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# **General Terms & Conditions of Gembly BV (hereinafter “Gembly”)**

## **1. Scope**

Gembly provides a portal site on the internet with games and services. The internet address is: [www.gembly.com](http://www.gembly.com) (hereinafter “portal”). This portal offers a variety of online games and other services. These services include creating a profile page, writing blogs and joining forums, uploading media such as photographs, text and games, buying user rights to virtual objects and/or other services. Those participating in the games offered by Gembly and those using the portal are referred to hereinafter as “user”. Wherever “games” or “services” are mentioned in these General Terms and Conditions (hereinafter “GT&Cs”), reference is being made to the games and services offered by Gembly. The relationship between Gembly and the user will be governed solely on the basis of these GT&Cs, the privacy statement and the disclaimer. These three elements together constitute the user agreement (hereinafter “agreement”).

The user enters into this agreement with Gembly. Any general terms and conditions which the user may have expressly do not form part of the agreement, unless Gembly has stated its agreement to this in writing.

These GT&Cs govern the use of the portal, the games and the services. They can in the first instance be used via a computer with an internet connection or via telephone, ISDN, DSL or other equivalent connections. In addition, the services can also be used via other devices which can be connected to the internet, possibly with limited functionality and/or impaired image quality.

Any issues relating to the connection and connecting to the website and the online games and third-party software (browser, access software) are not within the scope of these GT&Cs because these services are not provided by Gembly.

## **1.1 Users**

1.1.1 Gembly offers the games and services to users solely in accordance with Dutch law. The use of the games and services for commercial purposes or other similar activities is not permitted.

1.1.2 Only persons who are aged 18 or over when they log on as a user are permitted to use the games and/or services.

1.1.3 By logging on to use the games and/or services, the user is expressly stating that he or she is aged 18 or over.

1.1.4 Users from Cuba, Iran, North Korea, Sudan and Syria are excluded from using the games and/or services.

## **1.2 Subject-matter of the agreement, use and modification of games and services**

1.2.1 Gembly makes it possible for the user, within the limits of current technical and operational possibilities, to participate in games and/or services.

1.2.2 Participation in the games is for the purposes of amusement only.

1.2.3 Gembly provides specific information concerning the services on the portal. It also enables the user to create an individual and personal profile – with the aim of placing information and other items on the website – which can be viewed by the users of the games and services and by third parties. Furthermore, the user can use the portal to communicate with third parties, exchange photographs, videos, games and, where possible, music and other types of media, publish blogs and comments, write reviews of games and respond to games, other users, third parties or transactions.

1.2.4 Such use is facilitated by Gembly, which makes available online, on the respective URLs, the applications which are needed to allow participation in the games and

services. Gembly reserves the right also to supply the games – possibly with different functions – on data carriers which can be purchased by the users. The sale of games is not covered by these GT&Cs.

1.2.5 Only people who have created an account beforehand as part of a registration procedure are permitted to participate in the games and use the services. An account can be created on the portal or via the URL of the game concerned. An account which is created on the portal gives the user the right to use every game in accordance with the conditions set out in 1.1 above.

1.2.6 Registration, i.e. the submission of a request to open an account, is completed by filling in a number of mandatory fields. From the moment that Gembly has created an account for the user, the latter will be able to use the games and/or the services.

1.2.7 A user has the right to create multiple accounts on the portal. However, for certain games offered by Gembly, it is not permitted to have more than one account (“Prohibition on multi-accounts”). The user will find more information in the rules of the games. Gembly advises users who have multiple accounts to read these rules very carefully, as any breach of the prohibition on multi-accounts will result in the immediate blocking of the accounts.

Even in the case of games where users are allowed to have multiple accounts, it is not permitted for multiple accounts belonging to the same user to communicate with each other or otherwise come into contact with each other (“Prohibition on pushing”). In particular, an account may not be used to create advantages for another account belonging to the same user, e.g. by switching items or game currency from one account to the same user’s other account or by having one account belonging to a user playing against the other account of the same user.

1.2.8 After creating an account, the user can participate in the game and/or the service by surfing to the URL or portal and logging in there.

1.2.9 The use of games and services is only possible with an internet browser or special tools which Gembly has supplied or expressly permitted (“Prohibition on the use of

unauthorised scripts"). This provision refers in particular to the use of programs which require excessive capacity on the server; these are not permitted. The use of software to systematically or automatically control the games or specific game functions (bots, macros) or to copy or analyse the games, elements of the games or other elements on the portal is not permitted.

1.2.10 Users are not permitted to misuse bugs and/or programming errors to their own advantage. Bugs which are discovered must be reported as soon as possible on the bug forum, by IRC, by e-mail or by any other means.

1.2.11 The user cannot make a claim on the basis of creating an account or of making certain items public on the portal.

1.2.12 The current technical and other conditions pertaining to the games and participation in the services can be consulted on the portal and/or on the websites of the games.

1.2.13 The games and services are constantly being updated, modified, expanded and altered. The user therefore only acquires the right to use the version of the games and services which is online at that time.

1.2.14 The basic version of the games can be used free of charge. Certain features are only available to paying users (see also 7 below). The use of the services is free of charge unless specified otherwise in the description of the services in question.

1.2.15 The user does not have the right to permanent access to the version of the games and/or services that was valid on the date on which the agreement was concluded. Gemby reserves the right to discontinue the use of a game and/or service at any time without giving reasons. In this case, the user may at his or her discretion request a refund of any charges already paid as part of the debt relationship (e.g. cost of premium membership or subscription) from Gemby or the conversion of the charges paid into a credit to be used for other games and/or services. The user does not have this right with regard to charges already paid in full as part of his or her personal debt

relationship (e.g. in the case of separate orders). This leaves intact the user's right to terminate the agreement with immediate effect because games and/or services are unusable. The user has no other rights unless expressly provided otherwise in these GT&Cs.

## **2. Acceptance of the agreement**

2.1 To register, the user must submit an application to conclude an agreement governing the use of games and services. The user must complete all the mandatory fields on the application in full, accurately and truthfully.

2.2 Once the registration has been approved by Gembly, the user receives an electronic confirmation of the registration at the e-mail address specified by the user.

2.3 The agreement between Gembly and the user enters into force as soon as the user confirms the link in the e-mail received as described in 2.2.

## **4. Accessibility**

Gembly guarantees an average accessibility of 90% (ninety percent) per annum for the games and services. However, this does not include periods during which the servers for the portal or the individual games are not available on the internet due to technical or other problems which are beyond Gembly's control (force majeure, third parties at fault, etc.) or periods during which routine work is being carried out. Gembly's liability will remain in full force and effect in the event that its games or services are not accessible as a result of deliberate gross negligence. Gembly can restrict access to the services where this is required for the purpose of ensuring the safety of the provider, maintaining integrity and, in particular, the prevention of serious disruptions to the connection, the software or the stored data.

## **5. Access to and cognisance of the GT&Cs, changes and other communications, contact by the user**

5.1 By creating an account and using the games and/or the services, the user accepts the provisions of the GT&Cs. These govern logging on to the portal and, in particular, any participation in the games and/or use of the services. The GT&Cs can be printed out by the user or stored on a permanent data carrier before creating an account.

5.2 Gembly reserves the right to amend or supplement these GT&Cs at any time in the future.

5.3 Changes to the GT&Cs will at all events be notified to the user the first time the user logs on after the changes have been made. This will be done by e-mail. The user will agree to the changed GT&Cs by continuing to use the games and/or services on the portal after receiving the aforementioned e-mail. The provisions of sentences 2 and 3 of 5.1 above will continue to apply.

5.4 If the user does not agree with the changes to the GT&Cs, both parties will have the right to cancel the agreement by giving one month's notice, except insofar as no right to cancel immediately has been conferred as stated in 8 below. The original GT&Cs will remain in force until the end of the contract. Where the user has made an advance payment for services which should have been provided after the cooling-off period, a proportion of it will be refunded to the user. Otherwise, the user has no rights on which he or she can make a claim.

5.5 When giving notice of changes, Gembly will also expressly indicate the possibility of not accepting the changes in the GT&Cs and cancelling the agreement.

5.6 Gembly will normally communicate with the user by e-mail unless agreed otherwise in these GT&Cs or in another agreement with the user. The user must ensure that he or she can receive the e-mails that Gembly sends to the address that he or she specified during registration or subsequently. It is the user's responsibility to set the spam filter correctly and to check the specified address regularly for new messages. Furthermore,

as regards other correspondence, Gembly reserves the right to decide itself on the form in which it wishes to communicate with users.

5.7 Each time the user contacts Gembly, he or she must specify the game and/or service and game account or service account to which his or her comment refers.

## **6. Instructions and rules for games**

6.1 The instructions and rules for the games and services are published on the portal or the website of the game or service concerned.

6.2 The user knows that he or she is playing with various other users and communicating with different users of these services. It is necessary to follow the rules to ensure that the interaction runs smoothly. By participating, the user accepts, with binding effect, the rules and conditions for participating in the games and services.

6.3 The user will otherwise not do anything that disrupts the use of the games and services or the smooth interaction with other users and will also behave correctly towards the other users, on penalty of being excluded and not being refunded for the games and/or services.

## **7. Rates, payment terms, default**

### **7.1 Online games**

#### 7.1.1 Basic version

In principle, Gembly makes the games available to the user as soon as an account is created (see 1.2 above). In this case, the user only has access to the basic version of the game. Creating an account and using the basic service are free of charge. The basic version is not bound by any time limit (apart from Gembly's right to discontinue

games) and can be played to its full extent. However, the user cannot access all the features of the game in the basic version.

### 7.1.2 Premium features

The user has the option of paying in order to purchase certain features to which users who play the free basic version do not have access (hereinafter “premium features”). Different premium features may be offered for different games. In the game, it is stated which premium features are available at what rate, which functions these features have and which conditions apply. Depending on the specific premium feature, this may involve a one-off payment of the rate, uploading game currency which is then used to purchase specific functions in the game, or payments for a specific period (e.g. a day, a week, a month, a quarter, six months, a year). All prices quoted are gross prices including VAT.

The games undergo a process of continuous development. Gembly reserves the right to offer new premium features at any time. As part of the updating and development of the games, Gembly likewise reserves the right to discontinue certain premium features and/or add them to the free basic version as an additional feature. The user cannot claim any compensation for the payments that he or she has made for them.

Where a game is definitively scrapped, 1.2.15 above applies.

Where certain games have been downloaded on to mobile telephones, the associated costs are governed by the same rules that apply to the premium features.

### 7.1.3 Subscription/automatic renewal

Where payments for premium features have to be made for a specific time, the user will purchase a subscription which is automatically renewed unless the user cancels this subscription within the cancellation period specified in 8.2 below. The subscription period can be found in the rules that apply to the game in question.



#### 7.1.4 Payment terms, due date

Gembly has the right to charge the price for using premium features (see 7.1.2 above) for the complete period, in advance, as a single payment. The amount to be paid on conclusion of the agreement will be debited from the bank account or credit card specified by the user, unless the user chooses a different payment method (e.g. Premium SMS). The amount debited will be stated as “www.gembly.com” or as Gembly on the user’s credit card or bank statement.

#### 7.1.5 Adjustment of prizes, objection

Gembly has the right at any time to reduce the value of its prizes permanently or for a limited period or to offer new products, services or payment options for a limited period. Moreover, Gembly has the right to change its prizes at any time, each time within six weeks after sending a written notification or an e-mail message to the e-mail address specified by the user. The changed prize will apply unless the user submits an objection to the changed prize in writing within a period of six weeks after notification. The agreement will then remain in force. In the notification, Gembly will expressly refer to the possibility of objecting and cancelling the agreement, the time limit and the legal consequences, especially in the case of an unvoiced objection.

If the user submits an objection within the specified time limit, both parties will retain the right to cancel the agreement by giving one month's notice. The original rates will remain in force until the cancellation of the agreement.

Any amount which has been paid in compliance with a time limit, after the agreement has ended, will be refunded pro rata. Otherwise, the user has no rights on which he or she can make a claim.

## **7.2 Default, interest, blocking, administration fees**

In the event of default by the user, Gembly will have the right to charge an interest rate of 1% per month. Gembly also has the right in the event of default to discontinue the

services or to block the user's accounts with immediate effect. The user will not be entitled to claim the money that he or she paid in advance for his or her subscription. However, Gembly does have the right to charge administration fees for blocking an account, giving notice of blocking an account and unblocking an account or creating a new account. The user can find the amount of the administration fees when he or she opens the game/service concerned on the portal. In all cases, the user has the right to provide evidence that no harm has been caused or that it was substantially less.

### **7.3 Repayment, cancellation fees**

If Gembly incurs costs as a result of the user's actions or as a result of circumstances that can be attributed to the user or charges incurred as a result of the bank's reversal of the credit, this amount will be recovered from the user. Gembly has the right to claim these costs over and above the original amount owed by the user. In the event that cancellation fees are charged, they will be borne solely by the user.

### **7.4 No guarantee of winning, burden of proof**

Gembly does not guarantee that the user will win prizes. In particular, users do not have a right to be awarded prizes, unless this right expressly arises from these GT&Cs.

The right to be awarded the prize can only be exercised if this prize has been expressly awarded by Gembly.

Neither does this right apply where Gembly finds that the prize may have been won through the use of manipulation – of a technical or legal nature and/or of any criminal form of manipulation in general. By participating in the games offered by Gembly, the user declares that he or she agrees that Gembly is entitled to initiate a thorough investigation to establish the legitimacy of any win and to decline to award the prizes in the meantime without the user's specific consent. The right to prizes will also cease to apply if the user has not adhered to the rules of the game. In the event of doubt, the burden of proof will rest with the user, who must prove that he or she adhered to the rules. The user is aware that he or she must be able to submit this evidence and expressly acknowledges the fact that he or she bears the burden of proof, even where the provisions of Dutch law may differ.

## **7.5 Prohibition on offsetting and assignment**

The user does not have the right to offset any sums owed by Gembly with sums owed to Gembly. The user may not assign any claims against Gembly to third parties.

## **7.6 Services**

The services are free of charge unless stated otherwise in the description of the services. All other cases are governed by 7.1 to 7.5 above, which describe the conditions for paid-for services.

# **8. Duration, cancellation, termination**

## **8.1 Duration**

The agreements between the user and Gembly are entered into for an indefinite period, unless specified otherwise in the actual offer made by Gembly.

## **8.2 Cancellation**

8.2.1 Where the agreement has been entered into for an indefinite period, both parties have the right to cancel the agreement by giving one month's notice.

8.2.2 Where an agreement (e.g. a gaming or service agreement) for the use/availability of premium features (see also 7.1.2 and 7.1.3 above) has been entered into for a specified term, this term will automatically be extended by the same term at the end of each term. This does not apply where the user has cancelled the agreement in writing 14 days before the end of the term.

8.2.3 Where the game concerned does not provide the option of cancelling the agreement, each cancellation must be in writing, which can also be in the form of an e-mail.

8.2.4 After cancelling the agreement, Gembly and the user are required to fulfil their obligations arising from the agreement.

8.2.5 The user will be compensated on a pro-rata basis for any amount which he or she has already paid to Gembly for the period after the end of the agreement.

### **8.3 Termination**

8.3.1 Gembly has the right to terminate the agreement and any agreements arising therefrom in writing (by e-mail) with immediate effect, giving reasons, without issuing a reminder or a notice of default, where the user:

- files for bankruptcy or is declared bankrupt;
- requests or is granted a provisional or final suspension of payments;
- seriously and culpably falls short in the fulfilment of his or her obligation(s) under the agreement and the GT&Cs and any agreements arising therefrom, to the extent that he or she can be held responsible and that the agreement and/or any agreements arising therefrom cannot reasonably be expected to be maintained;
- is seriously discredited, as a result of which harm may be caused to Gembly's reputation.

8.3.2 Gembly cannot be expected to abide by the agreement under circumstances including but not limited to the following:

- where the user breaks the law and/or continues to disobey the rules of the game and/or the user conditions for the services despite receiving a warning;
- where the user has ignored the prohibition on multi-accounts (see 1.2 above) as stated in the rules of some games which Gembly offers;
- where the user fails to comply with the prohibition on pushing (see 1.2 above);
- where the user fails to comply with the prohibition on unauthorised scripts (see 1.2 above);

- where the user fails to comply with the prohibition on the misuse of programming errors (bugs) (see 1.2 above);
- where the user supplies false information during registration (see 2.1 above) or when paying for premium features (see 7.1.2 above);
- where the user defaults on a payment obligation and fails to pay despite receiving reminders.

8.3.3 If the agreement is terminated, the user will lose his or her right to compensation for any amount that he or she has already paid to Gemby. Gemby will not be liable for any loss suffered by the user as a result of the immediate termination of the agreement.

## **9. Duties and other matters which the user must take into account, such as the user's liability for the information that he or she provides, copyright**

### **9.1 Duties**

The user undertakes to pay the price specified for the games and/or services, except where he or she uses the free version of the games and/or services (see 7 above). In addition, the user must comply with the current rules and provide accurate and up-to-date information which Gemby requests when entering into the agreement or during the term of the agreement. In this way, the user will ensure that all the information that he or she has provided when entering into the agreement or in order to facilitate the performance of the agreement (i.e. bank details and credit card number) has been entered truthfully and in full. The user is required to notify Gemby as soon as possible of any changes; the user must then confirm this information when requested to do so by Gemby. The user is required to comply with the rules of the game. In the event of repeated breaches of the rules by the user, despite receiving a warning, or in the event of circumstances as described in 8.3 above, Gemby will have the right to suspend contractual obligations and the supply of products immediately and without notice or to terminate the agreement.

### **9.2 Software installation**

Gemby will not be liable for damage to or loss of data caused by the installation of software not supplied by Gemby on the user's computer.

### **9.3 Miscellaneous duties of the user**

9.3.1 Gembly provides access to its games and services online via a web browser. The software that the user needs to have on his or her computer (i.e. the operating system and the internet browser and possibly also plug-ins such as Flash or Java) is not supplied or installed by Gembly. Gembly does not provide assistance for such software either. It is the user's responsibility to ensure that his or her computer is capable of playing the games supplied by Gembly. Gembly does not provide technical support for the installation of the software required.

9.3.2 The user undertakes not to disclose the information that he or she needs to access Gembly's games/services (login details, passwords, etc.). The user must inform Gembly immediately if he or she finds or suspects that unauthorised third parties have his or her login details. In order to provide evidence, the user is advised to provide this information in writing (e.g. via e-mail). Where, as the result of an error by the user, third parties are able to use his or her login information in order to use the games and services offered by Gembly, Gembly will be forced to assume that the user did it deliberately because it is unclear who acted in the account concerned, where a criminal act has been committed. Gembly has the right to assume, each time that the user's login details are used to log on, that it is the user who is logging on. Gembly would stress that passwords must be changed regularly for security reasons. The user alone is responsible for the use of his or her account.

9.3.3 Where there are serious grounds for suspecting that the login details have fallen into the hands of unauthorised persons, Gembly will have the right, but not the duty, at its own discretion, either to change the login details or to block access to the account without prior notice for security reasons. The user will be informed immediately and Gembly will supply the new login details, at the user's request, within a specified time. The user does not have the right to demand that he or she should be allowed to use his or her original login details again to log on.

9.3.4 The user is not permitted to sell or otherwise disclose, transfer or supply his or her account, user name or password or any rights arising therefrom (e.g. points, features, etc.) to third parties or allow their use by third parties. This does not apply to the sale or transfer of accounts within the facilities created by Gembly for this purpose.

9.3.5 Gembly protects its systems against viruses. However, it is impossible to rule out infection by a virus completely. Moreover, it is possible that unauthorised persons will send e-mails without permission under the name of Gembly which have, for example, viruses or spyware concealed within them or which include links to websites containing viruses or spyware. This is beyond Gembly's control. The user must therefore check all e-mails originating from Gembly, or apparently in the name of Gembly, for viruses. This also applies to any e-mails from other users of the games or services.

9.3.6 The user must follow the instructions of Gembly, its employees and its partners. This also applies in particular to the instructions of the admins and mods in a forum that may relate to a game and/or a service.

9.3.7 The user undertakes not to use another user's account, user name or password under any circumstances.

#### **9.4 Duties of the user concerning information he or she provides**

9.4.1 The user must select carefully the information that he or she publishes on the portal and therefore discloses to other users.

9.4.2 The user undertakes not to disseminate, within the context of the services, any information (e.g. images, links, names, words) with an advertising, political, religious, offensive, disturbing, violent, sexist, pornographic or other morally objectionable, in particular racist or extreme right-wing or extreme left-wing content, persons or ideas. Furthermore, the user may not use trademark-protected words, terms, names, images, videos, pieces of music, games or other material. In case of doubt, the user must remove the material concerned immediately. Gembly also has the right to remove this material itself. The user must always comply with the relevant statutory provisions, especially those governing data protection, copyright, trademark rights, etc.

9.4.3 The user is not permitted to use the services for illegal purposes. The user expressly does not have the right to use other users' user names and/or e-mail addresses without their permission or to send e-mails, advertisements or other commercial communications for marketing purposes.

9.4.4 If the user breaks the aforementioned rules, Gembly will have the right to remove immediately the information provided by the user.

9.4.5 In particular, Gembly has the right to delete in whole or in part any information provided, if there are clear indications of a breach of the GT&Cs, the instructions and the rules of the services in question or if this information is otherwise unlawful. This is, for example, the case with information which:

- is of an openly offensive, racist or fundamentalist nature, or glorifies violence;
- attacks, insults or threatens another person or is obscene, libellous or mendacious;
- is sexist or pornographic or contains a link to a website of this nature;
- contains incorrect or misleading information or encourages illegal behaviour;
- contains an illegal or unauthorised copy, or publishes work which is protected by copyright, e.g. by procuring illegal computer programs or links to illegal computer programs, information on circumventing copy-protection features and the illegal copying of music, or links to illegally copied music or otherwise constitutes an infringement of copyright;
- involves the sending of junk mail, chain letters or unsolicited mass e-mails, instant messages, spimming or spam;
- contains restricted pages or images which can only be accessed with a password or contains hidden pictures or pages;
- encourages criminal activities or intentions or contains instructions for criminal activities or incentives, including but not limited to information on how to make or purchase weapons, child pornography, forgery, drug trade, illegal games of chance, stalking, spam, spimming, the spreading of computer viruses or other harmful file types;
- asks other users to provide personal details for commercial or illegal purposes or to share login details;
- involves commercial activities and/or selling, e.g. competitions, illegal lotteries, bartering, advertisements or pyramid-selling systems;
- contains a photograph of another person, without that person's permission.



9.4.6 The user does not have the right to demand that the information removed should be republished.

Gembly also has the right to exclude the user from further use of the services concerned and to block his or her account immediately in the event of repeated breaches of current rules despite receiving a warning, without prejudice to its right to claim compensation.

9.4.7 The user must inform Gembly if he or she notices that third parties or other users misusing the services (e.g. by disseminating and sending material which is not permitted, as described in 9.4.5 above). Gembly asks the user to do so in writing (e.g. by e-mail) to ensure that the information does not go astray.

## **9.5 User's liability with regard to the information that he or she has provided**

9.5.1 The user is solely responsible and therefore liable for text, files, images, photographs, videos, sounds, music, copyright-protected works or other material, information, etc. (hereinafter "published information") which he or she places on the portal or exchanges with another user. Gembly does not regard this information as its own and therefore does not subscribe to its content.

9.5.2 Gembly does not have any control over the information which is published on the portal. Gembly does not check the content of the information before it is published. If, however, Gembly is aware of illegal information, it will remove such information immediately.

9.5.3 Gembly is in no way liable for any published material, in particular the accuracy, completeness or reliability of its content.

## **9.6 Copyright, licence**

9.6.1 All rights to the information provided by the user will remain with the user. By publishing the information on the portal and/or via the games and services, the user is granting Gembly a non-exclusive, free licence to offer, publish, reproduce and disseminate this content on the portal or on the gaming pages.

9.6.2 Gembly does not have the right to disseminate the published information outside the portal or outside the gaming pages and service pages.

9.6.3 The information that the user places on the portal can be viewed by third parties all over the world via the internet. When placing the information on the portal, the user declares that he or she agrees to this.

9.6.4 This licence ceases to be valid as soon as the user has removed the material from the portal and its service pages.

## **10. Defects**

10.1 Gembly allows the user access to the version of the games and services which exists at that time (see 1.2 above). The user does not have the right to demand that a specific status or specific functions of a game and/or service should be preserved or changed. The user is aware that the games and services – like all software – may have defects. In this case, games and services are only deemed to have a defect if the ability to play the game or to use the service has been seriously and permanently impaired and this has been demonstrated with proper documentary evidence.

The user must always report any defects in games, services or other items of supply in writing to Gembly, attaching details of the defect or the error message that appeared in the game. Before reporting a defect, the user must first refer to the instructions for the game or the service and, where appropriate, any other information that Gembly has provided in order to solve problems (in particular the list of frequently asked questions and discussion forums focusing on possible problems). The user must help Gembly to solve a possible problem as far as he or she is able.

10.2 The user must report the defects to Gembly in writing as soon as they are discovered. Gembly advises the user to submit all reports of defects in writing (by letter or e-mail) to Gembly, so that it is still possible to produce evidence at the end of the process.

10.3 Defects that occur as a result of external influences, possible operator errors made by the user, force majeure or modifications or other adaptations which have not been made by Gemby, or other forms of manipulation, are excluded from these rights.

10.4 Gemby does not provide a guarantee as defined by law.

## **11. Disclosure of personal data**

The user hereby grants permission for his or her personal data to be disclosed by Gemby, where permitted by law, to partner companies of Gemby. In this connection, we refer to the Gemby privacy statement.

## **12. Liability, indemnification**

12.1 The user will indemnify Gemby in full against any loss or damage that may arise for Gemby from or in connection with actions which can be regarded as a form of breach of contract or wrongful act by the user. The user also accepts all legal costs incurred by Gemby, including all attorneys' fees.

12.2 The user will indemnify Gemby in full against third-party claims for compensation for any loss or damage as specified in 12.1 above. Where a claim in this regard is made against Gemby, Gemby will notify the user accordingly by sending the necessary details. For the rest, Gemby will refrain from any action in this matter, unless the user gives it permission to do so or the user fails to defend the third-party claim.

12.3 Gemby is solely liable for direct loss or damage incurred as a result of gross negligence or an intentional act by Gemby – to be proved by the user – in the fulfilment of its obligations arising from the agreement. Gemby is not liable for consequential loss or damage, including but not limited to losses suffered and lost profit.

12.4 Where Gemibly is held liable, the user agrees that primary compensation will be provided by Gemibly in the form of game credits, game currency, items or points. If this is not possible, Gemibly's liability will be limited to a maximum of €100.00 per account.

## **13. Final provisions**

13.1 When the user wishes to communicate with Gemibly, he or she is required to do so in writing, including in the form of an e-mail.

13.2 The competent court is the District Court in Amsterdam

13.2 (i) These GT&Cs, including future amendments, (ii) any agreements concluded on the basis of these GT&Cs and (iii) the rights arising therefrom in any form whatsoever will be governed solely by the laws of the Netherlands. The Vienna Sales Convention and Dutch international private law do not apply and are expressly excluded.

13.4 Where specific provisions of these GT&Cs and/or the agreement are or become void, this will not affect the remaining provisions.

## **General game conditions tickets / loyalty lottery**

### **General**

These conditions apply to the use of the loyalty lottery of Gemibly BV (hereafter "Gemibly"), with its registered office at Kromwijkdreef 11, 1108JA Amsterdam. Gemibly is a registered brand name.

### **Participation**

By making use of the loyalty lottery, participants agree to these conditions.

All registered users of gemibly.com (from 18 years of age) can make free use of the loyalty lottery.

Gemibly reserves the right to cancel the loyalty lottery at any time.

## **Game description**

Gembly wants her brand and the games to be known to the general public through separate promotions.

By playing the games of Gembly a user can acquire loyalty tickets. There are no costs tied to the acquisition of these tickets.

## **Loyalty lottery**

These lottery conditions apply to the monthly loyalty lottery (hereafter: “the Lottery”) of Gembly.

The loyalty lottery is organised by Gembly. Facebook has no involvement with the organisation, sponsoring or administration of the loyalty lottery.

The result of the Lottery will take place at the date and time as stated on the Gembly portal. For each to be promoted game of Gembly there will be a maximum of 20 lotteries per year. The value of the to be won prizes has a maximum of € 449 over which no tax is owed.

The results of the Lottery will be made known to the winners immediately after the Lottery.

The Lottery will be available from the 1st of November 2016 for a period of 1 year and can be ended at any time by Gembly.

The purpose of the Lottery is to distribute prizes by means of a “Lottery Ticket” among the registered users of gembly.com.

The Lottery is a game of chance intended to promote Gembly.

Gembly at all times reserves the right to exclude persons from participation in the Lottery.

Gembly and the participants are bound to the terms of these lottery conditions. Gembly reserves the right to change these lottery conditions or end the Lottery in the interim.

## **Participation**

By taking part in the Lottery, participants agree to these lottery conditions.

Everyone from the age of 18 can participate free of charge in the Lottery.

Excluded from participation are: persons younger than 18; employees of the OrangeGames Holding BV (including Gembly BV), as well as anyone who is directly or indirectly involved in the organisation of the Lottery.

Participants in the Lottery are those persons who have acquired a free Lottery Ticket by playing the games on the Gembly portal.

Particulars provided by participants on winning a prize will be used exclusively to provide winners with their prizes. Those particulars will be deleted immediately after the Lottery.

The information and particulars provided by participants must be valid and truthful. In all other cases, participants may be excluded from the Lottery and, if applicable, have their prizes withdrawn.

## **Game description**

- The games on Gembly are free to play, every game that is played (with exception of practice games) are rewarded with a loyalty ticket. All participants of the games on Gembly so acquire loyalty tickets, regardless if the user has won or lost the game. All loyal user will be rewarded with free loyalty tickets

- The winners of the Lottery will immediately after the prize draw be informed of their prize by means of:

a) an email

b) a system message on gembly.com

## **Prizes**

- The total prize pot is visible on the portal of Gembly: [www.gembly.com/prizes](http://www.gembly.com/prizes)

- The value of the to be won prizes is at most € 449, over which no tax is owed.

- Per lottery it is stated how many tickets are required to participate in the lottery.

- Per lottery it is stated how many prizes will be given away to the participants.

- The actual prize may differ in color and model, no correspondence is possible regarding this.

- The prize can be paid out in cash (conversion ratio 50%) or it can be converted into virtual Gems (conversion ratio 200%)
- The winner who chooses to receive the (physical) prize in cash, will need to send his/her name, address, phone number and bank details in a correct and truthful manner.
- Payment in cash can be made directly to the bank account, or PayPal account of the winner. Payout in cash money is not possible.
- If the shipping costs are more than € 25 Gembly retains the right to payout the prize in cash (conversion ratio 75%)
- In the case that the winner does not establish contact within 7 days to claim their prize the system will send a reminder email.
- In the case that the winner does not claim their prize within 28 days then the prize will automatically be credited in virtual Gems to the gembly.com account of the winner. After this no claim can be made to pay out the physical prize or money.

## **Liability**

Gembly assumes no responsibility or liability for any supplementary expenses made by the winners in relation to the acceptance, use or misuse of the won prizes.

Gembly accepts no liability for any losses caused by the paid-out prizes, or for any damage or injury to property and/or persons as a result of the use of the paid-out prizes.

Any tax consequences of the Lottery and other claims (by third parties) relating to the paid-out prizes cannot be recovered from Gembly.

Gembly accepts no liability for the provision of incorrect or incomplete information by the participant.

Gembly accepts no liability for:

- any typing, printing or setting errors;
- any loss resulting from the Lottery;
- any loss resulting from a change to or ending of the Lottery; or
- any loss resulting from default on the part of third parties.
- any loss resulting from shipping the products or prizes

- any loss resulting from after the delivery of the products or prizes

Gembly accepts no liability for services and/or goods to be delivered by third parties within the framework of this Lottery and the prizes.

## **Other**

The Lottery is governed by Dutch law, including the Code of Conduct for Promotional Games of Chance (Gedragscode Promotieele Kansspelen). Gembly acts in accordance with this code of conduct. Any disputes regarding these game conditions, the Lottery or the prizes will be submitted to the competent court in Amsterdam.

If one or more provisions of these conditions are void or declared invalid, Gembly is entitled to draw up one or more replacement provisions that as best as possible approach the nature and scope of the provisions that are void or declared invalid. In all cases not provided for by these conditions, a decision will be taken by Gembly. All copyrights are retained by Gembly.

## **Complaints Procedure**

If you are of the opinion that the offered promotional game of chance does not comply with one or more provisions of the Code of Conduct for Promotional Games of Chance, you can submit a written complaint. Address your complaints and/or comments in writing to [help@gembly.com](mailto:help@gembly.com).

To facilitate a correct and prompt handling of your complaint, clearly describe and motivate your complaint. Receipt of the complaint will be confirmed in writing within 2 weeks. As soon as we have collected sufficient information, we will commence handling of your complaint and keep you informed of how the handling process is progressing. All complaints will be handled by the Marketing and/or Legal Affairs department. If you are dissatisfied with the handling of your complaint, you can submit it again with the official gaming authority.

Amsterdam, 1st of November 2016

Gembly BV

Kromwijkdreef 11  
1108 JA Amsterdam  
The Netherlands

Chamber of Commerce No. 59273046