



TERMS AND CONDITIONS

VERSION: 1

DATE OF LAST UPDATE: 27 February 2023

These Terms and Conditions form a binding legal agreement between you and us and apply to your use of any of our Games or our Platform in any way, through any electronic device (web, mobile, tablet or any other device).

You must read these Terms and Conditions carefully in their entirety before checking the box for acceptance. By checking the box for acceptance during the registration process, or by accessing the Games, you confirm that you have read and agree to be bound by these Terms and Conditions, which include and are inseparably linked to our [Privacy Policy](#) and other game-specific or promotion-specific terms relevant to your participation. If you do not agree with any provision of these Terms and Conditions or any other linked policy, rules or terms you may not use the Platform or play any Game.

1. DEFINITIONS

Arkadium means the operator of the Platform, Arkadium, Inc., a Delaware corporation with a principal place of business at 40 West 25th Street, 4th Fl., New York, New York 10010.

Content means text, graphics, user interfaces, visual interfaces, photographs, trade marks, logos, sounds, music, artwork, computer code and other material used, displayed, uploaded, communicated or transmitted as part of the Games and Platform.

Game means any one or more Game(s) available on the Platform. We reserve the right to add and remove Games from the Platform at our sole discretion.

Intellectual Property means:

- (a) inventions, discoveries and novel designs, whether or not registered or registrable as patents or designs, including developments or improvements of equipment, products, technology, processes, methods or techniques;
- (b) copyright (including future copyright) throughout the world in all literary works, artistic works, computer software and any other works or subject matter in which copyright subsists and may in the future subsist;
- (c) trade and service marks (whether registered or unregistered), domain names, branding and marketing materials; and
- (d) proprietary rights under any relevant jurisdiction.

Platform means the services provided through any URL or mobile application belonging to, or licensed to, VGW, and branded as part of the "VGW PLAY" family of games, including the website located at <https://vgwplay.com>, and all subdomains, subpages and successor sites of that website, as well as all Games, features, tools and services available on the platform.

Player or **you** means any person who Participates, whether or not a Registered Customer.

T&Cs means these terms and conditions, as amended from time to time.

Third Party Website means a third party website not controlled by us.

VGW means VGW Holdings Limited (ACN 147 193 511).

We, us means VGW and Arkadium.

2. YOUR PARTICIPATION

- 2.1. These T&Cs apply to your use of the Platform and the Games provided.
- 2.2. If you don't agree to these T&Cs, or any updated version of them, you must not access the Platform or play the Games.
- 2.3. These T&Cs represent a legal agreement between you and us. You warrant that:
 - (a) you are, under the laws applicable to you, legally allowed to participate in the Games offered on the Platform, or your legal guardian has reviewed these T&Cs and agreed that you can play the Games offered;
 - (b) all information that you provide to us during the term of validity of these T&Cs is true, complete and correct; and
 - (c) you will not be involved in any unlawful activity in relation to your or third parties' participation in any of the Games.

Acceptance

- 2.4. By accepting these T&Cs you agree that you play the Games at your sole option, discretion and risk. You will have no claims whatsoever against us or any of our partners, or respective directors, officers or employees.

3. PLAYING THE GAMES

- 3.1. The Games offer specific rules, scoring, guidelines or controls, found within the Games. These form part of the T&Cs.
- 3.2. You are responsible for your own internet connection or any other charges that may be incurred in accessing the Platform. If you are unsure whether there will be any charges, you should ask your internet service provider or mobile phone provider.
- 3.3. You acknowledge and agree that sometimes, the Platform, or specific Games on the Platform may not be available for play due to technical reasons, or due to maintenance. These times may be scheduled or unscheduled.
- 3.4. Subject to your agreement and continuing compliance with these T&Cs, we grant you a personal, non-exclusive, non-transferable, non-sublicensable, revocable, limited licence to access and use the Platform, through a supported Web browser or mobile device, solely for your personal, private entertainment and for no other reason.
- 3.5. Where the Platform or any Game is deemed to be illegal under the laws of the jurisdiction in which you reside or are situated, you will not be granted any licence to, and must refrain from accessing, the Platform or relevant Game.

4. PLAYER CONDUCT

- 4.1. You will not, directly or indirectly:
 - (a) hack into any part of the Games or Platform through password mining, phishing, or any other means;
 - (b) attempt to modify, reverse engineer, or reverse-assemble any part of the Games or Platform;
 - (c) knowingly introduce viruses, Trojans, worms, logic bombs, spyware, malware, or other similar material designed to disrupt the normal workings of the Games, Platform, devices, servers, or other telecommunications equipment;
 - (d) circumvent the structure, presentation or navigational function of any Game so as to obtain information that we have chosen not to make publicly available on the Platform;
 - (e) collect information about other users of the Platform, including by uploading anything that collects information, such as cookies, gifs, or passive collection mechanisms; and
 - (f) use/access the Platform in violation of any applicable law, code or regulation or in any other way not permitted

by these T&Cs.

(Fraudulent Conduct)

- 4.2. You must not use the Platform for any unlawful or fraudulent activity or prohibited transaction (including Fraudulent Conduct) under the laws of any jurisdiction that apply to you.
- 4.3. If you suspect any unlawful or fraudulent activity or prohibited transaction by another Player, please notify us immediately.
- 4.4. You agree that you will not upload, communicate, or transmit any information of any kind that may be made available by or through the Platform or Games that:
 - (a) could be viewed as harmful to others, including harassing, defamatory, unlawful or other objectionable materials;
 - (b) could be viewed as an invasion of privacy;
 - (c) may be viewed as racial, ethnic, or religious hatred, or which may incite violence;
 - (d) infringes a party's intellectual property rights; and
 - (e) consists of unsolicited communications or information or other information that you have no right to disseminate.

5. INTELLECTUAL PROPERTY

- 5.1. The Content, computer software, the computer graphics, the Platform and the user interface that we make available to you is owned by, or licensed to, us or our associates and protected by copyright laws. You may only use these things for your own personal, recreational uses in accordance with the rules, T&Cs, and in accordance with all applicable laws, rules and regulations.
- 5.2. You acknowledge that we are the proprietor or authorized licensee of all Intellectual Property in relation to any Content.
- 5.3. Your use of the Games and Platform, and acceptance of these T&Cs, does not provide you with any Intellectual Property rights in the Content, Games or Platform.
- 5.4. You grant us, and represent and warrant that you have the right to grant us, an irrevocable, perpetual, worldwide, non-exclusive, royalty-free licence to use in whatever way we see fit, any information, images, videos, comments, messages, music or profiles you publish or upload to any website or social media page controlled and operated by VGW.
- 5.5. You must not reproduce or modify the Content in any way, including by removing any copyright or trade mark notice or any other proprietary notice.
- 5.6. All trade marks and logos displayed in the Games and Platform are the property of their respective owners and are protected by applicable trade mark and copyright laws.

6. THIRD PARTY WEBSITES, LINKS OR GAMES

Third Party Websites

- 6.1. You acknowledge and agree that we:
 - (a) are not responsible for Third Party Websites; and
 - (b) make no guarantee as to the content, functionality, or accuracy of any Third Party Website.
- 6.2. Third Party Websites are subject to the T&Cs outlined by that third party, including any applicable privacy policies.

Links

- 6.3. Any links to Third Party Websites do not:
 - (a) indicate a relationship between us and the third party; or
 - (b) indicate any endorsement or sponsorship by us of the Third Party Website, or the goods or services it provides,

unless specifically indicated by us.

6.4. Where a website controlled and operated by us contains links to various social networking sites, such as Facebook® and Twitter®, you acknowledge and agree that:

- (a) any comments or content that you post on such social networking sites are subject to the T&Cs of that particular social networking site;
- (b) you will not post any comments that are false, misleading or deceptive or defamatory to us, our employees, agents, officers or other players; and
- (c) we are not responsible or liable for any comments or content that you or others post on social networking sites.

7. DISRUPTIONS AND CHANGE

7.1. The Platform is provided on an “as is” basis and to the fullest extent permitted by law, we make no warranty or representation, whether express or implied, in relation to the satisfactory quality, fitness for purpose, completeness or accuracy of the Platform (including the Games and Content).

7.2. Although we take all reasonable measures to ensure that the Platform is free from viruses we cannot and do not guarantee that the Platform is free of such problems. It is your responsibility to protect your systems and have in place the ability to reinstall any data or programs lost due to a virus.

7.3. We are not liable for any downtime, server disruptions, lagging, or any technical or political disturbance to Game play, nor attempts by you to Participate by methods, means or ways not intended by us.

7.4. We accept no liability for any damages or losses which are deemed or alleged to have arisen out of or in connection with any Platform or its Content including, without limitation, delays or interruptions in operation or transmission, loss or corruption of data, communication or lines failure, any person’s misuse of a Platform or its Content or any errors or omissions in Content.

7.5. We reserve the right to remove any Game, or part of a Game from the Platform, or discontinue the Platform at any time.

7.6. We may temporarily suspend the whole or any part of the Platform for any reason at our sole discretion. We may, but will not be obliged to, give you as much notice as is reasonably practicable of such suspension. We may restore the Platform, as soon as is reasonably practicable, after such temporary suspension.

8. PRIVACY POLICY

8.1. We are committed to protecting and respecting your privacy and complying with all applicable data protection and privacy laws.

8.2. Our [Privacy Policy](#) is inseparably linked to these T&Cs and its acceptance is a prerequisite to account registration.

9. COMPLAINTS AND CUSTOMER SUPPORT

9.1. If you would like to contact our Customer Support department or have a complaint regarding our Platform (including any Game) you may contact us by clicking on Player Support within the footer located on the Platform.

10. INDEMNITY AND LIMITATION OF LIABILITY

Indemnity

10.1. YOU AGREE TO INDEMNIFY AND HOLD HARMLESS US, OUR DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, AGENTS AND AFFILIATES, OUR ULTIMATE PARENT AND PARENT COMPANIES AND ANY OF OUR SUBSIDIARIES AGAINST ANY AND ALL COSTS, EXPENSES, LIABILITIES AND DAMAGES (WHETHER DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE OR OTHER) ARISING FROM ANY PARTICIPATION BY YOU, INCLUDING WITHOUT LIMITATION:

- (a) ACCESSING OR USING THE PLATFORM;
- (b) RE-USE OF ANY CONTENT AT, OR OBTAINED FROM, THE PLATFORM OR ANY OTHER SOURCE WHATSOEVER; AND
- (c) PLAYING THE GAMES THROUGH ANY DELIVERY MECHANISM OFFERED.

Limitation of Liability

- 10.2. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WHATSOEVER WILL WE OR OUR AFFILIATES, SUBSIDIARIES, PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, LICENSORS, SUBCONTRACTORS AND SUPPLIERS, BE RESPONSIBLE OR LIABLE TO YOU OR TO ANY OTHER ENTITY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, UNDER ANY LEGAL THEORY, WHETHER CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING ANY LOST PROFITS AND LOST BUSINESS OPPORTUNITIES, BUSINESS INTERRUPTION, LOST REVENUE, INCOME, GOODWILL, USE OF DATA OR OTHER INTANGIBLE LOSSES, IN EACH CASE THAT RESULT FROM OR RELATE IN ANY MANNER TO YOUR PARTICIPATION OR ANY OTHER ACT OR OMISSION BY US.
- 10.3. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL WE, OUR AFFILIATES, SUBSIDIARIES, PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, LICENSORS, SUBCONTRACTORS OR SUPPLIERS, BE LIABLE TO YOU FOR MORE THAN THE AMOUNT YOU HAVE PAID US IN THE THIRTY (30) DAYS IMMEDIATELY PRECEDING THE DATE ON WHICH YOU FIRST ASSERT ANY SUCH CLAIM. YOU ACKNOWLEDGE AND AGREE THAT IF YOU HAVE NOT PAID US ANY AMOUNTS IN THE THIRTY (30) DAYS IMMEDIATELY PRECEDING THE DATE ON WHICH YOU FIRST ASSERT ANY SUCH CLAIM, YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH US IS TO STOP USING THE PLATFORM AND TO CLOSE YOUR CUSTOMER ACCOUNT.
- 10.4. YOU RECOGNIZE AND AGREE THAT THE WARRANTY DISCLAIMERS IN CLAUSE 7, AND THE INDEMNITIES AND LIMITATIONS OF LIABILITY IN THIS CLAUSE 10, ARE MATERIAL AND BARGAINED-FOR BASES OF THESE TERMS AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN THE DECISION BY YOU TO ENTER INTO THESE T&CS. Depending on where you reside and use the Platform, some of the limitations contained in clause 10 may not be permissible. In such case, they will not apply to you, solely to the extent so prohibited.

Negligence and Wilful Misconduct

- 10.5. NOTHING IN THESE T&CS WILL OPERATE SO AS TO EXCLUDE ANY LIABILITY OF VGW FOR DEATH OR PERSONAL PHYSICAL INJURY THAT IS DIRECTLY AND PROXIMATELY CAUSED BY OUR NEGLIGENCE OR WILFUL MISCONDUCT.

Survival of Obligations

- 10.6. CLAUSE 10 SURVIVES THE TERMINATION OF THESE T&CS FOR ANY REASON.

11. OTHER

Entire Agreement

- 11.1. These T&Cs constitute the entire agreement between you and us with respect to your Game play and, save in the case of fraud, supersede all prior or contemporaneous communications and proposals, whether electronic, oral or written, between you and us with respect to your Participation.

Amendments

- 11.2. We reserve the right to amend these T&Cs at any time. Any amendments will be published on the Platform and such changes will be binding and effective immediately.

Force Majeure

- 11.3. We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these T&Cs that is caused by events outside of our reasonable control.

No agency

- 11.4. Nothing in these T&Cs will be construed as creating any agency, partnership, trust arrangement, fiduciary relationship or any other form of joint enterprise between you and us.

Severability

- 11.5. If any of the T&Cs are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will, to that extent, be severed from these T&Cs. All remaining terms, conditions and provisions will continue to be valid to the fullest extent permitted by law. In such cases, the part deemed invalid or unenforceable will be amended in a manner consistent with the applicable law to reflect, as closely as possible, our original intent.

Explanation of T&Cs

- 11.6. The T&Cs prevail over any communication via email or chat.
- 11.7. All correspondence between you and us may be recorded.

Assignment

- 11.8. These T&Cs are personal to you, and are not assignable, transferable or sub-licensable by you except with our prior written consent. We reserve the right to assign, transfer or delegate any of our rights and obligations hereunder to any third party without notice to you.

Language

- 11.9. These T&Cs may be published in several languages for information purposes and ease of access by players but will all reflect the same principles. It is only the English version that is the legal basis of the relationship between you and us and in case of any discrepancy between a non-English version and the English version of these T&Cs, the English version will prevail.

Applicable Law and Jurisdiction

- 11.10. These T&Cs will be governed, and interpreted in accordance with:
 - (a) for players in North America, the laws of California; or
 - (b) for players outside of North America, the laws of England and Wales,without regard for the relevant jurisdiction's choice of conflict of law principles.
- 11.11. The application of the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded.
- 11.12. You acknowledge that any contractual relationship between you and us will be deemed to have been entered into and performed in the relevant jurisdiction as set out in clause 11.10.
- 11.13. Subject to clause 10, the parties agree that any dispute, controversy or claim arising out of or in connection with these T&Cs, or the breach, termination or invalidity of these T&Cs, will be submitted exclusively to the courts in the relevant jurisdiction stated above in clause 11.10, and you and we consent to the venue and personal jurisdiction of those courts. Notwithstanding the foregoing, any motion to compel arbitration or to enforce an arbitral award issued hereunder may be brought before any court of competent jurisdiction.