of the contract (for services not yet rendered by the Provider, in particular for Premium Features already ordered) if the termination had been made at the same time whilst adhering to the notice period. The right of the user to prove that no damage or significantly less damage has occurred remains unaffected.
- 21.5 In the event of a warning for violation of these Terms of Use or other special terms of use or Game Rules, the Provider shall be entitled, insofar as this is appropriate to the violation or in the event of repeated violation, to suspend the user's access for a limited period of time instead of issuing a notice of termination. A suspension or termination may apply to all of the user's accounts and Games, not just a specific affected Game or user account.
- 21.6 If the Provider is responsible for the extraordinary termination and the user still has Virtual Currency for a Game in his user account, the Provider will credit the user's Virtual Currency to a Game requested by the user and offered by the Provider. A refund in cash shall be excluded, unless the credit for another Game of the Provider is exceptionally not reasonable for the user under consideration of the mutual interests, e.g. because no equivalent or similar Game is offered. In this case, the Provider will reimburse the user the value of any Virtual Currency still in his user account, which the user has acquired by paying real money, in the amount actually deposited by the user and remaining at that time. Further claims of the user are excluded, unless otherwise provided for in these Terms of Use.
- 21.7 A credit for other Games or a refund shall not be made if the Virtual Currency can be used for a large number of Games from the Provider's offer independently of a specific Game, insofar as the termination only relates to a specific Game, as the Virtual Currency can then continue to be used as intended.
- 21.8 The Provider has a special right of termination regarding the user's Game registration for individual Games in the event that the Provider is no longer able to operate the respective Game from an economic point of view, or the Provider loses the authorization to operate the respective Game, e.g. due to termination of the respective license agreement between the Provider and the respective licensor. In this case, the Provider may extraordinarily terminate all contracts relating to the operation and use of the Game (e.g. usage contract, contract on the provision and use of Premium Features, in particular Virtual Currency) at the time the Game is discontinued. In this case, the regulations according to Sections 21.6. and 21.7. shall apply. Other rights of termination shall remain unaffected.
- 21.9 Any termination must be made in text form (e.g. by letter, email or contact form) or, if applicable, via a provided termination button.
- 21.10 Premium Features, in particular Virtual Currency, granted free of charge, are generally excluded from a refund.

22 Data Protection

The Provider processes and uses the data collected from users at the moment of conclusion of contract and as part of using the offer, in particular insofar as it is necessary for correct fulfillment of the contract, in accordance with the applicable data protection provisions. The Privacy Policy of the respective provider shall apply.

23 Amendments to the Terms of Use

- 23.1 The Providers reserve the right to amend or extend these Terms of Use at any time with effect for the future, provided this is necessary and does not disadvantage the user contrary to good faith. In particular, an amendment may be necessary to make adjustments to a change in the legal situation. Newly issued court decisions are also considered a change in the legal situation. Changes and further developments of the Games may also make it necessary to amend or supplement the Terms of Use.

- 23.2 Any amendment or addition to these Terms of Use shall be appropriately announced in text form at least six weeks before it comes into force. The notice of the adjustment of the Terms of Use is generally made by announcement by email, and in any case at the next start of the respective Game.
- 23.3 The user has the right to object to the Provider to a change or addition within six weeks after publication and opportunity of perusal. In the event of a timely objection, the parties shall be entitled to terminate the contract extraordinarily in accordance with the termination provisions of these Terms of Use. Other rights of termination shall remain unaffected. If the user does not object within the objection period or continues to use the services thereafter, the amendment or addition shall be deemed accepted and shall become part of the contract.
- 23.4 As part of the information on the amendments to the Terms of Use, the Provider shall specifically draw the user's attention to the entitlement to objection and termination, the deadline and the legal consequences, in particular with regard to failure to object.

24 US CUSTOMERS: WAIVER OF CLASS ACTION, ARBITRATION, LIMITATION OF LIABILITY

IF YOU ARE A US CUSTOMER, THIS SECTION APPLIES TO YOU. PLEASE READ THIS SECTION CAREFULLY. IT CONCERNS YOUR RIGHTS, INCLUDING YOUR RIGHT TO BRING AN ACTION IN COURT.

24.1 Disputes. Individual Arbitration. Class Action Waiver.

- (a) **Informal Resolution.** If you have a problem that our customer support cannot resolve, you and gamigo agree to attempt to resolve the dispute informally before initiating arbitration to help us reach a resolution and to control costs for both parties. You and gamigo agree to make a good-faith effort to negotiate any dispute between us for at least 30 days ("**Informal Resolution**"). Such informal negotiations shall commence on the date you or gamigo receive written notice of a dispute in accordance with these Terms of Use.

You shall send your dispute notification to support@gamigo.com with the subject "Informal Resolution". Include your name, the account name you use for your account for the affected Game, your address, how to contact you, what the issue is, and what you want gamigo to do. If gamigo has a dispute with you, gamigo will send our dispute resolution notice to your registered email address and to the billing address you have provided to us.

- (b) **Small Claims Court.** In lieu of using the informal dispute resolution process mentioned above, you and gamigo agree that you may sue us in small claims court, at your option in the county in which you reside or in Texas (if you meet the requirements of small claims court). We hope you will try the Informal Resolution first, but you do not have to do so before suing in small claims court.
- (c) **Binding Individual Arbitration.**

THE ARBITRATION PROCEEDINGS IN THIS SECTION WILL BE CONDUCTED ON AN INDIVIDUAL BASIS ONLY.

You and gamigo agree that Disputes shall be resolved by Binding Individual Arbitration conducted by Judicial Arbitration Mediation Services, Inc (<https://www.jamsadr.com/>) ("**JAMS**"). Binding Individual Arbitration under JAMS for purposes of any dispute is governed by the US Federal Arbitration Act and federal arbitration law and is conducted in accordance with the JAMS Streamlined Arbitration Rules (<https://www.jamsadr.com/rules-comprehensive-arbitration/>) and Procedures, effective 06/01/2021 ("**JAMS Rules**"), each of which may be amended by these Terms of Use. This means that you and gamigo agree to a dispute resolution process in which we submit any dispute to a neutral arbitrator (not a judge or jury) who will make the final decision to resolve the dispute. JAMS uses experienced professionals to mediate Disputes, which helps you and gamigo resolve Disputes fairly, but more quickly and efficiently than in court. The arbitrator may award you the same remedies individually as a court would, but only to the extent necessary to satisfy your individual claim. The arbitrator's decision is final except for limited review by courts under the US Federal Arbitration Act, and may be enforced like any other court order or judgment.

- (d) You and gamigo agree to arbitrate all Disputes, whether the dispute is based on contract, statute, regulation, tort (including occupation, misrepresentation, fraudulent deceit and negligence) or any other legal or equitable theory. The Informal Resolution and Arbitration sections do not apply to (1) individual actions in small claims court; (2) pursuit of enforcement actions through a government agency if the law allows; (3) a complaint or remedy pursuant to the arbitration decision; (4) an action to compel or uphold a prior arbitration decision; (5) gamigo's right to seek injunctive relief against you in a court of law to preserve the status quo while an arbitration proceeds; (6) claims of piracy, creation, distribution or promotion of cheats, and intellectual-property infringement, and (7) the enforceability of the Class Action Waiver clause below. You and gamigo agree that the decision as to whether a dispute is subject to arbitration under these Terms of Use shall be made by the arbitrator and not by a court.

- (e) To initiate arbitration, please read the JAMS Rules and follow the instructions for initiating arbitration on the JAMS website (<http://www.jamsadr.com/rules-streamlined-arbitration>). The party initiating arbitration must send JAMS a "Demand for Arbitration", available on the website, pay a filing fee, and send a copy of the demand to the opposing party. You shall send a copy to support@gamigo.com with the subject "Demand for Arbitration". gamigo will send our copy to your registered email address and to a billing address provided by you. The arbitration will be conducted by a single JAMS arbitrator who has extensive experience in resolving intellectual property and commercial contract Disputes. You and gamigo agree that the arbitration shall be conducted in the English language and that the arbitrator shall be bound by these Terms of Use. If an in-person hearing is required, it will be held either in Texas or at your place of residence, at your option. The arbitrator (not a judge or jury) will settle the dispute. Unless you and gamigo agree otherwise, any decision or award will include a written statement setting forth the resolution of each claim and the basis for the award, including the arbitrator's material factual and legal findings and conclusions. The arbitrator may only award remedies or equitable relief requested by you or gamigo for the satisfaction of any of our individual claims (which the arbitrator determines are supported by credible relevant evidence). The arbitrator may not award any remedy against gamigo that involves a person other than you. Any decision or award may be enforced as a final judgment by any court of competent jurisdiction or, if applicable, an application may be made to such court for judicial recognition of an award and a writ of execution.
- (f) If you initiate arbitration, you must pay the JAMS filing fee required for consumer arbitration. In some situations, gamigo will share in your fees to (hopefully) bring about a quick and fair resolution: If the amount in dispute is \$10,000 or less, gamigo will pay all JAMS costs, including any fees you would otherwise have had to pay, but only if you prevail in the dispute. If the foregoing does not apply to you, but you demonstrate that the costs of arbitration are prohibitive compared to the costs of litigation, gamigo will pay as much of your JAMS costs as the arbitrator deems necessary to prevent arbitration from being prohibitive (compared to the costs of litigation). Even if gamigo wins the arbitration and applicable law or the JAMS Rules permit gamigo to collect our share of the JAMS fees from you, we will not do so. The fee assistance offered above is contingent upon you having filed the arbitration claim in "good faith." If the arbitrator determines that you brought the arbitration claim against gamigo for an improper purpose, frivolously, or without sufficient prior investigation of the facts or applicable law, then payment of all fees will be governed by the JAMS Rules. JAMS costs do not include your attorney's fees and costs, and attorney's fees and JAMS costs are not included in determining the amount in dispute. gamigo will not seek attorney's fees or costs from you in arbitration, even if the law or the JAMS Rules entitle us to do so. If you choose to be represented by an attorney, you will bear your own attorney's fees and costs unless otherwise provided by applicable law.
- (g) If a dispute must be arbitrated, you or gamigo must commence arbitration within two (2) years after the dispute first arose. If you are required by applicable law to bring a dispute sooner than two years after the dispute first arose, you must begin the arbitration process during that earlier time period. gamigo encourages you to notify us of a dispute as soon as possible so that we can work to resolve it. Failure to give timely notice will bar all claims.
- (h) This Binding Individual Arbitration section shall survive any termination of these Terms of Use or gamigo's provision of services to you. Although gamigo may revise these Terms of Use in its sole discretion, gamigo does not have the right to alter this agreement to arbitrate or the rules specified herein with respect to any dispute once that dispute arises.
- (i) If any or all of the provisions of this Binding Individual Arbitration agreement are found to be invalid, unenforceable or illegal, then you and gamigo agree that the provision shall be severed and the remainder of the agreement shall remain in effect and be construed as if the severed provision had not been included. The sole exception is that if the Class Action Waiver is found to be invalid, unenforceable, or illegal, then you and gamigo agree that it is not severable; this entire Binding Individual Arbitration section is then void and unenforceable and any dispute will be resolved in court in accordance with the clauses regarding selection of venue and choice of court set forth in these Terms of Use. Under no circumstances may arbitration be conducted on a class basis without the express consent of gamigo.
- (j) You have the right to reject and not be bound by the Arbitration and Class Action Waiver provisions set forth in these Terms of Use. To exercise this right, you must send written notice of your decision to support@gamigo.com with the subject line "Arbitration and Class Action Waiver." Your notice must include your name, mailing address, and the account name you use for the account of the affected Game, and indicate that you do not wish to resolve Disputes with gamigo through arbitration. To be effective, this notice must be sent within 30 days of the date you first accepted these Terms of Use, unless applicable law requires a longer period. Otherwise, you are required to arbitrate Disputes in accordance with this Section. Notwithstanding the foregoing: If these Terms of Use become effective after you have created an account for a Game, the thirty-day notice period under Section 24.1(j) will begin on the date these Terms of Use become effective for your use of the Game. You are responsible for ensuring that gamigo receives your opt-out notification, so you should send

it by a method that provides for confirmation of receipt. If you choose not to be bound by these arbitration provisions, gamigo shall not be bound by them with respect to any dispute with you.

24.2 **Limitation of Liability.** Access to the gamigo platforms and the Games (including any Virtual Currency and Premium Features) ("**Platform**") and services provided by gamigo are provided on an "as is" and "as available" basis, "with all faults" and without warranty of any kind. gamigo, its licensors and its and their affiliates disclaim all warranties, conditions, common law obligations and representations (express, implied, oral and written) with respect to the Platform, including but not limited to all express, implied and statutory warranties and conditions of any kind, such as title, non-impairment, authority, non-infringement, merchantability, fitness or suitability for a particular purpose (whether or not gamigo knows or has reason to know of such purpose), system integration, accuracy or completeness, results, reasonable care, workmanlike effort, absence of negligence and absence of viruses, whether arising by law, custom or usage of trade or business custom. Without limiting the generality of the foregoing, gamigo, its licensors and its and their affiliates do not warrant that (1) the Platform operates as intended, (2) the Platform will meet your requirements, (3) the operation of the Platform will be uninterrupted or error-free under all circumstances, or (4) any defects in the Platform can be corrected. gamigo, its licensors and its and their affiliates do not warrant uninterrupted, error-free, virus-free or secure operation of or access to the Platform. This paragraph applies to the fullest extent permitted by applicable law. To the fullest extent permitted by law, neither gamigo, nor its licensors, nor its or their affiliates, nor any of gamigo's service providers (collectively the "**gamigo Parties**") shall be liable in any way for any lost profits or indirect, incidental, consequential, special, punitive or exemplary damages arising out of or in connection with this Platform (including Virtual Currency and Premium Features), or the delay or inability to use or the lack of functionality of the Platform, even in the event of a gamigo Party's fault, tort (including negligence), strict liability, indemnity, product liability, breach of contract, breach of warranty or otherwise and even if a gamigo Party has been advised of the possibility of such damages. In addition, the aggregate liability of the gamigo Parties arising out of or in connection with these Terms of Use or the Platform (including Virtual Currency and Premium Features) shall be limited to the total amount paid by you to gamigo for the Platform (including Virtual Currency and Premium Features) during the twelve (12) month period immediately preceding the events giving rise to such liability, to the extent permitted by applicable law. These limitations and exclusions regarding damages apply even if any remedy fails to provide adequate compensation.

24.3 **Compensation.** This section applies only to the extent permitted by applicable law. If you are prohibited by law from entering into the indemnification obligation below, then, to the extent permitted by law, you assume all liability for all claims, demands, actions, losses, liabilities and expenses (including attorney's fees, costs and expert witness fees) that are the subject of the indemnification obligation below. You agree to indemnify, pay the defense costs of, and hold gamigo, its licensors, its and their affiliates, and its and their employees, officers, directors, agents, contractors, and other representatives harmless from all claims, demands, actions, losses, liabilities, and expenses (including attorney's fees, costs, and expert witness fees) that arise from or in connection with (a) any claim that, if true, would constitute a breach by you of these Terms of Use or negligence by you, (b) any act or omission by you in using the Platform (including any Virtual Currency or Premium Features), or (c) any claim of infringement or breach of any third-party intellectual property rights arising from gamigo's use of your user-generated content or feedback as provided to us under the Agreement for the Platform. You agree to reimburse gamigo on demand for any defense costs incurred by gamigo and any payments or losses suffered by gamigo, whether in respect of a court judgment or settlement, based on any matter covered by this Section 24.3.

24.4 **Virtual Currency and Premium Features.** Virtual Currency and Premium Features are licensed together with the Platform and are not sold, regardless of the use of the terms "buy," "sell," or similar terms we use outside of the Platform, and are subject to the restrictions of the licenses granted in these Terms of Use. Unless otherwise prohibited by applicable law, we reserve all right, title and interest in and to the Virtual Currency and Premium Features.

Virtual Currency and Premium Features have no equivalent in real money and do not act as a substitute for real currency. Virtual Currency and Premium Features cannot be redeemed by us or anyone else for money or monetary value, either within or outside of your use of the Games and platforms. Unless otherwise prohibited by applicable law, we have the absolute right, in our sole discretion, to manage, modify, replace, suspend, cancel or eliminate Virtual Currency and Premium Features, including your ability to access or use Virtual Currency and Premium Features already associated with your account, without notice or liability to you. The value of the Virtual Currency and Premium Features is subject to our actions, which may at any time impact the perceived value or purchase price, if any, of the Virtual Currency and Premium Features, except to the extent prohibited by applicable law.

25 Final Provisions

25.1 The user is not entitled to transfer his rights from this contractual relationship to third parties. Anything to the contrary shall only apply if the Provider expressly agrees to this in advance and in text form. The Provider is entitled to transfer the rights and obligations arising from this contractual relationship to a third party. In the event of such a transfer, the user has the option to terminate the user relationship without notice if there are reasons in the person of the acquirer that make it unreasonable for the user to continue the contractual relationship. Any Virtual Currency in the user's account at that time will be refunded to the user.

- 25.2 Contracts concluded on the basis of these Terms of Use and any claims in connection therewith shall be governed exclusively by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods. If the user has concluded the contract as a consumer, the mandatory consumer protection provisions applicable in the state in which the user has his habitual residence shall also apply, provided that these provisions grant the user a more comprehensive protection.
- 25.3 Should individual provisions of these Terms of Use be or become invalid, this shall not affect the validity of the remaining provisions.
- 25.4 All declarations transmitted with respect to the usage contract concluded with the Provider must be made in written or in text form or, if applicable, via a button provided for a specific declaration (e.g. termination).
- 25.5 These Terms of Use can be downloaded [here](#).
- 25.6 The Commission of the European Union provides an internet platform for online dispute resolution (ODR platform). The ODR platform serves as a possibility for the out-of-court settlement of disputes regarding contractual obligations arising from online purchase contracts or contracts between consumers and entrepreneurs with residence/registered office in the European Union. The ODR platform can be accessed by clicking on the following link: <http://ec.europa.eu/consumers/odr>.
- 25.7 The Provider is not willing to participate in such out-of-court settlement of disputes arising from contracts with the user, including under the VSBG (German Consumer Dispute Settlement Act).

Date of version