

# General Terms and Conditions GamoVation Affiliates

Version May 2017

## 1. DEFINITIONS

- a. **Affiliate:** the person (natural or legal person) who administers one or multiple websites on the internet.
- b. **Affiliate Website:** the website of the Affiliate on which he publishes an advertisement with consent of GamoVation in the form of a link, banner, iframe, text promotion or other advertising material that has been made available by GamoVation.
- c. **Affiliate Programme:** the whole of described resources that is made available to the Affiliate by GamoVation with which the Affiliate agreed.
- d. **General Terms and Conditions:** these general terms and conditions.
- e. **GamoVation:** GamoVation B.V., registered in the trade register of the Chamber of Commerce under number 51193612.
- f. **Services:** the services of GamoVation in the form of the offer of the online games.
- g. **ONLINE GAMES:** the ONLINE GAMES developed by GamoVation.
- h. **Tracker:** a reference on the Affiliate Website to the ONLINE GAMES.
- i. **Tracking System:** a link, banner or promotion that measures how many visitors of the Affiliate Website are forwarded to the ONLINE GAMES.
- j. **Visitor:** each and every person who has access to the internet and who can perform actions like consulting a website or purchasing or selling products online via the website of an Affiliate.
- k. **Players:** the person who registered for the ONLINE GAMES by means of the Affiliate Website.
- l. **Confidential Information:** the information that is qualified as confidential by GamoVation.

## 2. GENERAL PROVISIONS

- 1. The General Terms and Conditions are applicable in full to and are part of all agreements and other legal acts between the Affiliate and GamoVation, barring to the extent stipulated otherwise in writing.
- 2. The Affiliate took note of the content of these General Terms and Conditions and accepts the applicability of these General Terms and Conditions to the agreement with GamoVation.
- 3. GamoVation shall be authorised to change these General Terms and Conditions unilaterally.
- 4. General terms and conditions – by any name whatsoever – of the Affiliate are not applicable.
- 5. The Affiliate with whom an agreement has been concluded once on the basis of these General Terms and Conditions agrees with applicability of these General Terms and Conditions to later agreements concluded with GamoVation.
- 6. Additional provisions to the agreement and the General Terms and Conditions, e.g. fees and bonuses, shall be communicated to the Affiliate by email.
- 7. The Affiliate is not authorised to transfer his rights and obligations deriving from the agreement with GamoVation and these General Terms and Conditions to a third party without the express written consent of GamoVation.
- 8. GamoVation is entitled to correct irregularities made in, by or on behalf of the same in oral and written expressions, without the Affiliate being entitled to derive any right from the same.

### **3. REGISTRATION AND ACCEPTANCE**

1. The Affiliate must register by means of the thereto designated registration form.
2. Registration must take place truthfully and exclusively by people of age who are legally competent. If incorrect business and/or personal data are provided by the Affiliate then GamoVation shall be entitled to exclude the Affiliate from further participation. The Affiliate shall then be liable to pay a penalty equal to fees not paid to GamoVation yet.
3. As a result of the registration the Affiliate agrees with these General Terms and Conditions.
4. The websites of the Affiliate are examined after registration. If the websites do not sufficiently comply with the objective or terms and conditions of GamoVation then these websites shall be refused as Affiliate Website.

### **4. TERM AND TERMINATION**

1. After the Affiliate has registered an agreement for an indefinite period of time is concluded immediately. If the website is refused in pursuance of the provisions set forth in article 3.4 then the agreement shall be dissolved as a result of the mere notification of non-compliance of the website with the requirements.
2. The Affiliate can terminate the agreement in writing or by email at the end of the month, without having to observe a notice period.
3. GamoVation can terminate the agreement unilaterally in consideration of a notice period of one month.
4. In derogation from the previous paragraph GamoVation shall be entitled to terminate the agreement with immediate effect if the Affiliate imputably fails to comply with essential obligations on account of this agreement, including in any case – however not limited to – not (or no longer) complying with the requirements outlined in article 6.

### **5. RIGHT TO USE**

1. For the term of the agreement GamoVation grants the Affiliate a non-exclusive and non-transferable right to use the ONLINE GAMES brand with the thereto pertaining corporate identity, logos and offered promotional materials with the sole objective of promoting the ONLINE GAMES on the Affiliate Website.
2. The Affiliate personally bears all costs that are associated with its promotional activities for the benefit of the ONLINE GAMES.
3. During the use of its right to use the ONLINE GAMES brand the Affiliate shall observe all instructions, indications and regulations provided by GamoVation. Only the promotional materials provided by GamoVation are used to offer Visitors of the website of the Affiliate access to the ONLINE GAMES.
4. The Affiliate is personally responsible for placing trackers, banners, promotions and links on the Affiliate Website that has been created for the promotion of the ONLINE GAMES.
5. The graphic elements that embody the logos and brands of the ONLINE GAMES as well as the HTML codes that are required for the placing of hyperlinks to the ONLINE GAMES are respected and are, in no instance whatsoever, changed.
6. In case of termination of the agreement between GamoVation and the Affiliate links to the ONLINE GAMES are immediately removed by the Affiliate and the use and/or the reproduction of the logos or brands of GamoVation is discontinued.

## **6. OBLIGATIONS OF THE AFFILIATE**

1. In general the Affiliate warrants acting such that the rights of GamoVation or of a third party are by no means violated.
2. During the term of participation in the Affiliate Programme the Affiliate is bound by the following:
  - a. The Affiliate Website does not contain and does not offer direct or indirect links to websites that contain the following: images or texts that are violent, racist or defamatory or incite to any form of extremism or discrimination nor is a link created to the Affiliate Website via this kind of aforementioned website with the cooperation of the Affiliate.
  - b. The Affiliate Website does not contain pornographic, erotic, religious, political or otherwise biased material.
  - c. The Affiliate and the Affiliate Website do not violate the applicable legislation and regulations or the rights of third parties.
  - d. The Affiliate shall refrain from expressions and acts that can be detrimental to the reputation of GamoVation and/or the ONLINE GAMES.
  - e. The Affiliate Website may by no means be detrimental to the image of GamoVation and/or the ONLINE GAMES.
  - f. The Affiliate Website does not contain viruses, Trojan horses or other harmful elements, in particular codes or instructions with which data, files or other software programmes that are used by GamoVation or a third party can be viewed, changed, deleted or damaged.
3. The Affiliate must comply with the policy for references and advertising of the Affiliate Programme of GamoVation as outlined in these General Terms and Conditions. During the term of participation in the Affiliate Programme the Affiliate is not allowed to on his own initiative advertise GamoVation and/or the ONLINE GAMES. This includes – but is not limited to – in any case:
  - a. Purchasing search terms that are part of domain names or brands of GamoVation and/or the ONLINE GAMES, or derivatives from the same, from search engines or service providers for references.
  - b. The Affiliate shall not file domain names and/or sub-domain names that contain one or more brands that belong to GamoVation, regardless of the fact whether or not they are spelled correctly or incorrectly.
4. GamoVation is fully compensated for damages of any nature whatsoever that GamoVation could incur due to a complaint of a third party that originates from the fact that the Affiliate did not comply with obligations on account of these General Terms and Conditions.

## **7. RIGHTS AND OBLIGATIONS OF GAMOVATION**

1. GamoVation shall make every effort to at all times keep the ONLINE GAMES accessible and available to Visitors and Players. This service can, however, never be guaranteed 100%. Damages due to inaccessibility and unavailability of the offered services can never be claimed from GamoVation.
2. GamoVation reserves the right to offer its services with regard to the ONLINE GAMES in any form whatsoever as also to adjust or discontinue its services at any desired time, without permission of the Affiliate being required.
3. GamoVation shall inform the Affiliate if it decides to adjust or discontinue its policy in a strategic manner.
4. The return and personal data of Players who register via a link from the Affiliate Website are and shall always remain the property of GamoVation.

## **8. FRAUD AND ABUSE**

1. GamoVation shall follow introduced Players and shall monitor their activities carefully. In case of fraud a Player shall be removed and the generated income of this Player shall be forfeited as well as the income of this Player for the Affiliate.
2. If GamoVation detects fraud committed by the Affiliate or if the Affiliate introduces an unusually high number of fraudulent Players then GamoVation shall be entitled to terminate the agreement with the Affiliate in conformity with article 4.4. GamoVation shall at all times be entitled not to pay out income generated by means of the introduction of fraudulent Players.
3. The Affiliate is not allowed to use SPAM to promote the ONLINE GAMES for the benefit of the Affiliate or directly in the name of the ONLINE GAMES and/or GamoVation. Agreements with Affiliates who use these methods shall be terminated with immediate effect. SPAM is understood to include, but not limited to, the unsolicited sending of commercial communications by means of email, facsimile, SMS, MMS, post, forum posts, social networking or other methods of communication that distribute unsolicited information about the ONLINE GAMES and/or GamoVation.

## **9. FEE**

1. The fee for the Affiliate is based on a percentage of the realised net return of Players who play the ONLINE GAMES and who ended up at the ONLINE GAMES by following the Tracker that is placed on the Affiliate Website. Realised net return of Players is understood as the return minus the turnover tax and other (banking) costs payable on this return by GamoVation.
2. The standard fee percentage has been set at 25% of the realised net return of the Players that have been introduced by the Affiliate. GamoVation is entitled to agree on different arrangements with specific Affiliates.
3. The total fee that GamoVation is liable to pay to the Affiliate shall be calculated per calendar month. The period starts on the first day of the month at 00:00 o'clock (Central European (Summer) Time) and ends on the last day of the month at 00:00 o'clock (Central European (Summer) Time).
4. GamoVation pays the fee to the Affiliate within 14 days after the end of the previous month. Damages incurred by the Affiliate if the payment term is – for any reason whatsoever – not met can never be recovered from GamoVation.
5. GamoVation is entitled to, in lieu of requesting the Affiliate to send an invoice, use 'self-billing'. GamoVation shall in that case prepare an invoice on behalf of the Affiliate. This invoice specifies (where applicable) the VAT number of the Affiliate. This invoice is paid within 14 days of the preparation thereof and made available on the Affiliate Programme.
6. Reversals are at the risk of the Affiliate. In case of reversals after settlement of a specific period the Affiliate shall send a credit note to GamoVation for the fee wrongly received by the Affiliate. At the discretion of GamoVation the Affiliate shall repay this amount to GamoVation or GamoVation shall settle the amount with the first following payment to the Affiliate by GamoVation.
7. The Affiliate must personally report his income to the Tax Authorities under whose competence he falls. GamoVation shall not bear any responsibility or liability for the same.
8. All costs associated with the payment (e.g. the costs of the bank) are at the expense of the Affiliate. If and to the extent that GamoVation shall first need to incur these costs it shall be entitled to settle these costs with the fee before it transfers the amount to the Affiliate.
9. The Affiliate agrees that GamoVation can at all times impose different terms and conditions on competing affiliates in the course of which the basic terms and conditions of this agreement are the same. The Affiliate cannot derive any rights from deviating arrangements of GamoVation with other affiliates.

## **10. LIABILITY**

1. The Affiliate is personally fully responsible and liable for the content, the development, the maintenance and the costs of the Affiliate Website.
2. The Affiliate indemnifies GamoVation against any and all claims that are filed against GamoVation by Visitors of the Affiliate Website, regardless of the fact whether or not they originate from shortcomings or negligence of the Affiliate or a third party who acts in the name of the Affiliate or is affiliated with the same.
3. GamoVation shall not be liable for (in)direct damages resulting from improper functioning of the ONLINE GAMES.
4. GamoVation can only be held liable for intent or gross negligence on its part. The liability shall never exceed the total amount of the fees paid to the Affiliate in the past three (3) months.

## **11. INTELLECTUAL PROPERTY RIGHTS**

1. The content of the ONLINE GAMES website as well as the offered Services including, but not limited to, the games, text, software, scripts, images, files, pictures, sounds, music, videos, advertisements, interactive functions and the trademarks, service marks and logos (hereinafter referred to as: the 'IP rights') are owned by or were licensed to GamoVation. Nothing included in these General Terms and Conditions aims to accomplish a transfer of any IP rights to the Affiliate.
2. The Affiliate is not allowed to remove, change, copy, reproduce, translate, publish, forward, distribute, license, sell or otherwise exploit any indication regarding the IP rights for purposes other than stipulated in the agreement and the General Terms and Conditions.
3. If the Affiliate wishes to use a domain name of GamoVation for the benefit of promotional activities then he requires the prior written consent of GamoVation.

## **12. CONFIDENTIALITY**

1. During his participation in the Affiliate Programme as well as thereafter the Affiliate commits vis-à-vis GamoVation to abide by strictest confidentiality with regard to all Confidential Information.
2. The Affiliate shall be liable for the damages that GamoVation incurs if the Affiliate makes Confidential Information available to third parties or discloses the same in a different manner. In that case GamoVation can terminate the participation of the Affiliate in the Affiliate Programme with immediate effect, without prior notice and without compensation, and without prejudice to the possible other steps that GamoVation can take to recover the same.

## **13. DISPUTES**

1. All disputes in connection with the agreement or agreements related to the same are settled by the competent court in the district of Groningen.
2. Dutch law is exclusively applicable to all commitments between the Affiliate and GamoVation.