TERMS OF USE

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Version 28

Effective Date: November 9, 2026

IMPORTANT NOTICES: These Terms of Use and the Arbitration Agreement have been updated as of the Effective Date and shall supersede and replace all prior Terms of Use or Arbitration Agreement.

PLEASE READ THIS DOCUMENT CAREFULLY. IT IS A LEGAL CONTRACT AND SHALL AFFECT YOUR RIGHTS AND OBLIGATIONS.

These Terms of Use ("the Terms" or "TOU") and the Arbitration Agreement (see Section 22) form binding agreements between you ("You," or "User,") and ARB Gaming, LLC d/b/a Modo.us® ("Modo®," the "Company," "Us, or "We") which provide all of the terms and conditions governing Your access and use of www.modo.us and any related applications (the "Website," "Site," or "Platform") as well as Your creation of Your Modo® user account ("User Account"), use of the games, promotions or contests (collectively or individually, "Games") on the Site, and any transactions or dealings with Us in any way (collectively, the "Service").

NO PURCHASE IS REQUIRED TO PLAY, AND THE SERVICE IS INTENDED FOR ENTERTAINMENT PURPOSES ONLY.

THESE TERMS OF USE INCLUDE A SEPARATE ARBITRATION AND CLASS ACTION WAIVER AGREEMENT WHICH REQUIRES THAT ANY PAST, PENDING, OR FUTURE DISPUTES BETWEEN YOU AND US SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION ON AN INDIVIDUAL BASIS ONLY AND FOR YOUR OWN LOSSES ONLY. YOU MAY NOT PROCEED AS A CLASS REPRESENTATIVE, MEMBER OR PART OF ANY PROPOSED CLASS, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL SUIT, QUI TAM ACTION OR ANY REPRESENTATIVE PROCEEDING, OR OTHERWISE SEEK TO RECOVER ON BEHALF OF OTHERS OR FOR THE BENEFIT OF OTHERS IN ANY TYPE OF CLAIM OR ACTION.

ARBITRATION MEANS YOU WILL NOT BE ABLE TO SEEK CLAIMS OR DAMAGES IN COURT OR PRESENT YOUR CASE TO A JURY.

<u>OPT-OUT OF ARBITRATION AGREEMENT</u>. IF YOU HAVE *NOT* PREVIOUSLY AGREED TO AN ARBITRATION PROVISION WITH US IN CONNECTION WITH YOUR USE OF OUR SERVICE, YOU MAY OPT OUT OF THE ARBITRATION AGREEMENT WITHIN THIRTY (30) DAYS OF ACCEPTING THE TERMS AND ARBITRATION AGREEMENT BY FOLLOWING THE INSTRUCTIONS PROVIDED IN THE "BINDING ARBITRATION AGREEMENT AND CLASS ACTION WAIVER." SEE SECTION 22 OF THE ARBITRATION AGREEMENT, BELOW. OPT-OUT REQUESTS SENT AFTER THE THIRTY (30) DAY PERIOD SHALL BE NULL AND VOID. EVEN IF YOU OPT OUT OF THE ARBITRATION AGREEMENT AS PROVIDED IN SECTION 22, THE TERMS SHALL STILL APPLY.

PLEASE READ THE FOLLOWING TERMS OF USE, THE ARBITRATION AGREEMENT (SEE SECTION 22 BELOW), THE CLASS ACTION WAIVER (SEE SECTION 22 BELOW), AND THE MODO® PRIVACY POLICY CAREFULLY BEFORE USING THE SERVICES OFFERED IN CONNECTION WITH ANY MODO® SERVICES OR WEBSITE OR APPLICATION. YOU AGREE THAT YOUR CONTINUED USE OR ACCESS OF THE SITE OR SERVICE SHALL BE SUBJECT TO THESE TERMS OF USE, WHICH FURTHER INCORPORATE AND INCLUDE THE PRIVACY POLICY, THE RESPONSIBLE SOCIAL GAMEPLAY POLICY, THE OFFICIAL SWEEPSTAKES RULES, THE MODO RIPS RULES, AND ANY OTHER POLICIES THAT EXPRESSLY INCORPORATE THE TERMS AND ARBITRATION AGREEMENT (COLLECTIVELY, "INCORPORATED POLICIES").

IT IS AN EXPRESS CONDITION OF THIS AGREEMENT THAT ANY CLAIMS YOU MAY HAVE AGAINST MODO® ARISING FROM ANY PAST, PRESENT OR FUTURE USE OF TRACKING SOFTWARE, INCLUDING BUT NOT LIMITED TO USE OF A META PIXEL, "COOKIES," "GET REQUESTS" OR JAVASCRIPT IN HTML CODE OF THE COMPANY'S WEBSITE THAT INTERCEPTS, TRACKS, STORES, AND ANALYZES YOUR INTERACTIONS WITH THE COMPANY'S WEBSITE FOR PURPOSES OF OBTAINING DATA OR TARGETED ADVERTISEMENT ARE HEREBY FULLY WAIVED, RELEASED AND COMPROMISED. MODO® SHALL HAVE NO LIABILITY TO YOU FOR ANY PAST, PRESENT OR FUTURE CLAIMS ARISING OUT OF OR RELATED TO THE USE OF SUCH TRACKING TECHNOLOGY.

Notice for California Users Under Civil Code Section 1789.3. The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 N. Market Blvd., Suite N – 112, Sacramento, CA 95834, or by telephone at 1(800) 952 – 5210.

Acceptance of Terms and Arbitration Agreement. You represent and warrant that You have the right, authority, and capacity to accept these Terms and Arbitration Agreement and to abide by them, that You are of legal age and that You have fully read and understood the Terms and Arbitration Agreement. You should read the Terms and Arbitration Agreement carefully in their entirety **before accepting them.** By using, or otherwise accessing the Service, or clicking to accept or agree, You confirm that You have read and agree to the Terms and Arbitration Agreement. All of Your activity on the Website or Platform and all or Your transactions with Modo, including all events which occurred before Your acceptance of these Terms, shall be subject to the Terms and Arbitration Agreement.

Severability. In the event any provision of these Terms is held unenforceable, such provision will be ineffective but shall not affect the enforceability of the remaining provisions of the agreement. To the fullest extent allowable by law and equity, the parties agree that any such provision shall be blue-penciled or otherwise construed by the arbitrator or forum presiding over any dispute to preserve the formation of the agreement and give effect to the intent of the parties consistent with the overall purpose and intent of the agreement and may be deemed replaced by an enforceable provision that comes closest to the intention underlying the unenforceable provision.

The Service is not sponsored, endorsed, or administered by, or associated with Apple®, Facebook® or Google®. You understand that You are providing Your information to Modo® only and not to Apple®, Facebook® or Google®.

1. Changes to Terms of Use or Arbitration Agreement

1.1 From time to time, We may revise or amend these Terms or the Arbitration Agreement. If We do so, any such modifications or changes shall be reflected in the Terms or Arbitration Agreement on the Site. To the extent there are material changes to these agreements, We will present the same to You on login for further review and acceptance. Your continued use of the Service shall be subject to Your review and acceptance of the revised or amended Terms and Arbitration Agreement.

1.1.1 No Requirement to Accept New or Amended Terms or Arbitration Agreement. If You do not wish to accept a revised or amended version of the Terms or Arbitration Agreement, You shall not be required to do so but You will no longer be able to use the Service, and the last version of the Terms or Arbitration Agreement which You accepted shall remain in force and effect. If you need assistance with account access or other information or requests, please contact customer service. If You need customer service, You may contact Us at Support@modo.us.

1.1.2 Savings Clause. If for any reason revised or amended Terms or Arbitration Agreements shall be found unenforceable, invalid or otherwise fail in their entirety for lack of formation or any factual or legal reason, then You and We agree that the last enforceable Terms or Arbitration Agreement shall then apply as if the amendment had not occurred.

1.2 If You have any questions about **the effect of the Terms, the Arbitration Agreement or the Incorporated Policies, please confer with a lawyer, as these are legal documents which impact Your rights and obligations**.

1.3 In the event of any conflict between the Terms and the Incorporated Policies, the Terms shall control.

2. Limited Revocable License (the "License")

2.1 Virtual Coins. The Service includes a License (as defined below) to You to use virtual items to play Games on the Site, including, but not limited to, virtual chips, coins, credits, tickets or points (collectively, "Virtual Coins"), that may be provided for use on the Platform. No matter the reference or format of the Games, Virtual Coins are non-transferrable and may be used subject to the License only. With the exception of "no purchase necessary" promotional contests or giveaways, there is no opportunity for a User on the Platform to win money or any prize of value while playing the Games, regardless of whether any purchase was made at any point by the User. The promotional contests and virtual coin usage associated with those promotions is governed separately in the Modo US Sweepstakes Official Rules (the "Sweepstakes Rules").

2.2 The License. Subject to Your agreement and continuing compliance with these Terms, We grant You a limited, personal, non-exclusive, non-transferable, non-sublicensable, revocable, license to access and use the Service, Games and Virtual Coins solely for Your personal, private entertainment on the Platform and for no other reason (the "License"). Other than this limited, personal, revocable, non-transferable, non-sublicensable License to use the Virtual Coins with the Service, You have no right or title in or to any such Virtual Coins appearing or originating with the Service, or any other attributes associated with use of the Service or stored within the Service. You acknowledge and agree that Your License to use the Service is limited by these Terms and if You do not agree to, or act in contravention of, these Terms, Your License to use the Service may be immediately terminated. We have the absolute right to manage, regulate, control, modify and/or eliminate such Virtual Coins as it sees fit in its sole discretion to the extent legally permissible, and We shall have no liability to You or anyone for the exercise of such rights.

2.3 No Right to Sell or Assign. The transfer or sale of Virtual Coins by You to any other person is strictly prohibited. You may NOT sell or assign Your User Account to any other person under any circumstances. Any attempt to do so is in violation of these Terms, will result in closure and forfeiture of the User Account, and may result in a lifetime ban from the Service and possible legal action.

2.4 No Purchase Required. No purchase is required to set up a User Account or play Games. The Platform is committed to at all times providing additional access to Virtual Coins or otherwise to free-to-play Games to Users who deplete their balance of Virtual Coins. While it is never required to make any purchase in order to play the Games, Users may, subject to the License, increase the number of certain Virtual Coins they may access for licensed use on the Platform. Such purchase only increases the variety of available Games, and removes advertisements by making a purchase. You understand and agree that any purchases are final and that We are not required to provide a refund for any reason. Virtual Coins are non-transferrable, and carry no cash value. All promotional gameplay is governed separately in the Sweepstakes Rules.

2.5 To the extent legally permissible, the license to utilize all Virtual Coins under this License is revoked and forfeited if Your User Account is terminated or suspended for any reason or if the Service is no longer available. To the extent legally permissible, if Your User Account, or a particular subscription for the Service associated with Your User Account, is terminated, suspended and/or if any Virtual Coins are selectively removed or revoked by Us from Your User Account, no refund or reimbursement will be granted or due to You.

2.6 These Terms do not grant You any right, title or property or ownership interest in the Service or any Virtual Coins.

2.7 This Service is licensed, not sold, to You. You agree that We and our own licensors own all rights, title and interest in and to the Service, including all intellectual property rights therein as further specified below in Section 15, and that We retain ownership of the Service at all times and under any conditions. You agree not to delete or in any manner alter the copyright, trademark or other proprietary rights notices or markings which may appear on the Service.

2.8 Except as identified and specified in these Terms, You agree not to:

2.8.1 sell, rent, distribute, transfer, license, sub-license, lend or otherwise assign any rights of any part of the Service to any third-party;

2.8.2 copy, modify, create derivative works of the Service (including but not limited to any software that forms part of the Service), including, without limitation, making adaptations or modifications to the Service;

2.8.3 reproduce the Service or any part in any form or by any means;

2.8.4 exploit the Service in any unauthorized way whatsoever, including without limitation, by trespass or burdening network capacity;

2.8.5 disassemble, decompile, reverse engineer, or attempt to derive the source code of the Service, in whole or in part, or permit or authorize a third-party to do so, except to the extent such activities are expressly permitted by law;

2.8.6 make the Service available to multiple Users by any means, including by uploading the Service to a file-sharing service or other type of hosting service or by otherwise making the Service available over a network where it could be used by multiple devices at the same time;

2.8.7 misrepresent the source of ownership of the Service;

2.8.8 scrape, build databases or otherwise create permanent copies of any content derived from the Service; or

2.8.9 use the Service in any manner to harass, abuse, stalk, threaten, defame or otherwise infringe or violate the rights of any other party.

3. Eligibility

Your eligibility for continued use of the Service is contingent on Your ongoing compliance with these Terms, in particular:

3.1 You are over 18 years of age or the minimum legal age of majority whichever is higher in the jurisdiction in which You are located at the time of accessing or using the Service and are, under the laws of the jurisdiction(s) applicable to You, legally allowed to participate in the Games and access the Service;

3.2 You understand and accept that We are unable to provide You with any legal advice or assurances and that it is Your sole responsibility to ensure that at all times You comply with the laws that govern You and that You have the complete legal right to use the Service;

3.3 You will monitor Your User Account and ensure that no child under the age of 18 can access the Service using Your User Account. You accept full responsibility for any

unauthorized use of the Service by minors and You acknowledge that You are responsible for any use of the Service, including use of Your credit card or other payment instrument by minors;

3.4 You do not access the Games or Service from the States of Washington or any jurisdiction outside the United States or as otherwise posted within these Terms or on the Platform (the "Restricted Territories");

3.5 You participate in the Games strictly in Your personal capacity for recreational and entertainment purposes only;

3.6 You further represent and warrant that all information You supply to Us is complete and accurate. Knowingly submitting incomplete or inaccurate information may result in immediate termination of Your User Account, revocation of any License from Us, and any further participation or access to the Service, at Modo's sole discretion, to the extent legally permissible;

3.7 You will not be involved in any fraudulent or other unlawful activity in relation to Your participation in any of the Games and You will not use any software-assisted methods or techniques (including but not limited to "bots" designed to play automatically) for Your participation in any of the Games. We reserve the right to invalidate any participation in the event of such behavior;

3.8 If, in the reasonable opinion of Modo, We form the view that a player is abusing any promotion, or seeking to derive any advantage or gain for themselves or another player, including by way of fraudulent conduct or misuse of the Services, We may, at our sole discretion, withhold, deny or cancel any advantage, bonus or promotional prize as We see fit, or terminate or suspend the User Account of such player.

> **3.8.1** You will not directly or indirectly participate in groups or take advantage of, or encourage others to participate in or take advantage of schemes, organizations, agreements, or groups designed to share: (a) hacks or money-making strategies; (b) special offers or packages emailed to a specific set of players and redeemable by URL; or (c) identification documents (including, but not limited to, photographs, bills and lease documents) for the purpose of misleading Modo® as to a player's identity.

3.9 In relation to any purchase, You must only use a valid form of payment accepted by the Platform or its third-party payment processing provider(s) ("Payment Agent(s)") which lawfully belongs to You (the "Payment Mechanism").

4. Your User Account

4.1 You must create a User Account in order to access or use the Service.

4.2 Only one User Account is permitted per person. In the event You open or try to open more than one User Account, all User Accounts You have opened or try to open may then be terminated or suspended any prizes or Virtual Coins balances may be voided.

4.3 If You lose access to Your User Account, You must not register a new User Account. Rather, You must contact customer support at support@modo.us to have Your User Account status updated.

4.4 You are required to keep Your personal details up to date. If You change Your address, email, phone number or any other contact details or personal information, please contact customer support. The name that You provide to Us at registration must match any identification You provide for Your User Account verification.

4.5 During the registration process, You will be required to select a password unless: (i) You login to Your User Account using the Facebook® login facility in which case Your Facebook® password will apply; or (ii) You login to Your User Account using the Google® login facility in which case Your Google® password will apply.

4.6 You confirm that You will not share Your User Account or password with any other person or let anyone else access or use Your User Account without our written permission. You will not access or use a User Account which has been rented, leased, sold, traded, or otherwise transferred from the User Account creator without our written permission.

4.7 If You become aware, or have reasons to suspect, that the security of Your User Account may have been compromised, including loss, theft or unauthorized disclosure of Your password and User Account details, You must notify Us immediately.

4.8 You are responsible for maintaining the confidentiality of Your User Account and accept responsibility for all uses of the User Account, including any purchases (whether or not authorized by You).

4.9 We reserve the right to close Your User Account if it is inactive for a period of sixty days or longer and therefore Dormant under Section 12.11. You agree that We are not required to give notice to You prior to taking such action, although We may choose to do so in our sole discretion.

4.10 If You wish to close Your User Account, You may do so at any time by contacting customer support. Closing Your User Account will forfeit all continued access to and right to use, enjoy or benefit from any Virtual Coins associated with Your User Account.

4.11 We reserve the right to refuse to open or the right to close a User Account at our sole discretion.

4.12 User Account registrations may be limited to one User Account registration per person or per IP address at our sole discretion.

4.13 We reserve the right, at our sole discretion, to deactivate or suspend Your User Account (notwithstanding any other provision contained in these Terms of Use) where We have reason to believe that You have played or are likely to play in tandem with other player(s) as part of a club, syndicate, group, etc., or played the Games in a coordinated manner with other player(s) involving the same (or materially the same) actions, decisions, or selections.

5. Games and Contests

5.1 In addition to these Terms, Games offered on the Service may have their own rules which are available on the Service. It is Your responsibility to read the rules of a Game before playing. You must familiarize yourself with the applicable terms of play and read the relevant rules before playing any Game.

6. Modo® Stars Loyalty Rewards Program

6.1 You will have the opportunity to accumulate "Modo® Stars" through your use of the Service and Games. For purposes of this section, accumulation of Modo® Stars through gameplay is only possible when playing with Gold Coins, no Modo® Stars will be awarded for gametime played with Sweepstakes Coins. Accordingly, reference to Games in this Section 6 shall refer only to Gold Coin gameplay. Modo® Stars are virtual in-Service points that you can use to exchange for Virtual Items within the Service. As with all Virtual Items, you do not in fact own the Modo® Stars you accumulate and the amounts of any Modo® Stars you accumulate do not refer to any credit balance of real currency or its equivalent. Rather, by "earning" and "accumulating" Modo® Stars, you are merely granted a limited license to use the software programs that manifest themselves as the Modo® Stars. In the event we encounter issues with the Service that impact the accumulation of Modo® Stars and/or the redemption of Rewards, we reserve the right to correct any such errors. We reserve the right, at our sole discretion, to modify, suspend or cancel the Modo® Stars Loyalty Rewards Program for any reason. By accepting these Terms, you acknowledge and agree that we can adjust, limit, suspend or cancel your participation in Modo® Stars Loyalty Rewards Program at any time. If you participate in any of our Rewards Partners' rewards programs, the Modo® Stars you accumulate through your use of the Service may be exchanged for items, services, or experiences (each a "Reward") offered by such Rewards Partners through those programs.

6.2 You may accumulate Modo® Stars by taking certain actions while using the Services. For example, you may earn Modo® Stars by posting your in-Service achievements to your Facebook account, "liking" certain aspects of the Service, playing the Games for a specified duration, or participating in certain in-Service offers. Modo® Stars are awarded based on a proprietary system that includes multiple player actions. The foregoing list is solely for purposes of example and explanation and is not meant to be exclusive or exhaustive. Modo® Stars are NOT and WILL NOT be awarded or earned in any way related to or based upon the outcome of any Game you play during your use of the Services.

6.3 Modo® Stars have no cash value and are non-transferable. You may not sell, trade, barter, bequeath or in any way transfer any Modo® Star(s) to any other party. Any attempt to do so will lead to the immediate expiration of the Modo® Stars in that account and may result in the termination of your Account.

6.4 You may exchange your accumulated Modo® Stars for in-Service Virtual Items in the Service. You may also exchange your Modo® Stars for Rewards in the "Rewards" area of the Service. The first time you exchange your Modo® Stars for Rewards, you will be asked to provide your name and email address. The name you provide must match the name that appears on a government-issued identification belonging to the person who has accumulated the Modo®

Stars through his/her use of the Service. The identification will be used by our Rewards Partners to verify your eligibility.

6.5 Transactions exchanging Modo® Stars for in-Service Virtual Items, such as Gold Coin packages, will be delivered instantly to your Modo® Account and cannot be returned or refunded.

6.6 Once you have exchanged Modo® Stars for a Reward, you are said to have "claimed" that Reward. After claiming your Reward, you will have a limited period of time in which to complete a "redemption process" by following a defined "redemption method" as provided for and determined by the Reward Partners (the "Redemption Period"). **After the Redemption Period has passed, the Reward will be deemed "expired" and no longer available for redemption. Your Modo® Stars will not be refunded to you if you allow a purchased Reward to expire.** Redeeming a reward that has been "claimed" in the Service secures that reward for your specific use at a particular time. When the redemption process is complete, you may then "use" the reward. A Reward is considered "used" at the moment when it is consumed (e.g., when you check into a hotel room, eat a meal, or attend a show).

6.7 Rewards Partners may, at their discretion, place restrictions on the usage of the Rewards they offer in the Service (e.g., a minimum age requirement, Reward usage black-out dates, a limit as to the number and frequency of Rewards that may be used within a specified period of time, and the requirement to participate in the partner's own loyalty program), which may exist independently of the Service. Redemption of Rewards are subject to the terms and provisions of the Rewards provider, including limitations on redeeming Rewards if you self-limit or self-exclude with the Reward provider or any regulatory agency, including any gaming regulatory agencies.

6.8 Because the Redemption Period, redemption method, and other terms of Rewards usage may vary, you must review the specific terms and conditions of each Reward you claim with your Modo® Stars. We are not responsible for the terms and conditions of the Rewards and Modo® bears no responsibility to you for any such unread, misread or misunderstood terms. By selecting and claiming a Reward, you acknowledge and agree that you read and accept the terms and conditions of the Reward. The selection and availability of Rewards is subject to change without notice and we make no guarantees as to the availability of any Reward. For complete details and the terms, conditions and restrictions for any individual reward, please refer to the rewards detail found within the Rewards catalog within the Service.

7. Reward Cancellations and Refunds.

7.1 Generally, at any time during the Redemption Period, you may cancel your "claim" of a Reward for a full refund of the Modo® Stars used to "claim" it. Once you have redeemed a Reward, either through the online reservation system available through the Service or otherwise, you may no longer cancel that Reward and you will not receive a refund of your Modo® Stars.

7.2 On rare occasions, a Reward will "sell out" or otherwise become unavailable between the time you "claim" it and the time you redeem it. If you are, within the Redemption

Period, unable to redeem a "claimed" Reward because of such unavailability, you will be eligible to receive a full refund of the Modo® Stars used to "claim" that Reward. If you do not redeem or cancel a Reward during that Reward's Redemption Period, the Reward will expire. Some Rewards are of such limited availability that our Rewards Partners may, in their sole discretion, deem them to be non-refundable. Non-refundable Rewards do not have a Redemption Period and therefore may not be cancelled for a refund of Modo® Stars after they are "claimed". You are solely responsible for reading and understanding the refund terms and conditions of each Reward you "claim".

8. Changes and Other Rewards Terms.

8.1 From time to time, other Rewards Partners may require you to enroll in separate rewards programs as a condition of redeeming certain Rewards. If you choose to participate in such programs, you hereby agree to comply with all applicable Reward Partner rules, policies, and terms and conditions. Once you have redeemed a Reward with any such Rewards Partner, your ability to change that Reward may be at the sole discretion of that Rewards Partner. Any such changes will not result in a change to your Modo® Stars balance.

8.2 Rewards have no cash value and are non-transferable. You may not sell, trade, barter, bequeath or in any way transfer any Reward to any other party. Any attempt to do so will invalidate the Reward and may result in the termination of your Account.

9. Inactive Accounts.

9.1 If you do not use your Account by logging in and using the Service at least once every 30 days, your Account will be deemed inactive. You can, at any time, reactivate your Account by logging in and using the Service. When an Account has been deemed inactive, we may, at our own discretion, expire any Modo® Stars accumulated by You. Once your account is deemed inactive, any Rewards which have been "claimed" but not yet redeemed may also be expired at our discretion.

10. Third Party Providers of Goods and Services

10.1 Our Rewards Partners reserve the right, in their sole discretion, to change, amend, suspend, cancel, or terminate any reward program they offer or any aspects and/or terms and conditions thereof, in whole or in part, at any time, with or without notice and for any or no reason. Any such changes may affect your ability to use the Modo® Stars that you have accumulated through your use of the Service to "purchase" or redeem Rewards from such Rewards Partners. You hereby agree that we shall have no liability to you as a result of such action of any Rewards Partner.

10.2 Your correspondence or business dealings with, or participation in promotions sponsored by any third party providers of goods or services made available on or through the Service, your participation the rewards programs offered by any of our Rewards Partners, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such third-party provider and solely at your own risk. You hereby release us (and our affiliates, officers, directors, agents, subsidiaries, and employees) from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and

unknown, arising out of or in any way connected with such dealings or as the result of the presence of such third-party providers on the Service.

11. VIP Rank

11.1 We may, at our sole discretion, grant, modify, limit, suspend, or revoke any VIP Rank benefits, rewards, or features at any time, for any reason, with or without prior notice. VIP Ranks and any associated benefits are provided as discretionary rewards and are not guaranteed. Players have no entitlement to receive or retain any VIP Rank or related rewards. More information on rank-specific benefits and achieving these tiers can be found at https://modo.us/vip-ranks, which can be modified by us at any time as provided for in these Terms.

11.2 If accepted into a VIP Rank program you may receive and/or be offered certain things of value including tickets, flights, accommodations, and admission to special events, discounted items, and/or other tangible or intangible benefits. These may be subject to IRS form 1099 reporting and may be taxable to you. For purposes of tax reporting, you are said to have received the value of the benefit upon acceptance of the item, regardless of whether you actually use and/or consume the item.

11.3 By accepting any benefits as described in Section 11 you also hereby agree to the following special provisions:

> **11.3.1 Liability Waiver, Release and Covenant Not to Sue:** FOR MYSELF AND MY HEIRS, EXECUTORS, ADMINISTRATORS AND ASSIGNS, I HEREBY WAIVE, RELEASE, COVENANT NOT TO SUE, AND DISCHARGE SPONSOR, ITS CORPORATE PARENTS, SUBSIDIARIES, AFFILIATED COMPANIES, MARKETING AGENCIES, AND ANY OTHER PARTIES INVOLVED IN THE ADMINISTRATION OF THE EVENT AND THE EMPLOYEES, REPRESENTATIVES, AGENTS, DIRECTORS, OFFICERS, SUCCESSORS AND ASSIGNS OF ALL OF THE FOREGOING (COLLECTIVELY, "RELEASEES"), FROM ANY AND ALL LIABILITIES, CLAIMS, LOSSES, DAMAGES, COSTS, AND EXPENSES (INCLUDING ATTORNEYS' FEES) OF ANY KIND (COLLECTIVELY, "CLAIMS") ARISING OUT OF: (A) THE EXERCISE OF THE RIGHTS GRANTED IN PARAGRAPH 11.4 (PUBLICITY RIGHTS) BELOW; (B) THE EVENT; (C) MY ACCEPTANCE OR USE OF, OR INABILITY TO USE, THE BENEFITS PROVIDED (OR ANY COMPONENT THEREOF); OR (D) MY PARTICIPATION IN ANY PRIZE-RELATED TRAVEL, ACTIVITIES OR EVENTS. THE FOREGOING RELEASE, WAIVER, AND COVENANT NOT TO SUE, INCLUDES, BUT IS NOT LIMITED TO, CLAIMS ARISING UNDER A THEORY OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), STRICT LIABILITY, OR ANY OTHER THEORY.
>
> **11.3.2** I HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542, AND ANY ANALOGOUS PROVISION OF OTHER STATE LAWS, WHICH

PROVIDES: **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."**

11.3.3 I SPECIFICALLY UNDERSTAND AND AGREE THAT THIS RELEASE WILL PREVENT ME FROM BRINGING A LAWSUIT, CLAIM, OR OTHER ACTION AGAINST ANY OF THE RELEASEES AND FROM RECOVERING ANY MONEY DAMAGES OR OTHER LEGAL RELIEF FROM SPONSOR OR ANY OTHER RELEASEE IN CONNECTION WITH ANY OF THE RELEASED CLAIMS ABOVE.

11.4 Publicity Rights. By accepting and participating in any benefits as described herein I acknowledge and agree that I may be photographed and/or recorded on video in connection with my participation in any prize-related events or activities. I hereby irrevocably consent and grant, in perpetuity, the absolute right and permission to Sponsor and its affiliates, successors, and assigns, and others that Sponsor may designate from time to time, to use, publish, and broadcast my name, likeness, voice, statements, and biographical information worldwide, in any manner of media whatsoever now known or hereafter devised, in perpetuity, on a royalty-free basis, without further compensation or approval, including but not limited to use on the Internet, for any commercial, advertising, promotional, publicity, trade, or other lawful purpose.

11.5 The VIP Rank benefits that may be subject to such changes, limitation, and/or suspension include, but are not limited to:

11.5.1 Exclusive Pick-Me-Up Click N' Claims

11.5.2 Birthday Click N' Claim Rewards

11.5.3 Daily and Weekly VIP Rank Discounts

11.5.4 Daily Bonus Streak repair

11.5.5 Access to Live Chat Priority Support

11.5.6 VIP Points earned per daily log-in

11.5.7 Access or entry to special events

11.6 Without limiting the foregoing, the following are common examples of when such limitations may occur:

11.6.1 When an account is under review by our teams

11.6.2 When an account is pending closure or has been closed

11.6.3 When limitations are applied in connection with Responsible Social Gaming practices

11.6.4 When an account is found to be in violation of these Terms or Sweepstakes Rules

11.6.5 When we identify technical or operational issues affecting the delivery of benefits

11.6.6 At our discretion, based on other risk, operational, or compliance considerations

11.6.7 Nothing in these Terms guarantees the continued availability of any VIP Rank benefit or feature. We reserve the right to add, modify, suspend, and/or remove VIP Rank benefits and eligibility criteria at any time for any reason.

11.7 Black Diamond VIP Rank

11.7.1 Black Diamond is an invitation-only VIP Rank tier that may be granted at our sole discretion. In addition to standard VIP Rank benefits, Black Diamond members may receive access to a dedicated VIP host, special event invitations, and enhanced or personalized promotions. We may, at any time and for any reason, grant, modify, limit, suspend, or revoke any Black Diamond benefits, rewards, or features with or without prior notice. Black Diamond status and its associated benefits are discretionary and not guaranteed. Players have no entitlement to receive or retain Black Diamond status or any related rewards.

12. Purchases

12.1 The name on Payment Mechanism must match the name on Your User Account. If it comes to our attention that the name You registered on Your User Account and the name linked to Your Payment Mechanism differ, Your User Account will be suspended, purchases may be voided, and any Virtual Coins balance may be adjusted accordingly. **You must promptly notify Us if Your Payment Mechanism is cancelled, lost or stolen or if the security of Your Payment Mechanism has otherwise become compromised.**

12.2 You acknowledge and agree that We may, from time to time and without notice, appoint one or more Payment Agents to process or make payments from or to You on our behalf.

12.3 If one or more of Your purchases is subject to a charge back request, Your User Account will be suspended. In the event of any charge back on Your User Account, the amount of the charge back will be a debt owed by You to Us, and You must immediately submit payment for such purchases through an alternative Payment Mechanism.

12.4 You agree that We and/or our Payment Agents appointed by Us from time to time may store Your Payment Mechanism details to process future purchases. By accepting these Terms, You authorize Us and/or our Payment Agents to store Your payment credentials in compliance with applicable payment processing regulations.

12.5 A Payment Agent will have the same rights, powers and privileges that We have under these Terms and will be entitled to exercise or enforce their rights, powers and privileges as our agent or in their own name. In no event will We be liable to You for any loss, damage or liability resulting from the Payment Agent's negligence and/or acts beyond the authority given by Us.

12.6 All purchases will be in USD.

12.7 If You make a purchase, licensed Virtual Coins may be added to Your User Account instantaneously unless there is any delay due to situations outside our control, including without limitation a force majeure event, poor internet connectivity, internet failure or electricity outages.

12.8 When You make a purchase, it will appear on Your statement as a purchase from "Modo."

12.9 When You make a purchase, You will receive two confirmations: (i) an on-screen confirmation that the transaction has taken place; and (ii) an email to the email address on Your User Account confirming that the transaction has taken place.

12.10 When You log into Your User Account Your licensed Virtual Coins balance will be displayed in the upper right-hand corner of Your screen, both on the Modo® mobile application and on the Modo® website.

12.11 Unless stated otherwise on the Platform or in rules specific to a promotion, contests, special offers, or loyalty programs, Virtual Coins will automatically expire in the event a User Account becomes Dormant. For the purpose of these Terms, "Dormant" means there has been no game play activity utilizing Virtual Coins for a consecutive period of sixty (60) days. A User's Gold Coins and Sweepstakes Coins are treated as separate items. For example, if a player goes sixty (60) consecutive days without using his/her Gold Coins but has used his/her Sweepstakes Coins during this period, only the Gold Coins are subject to expiration. Conversely, if a player goes sixty (60) consecutive days without using his/her Sweepstakes Coins but has used his/her Gold Coins during this period, only the Sweepstakes Coins are subject to expiration.

12.12 Our **Customer Support** can be contacted twenty-four hours a day, seven days a week at support@modo.us. The anticipated response time is as soon as possible, but please note that a response may in certain circumstances may take up to twenty-four (24) hours.

12.13 Wallet**.** Modo® may offer eligible Users the ability to add funds to a stored-value digital wallet associated with their User Account (the "Wallet") for the sole purpose of purchasing Gold Coin packages and/or other bona fide products or services, including Modo® Rips openings offered on the Service (collectively, "Wallet Purchases"). Funds added to the Wallet ("Wallet Cash") are not a deposit account, are not insured by the FDIC or any other entity, and do not accrue interest.

12.14 Adding Funds to Wallet. You may add funds to your Wallet using a valid Payment Mechanism in accordance with Section 12 of these Terms. All Wallet Cash must be added in USD and must originate from a Payment Mechanism that lawfully belongs to You. We reserve

the right to set and modify, at our sole discretion, minimum and maximum amounts for any single addition of Wallet Cash and aggregate Wallet limits.

12.15 One-Time Purchase-Through Requirement. Funds added to your Wallet are subject to a one-time (1x) purchase-through requirement. This means that, before any withdrawal of Wallet Cash will be permitted, the full amount of the deposited Wallet Cash added must first be applied, at least one (1) time, toward a Wallet Purchase. Wallet Cash that have not yet satisfied this one-time purchase-through requirement are not eligible for withdrawal, but may be eligible for a refund as described in Section 12.16 below.

12.16 Refunds. You may request a refund of Wallet Cash added to your Wallet, provided that none of the Wallet Cash for which a refund is requested has been used, in whole or in part, to make a Wallet Purchase. Once any portion of your added Wallet Cash has been used to make a Wallet Purchase, the Wallet Cash associated with that addition are no longer eligible for a refund under this Section 12.16, and shall instead be subject to the withdrawal terms set forth in Section 12.17 below. All refund requests must be submitted to customer support at support@modo.us and may be subject to verification under Section 14.

12.17 Withdrawals; Minimum Withdrawal Amount. Subject to satisfaction of the one-time purchase-through requirement described in Section 12.15 above and completion of any verification required under Section 14, You may request a withdrawal of eligible Wallet Cash. The minimum withdrawal amount is $6.00. We reserve the right to deny, delay, or limit any withdrawal request that does not meet this minimum, that fails verification, or that we reasonably believe is fraudulent, made in error, or made in violation of these Terms.

12.18 No Ownership; Non-Transferable. Wallet Cash is non-transferable and may not be sold, assigned, gifted, or transferred by You to any other User or third party. Wallet Cash confers no right, title, or ownership interest other than the limited right to use such funds for Wallet Purchases, or to request a refund or withdrawal, in each case as and to the extent expressly permitted under this Section 12.

12.19 Modification and Termination. We reserve the right, at our sole discretion and subject to applicable law, to modify, suspend, or discontinue the Wallet feature, in whole or in part, at any time. In the event the Wallet is discontinued, We will provide instructions for the refund or withdrawal of any eligible Wallet Cash then remaining in your Wallet.

13. Promotions

13.1 All promotions, contests, special offers, and loyalty programs are subject to these Terms, the official rules of the promotion, contest, special offer, or loyalty program, and any additional terms that may be published at the time of the promotion, contest, special offer, or loyalty program. Before entering, please check the official rules of the promotion, contest, special offer, or loyalty program.

13.2 Users may obtain and accumulate Virtual Coins through participation in the Company's promotions, contests, special offers, or loyalty programs, subject to the rules of the promotion, contest, special offer, or loyalty program,

13.3 We reserve the right to withdraw or alter any such promotions without prior notice to You at our sole discretion.

13.4 We reserve the right at our sole discretion and without any requirement to provide a justification to exclude You from any promotions, contests or special offers that may be offered from time to time.

13.5 We reserve the right to exclude You from any promotions, contests or special offers if We believe that You have tried to enter said promotions, contests of special offers by using more than one User Account or are otherwise engaging in any fraudulent or illegal activity (including participation that would be in breach of the law in Your local jurisdiction), whether or not You would have or might have won but for such activity. Where multiple entries/User Accounts have been used, We reserve the right to suspend those User Accounts and withhold or rescind any prize or benefit.

13.6 You confirm that You grant Us an irrevocable, perpetual, worldwide, non-exclusive, royalty-free License to use in whatever way We see fit, and without further acknowledgement of You as the author, any content You post or publish as part of a promotion, contest or competition.

14. Verification

14.1 You acknowledge that We, or a third-party acting on our behalf, are entitled to conduct any verification checks (including but not limited to age and identity verifications and credit background checks) that We may reasonably require and/or that are required of Us under applicable laws and regulations or by relevant regulatory authorities. You agree to comply with all verification checks in a timely manner.

14.2 You agree that We may restrict Your opening or use of a User Account pending any verification checks having been completed to our satisfaction.

14.3 The documents required may include, but are not limited to, photo identification, such as a government issued passport or driver's license; a utility bill that matches the address registered on Your User Account; and source of wealth or source of funds documentation such as a pay slip or bank statement.

14.4 In the event that any verification check cannot be completed for any reason, including Your failure to provide any requested documentation, then We may, in our sole discretion, terminate, deactivate or otherwise restrict Your User Account.

14.5 Location Services. You acknowledge and agree that We may use third-party service providers to run external identification, location verification and other verification checks based on the information provided by You from time to time. We may require that You enable and allow "Locations Services" on Your device or PC in order to operate the Service or access Your User Account.

15. Intellectual Property

15.1 These Terms confer only a license to use the Service, and they do not convey any rights of ownership in or to the Service.

15.2 All rights, title and interest, including without limitation any copyright, patent, trade secret or other intellectual property right in the Service will remain our sole property or where licensed from a third-party their sole property.

15.3 Your use of the Games will not convey any ownership rights in the intellectual property to You. The titles, source and object codes, game client and server software, the "look and feel" of the Games, sounds, musical compositions, audio-visual effects, concepts and methods of operation, layout, text, data, User Accounts, themes, objects, characters and character likenesses, character names and character profile information, stories, dialogue, catch phrases, locations, artwork, animations files, images, graphics, documentation, gaming history and recording of game play, transcripts of any chat rooms, and moral rights, whether registered or not, and all applications related to the above will remain vested in Us or any third-party supplier of the Games.

15.4 You acknowledge and agree that You shall have no ownership or other property interest in the User Account, and You further acknowledge and agree that all rights in and to the User Account are and shall forever be owned by and inure to the benefit of Us.

16. Responsibility for User Generated Content

16.1 As used in these Terms, the term "User Content" refers to any data, material or information that You submit, upload, post, publish, or otherwise make available through the Platform. User Content includes, but is not limited to, comments, messages, posts, images, videos, audio files, links or URLs, profile information, documents or files, and any other content generated, shared, or provided by Users while interacting with the Platform.

16.2 You are responsible for complying with all laws applicable to Your User Content. You agree not to submit to the Service, or send to other Users of the Service, any defamatory, inaccurate, abusive, obscene, profane, offensive, sexually oriented, threatening, harassing, racially offensive, illegal material or any material that infringes or violates another party's rights.

16.3 You will not provide inaccurate, misleading or false information to Us or to any other User of the Service. If information provided to Us, or another User of the Service, subsequently becomes inaccurate, misleading or false, You will notify Us of such change immediately.

16.4 We may, in our sole discretion, delete any User Content without notice but are under no obligation to do so. We have no responsibility for the conduct of any User in the Service, including any User Content submitted in the Service. We assume no responsibility for monitoring the Service for inappropriate content or conduct. Your use of the Service is at Your own risk.

16.5 You hereby grant Us the sole and exclusive, irrevocable, sub-licensable, transferable, worldwide, royalty-free license to reproduce, modify, create derivative works from, publish, distribute, sell, transfer, transmit, publicly display and use any User Content and to incorporate the same in other works in any form, media, or technology now known or later developed.

16.6 You further hereby grant to Us the unconditional, right to use and exploit Your name, likeness and any other information or material included in any User Content and in connection with any User Content or Your User Account, without any obligation to You. You waive any rights of attribution and/or any moral rights You may have in Your User Content, regardless of whether Your User Content is altered or changed in any manner except as prohibited by law.

16.7 You acknowledge and agree that all User Content whether publicly posted or privately transmitted to the Service is at Your sole responsibility and risk. We disclaim any responsibility for the backup and/or retention of any User Content transmitted to the Service.

16.8 Prohibited Content; User Content that is prohibited in the Service includes, but is not limited to:

- User Content that promotes racism, bigotry, hatred or physical harm of any kind against any group or individual;
- Harassing User Content;
- User Content of a sexual or offensive nature;
- User Content that promotes terrorism or religious hatred;
- User Content that promotes illegal activities or conduct that is abusive, threatening, obscene or defamatory;
- User Content of commercial nature without authorization from Us;
- User Content promoting the services of another business or competitor.

16.9 If You see any material in the Service that in Your belief is offensive, hateful, harassing or that You otherwise think is prohibited, please notify Us by contacting support@modo.us.

17. Third Party Websites & Content

17.1 The Service may contain links to content owned and/or operated by third parties, for instance third parties who may invite You to participate in promotional offers or rewards programs or third-party advertisers or payment providers. Any separate charges or obligations that You may incur in Your dealings with these third parties are Your sole responsibility. We are not responsible for any such third-party services or content and do not have control over any materials made available therein.

17.2 Our inclusion of a link to a third-party website, services or content in the Service does not imply our endorsement, advertising, or promotion of such websites, services or content or any materials available and We make no guarantee as to the content, functionality, or accuracy of any third-party website.

17.3 By accessing a third-party website, services or content, You accept that We do not exercise any control over such websites, services or content and have no responsibility for them. The third-party sites may collect data or solicit personal information from You. We are not responsible for privacy policies, or for the collection, use or disclosure of any information those sites may collect. It is always best to read and understand the terms of services and privacy policies applicable to any third-party website, services or content You may access.

17.4 We do not endorse, do not assume and will not have any liability or responsibility to You or any other person for any third-party products, services, materials or websites. Please note that the relevant third-party is fully responsible for all goods and services it provides to You and for any and all damages, claims, liabilities and costs it may cause You to suffer, directly or indirectly, in full or in part.

17.5 If You use third-party social networking websites to discuss the Service such as Facebook® and Twitter®, You acknowledge and agree that:

- ● any content that You post on such social networking sites are subject to the relevant terms and conditions of that website;
- ● You will not post any comments that are false, misleading or deceptive or defamatory to Us, our employees, agents, officers or other players; and
- ● We are not responsible or liable for any comments or content that You or others post on social networking sites.

18. Copyright Infringement Notice

Modo® requires our Users to respect the intellectual property rights of others. If You are the owner of copyright and You believe that Your work has been used in the Service in a way that constitutes copyright infringement, please provide our Copyright Agent with a notice meeting all of the requirements of the Digital Millennium Copyright Act ("DMCA"). Your notice should contain the following information:

- a physical or electronic signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- a clear description of the copyrighted work or other intellectual property that You claim has been infringed;
- a description of where the material that You claim is infringing is located in the Service.
- Your address, telephone number, and email address;
- a statement by You that You have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and
- a statement by You, made under penalty of perjury, that the above information in Your notice is accurate and that You are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Before You file Your DMCA notice, please carefully consider whether or not the use of the copyrighted material at issue is protected by the Fair Use doctrine. If You file a DMCA notice when there is no infringing use, You could be liable for costs and attorneys' fees.

Our agent for notice of claims of copyright or other intellectual property infringement can be reached as follows:

By email: legal@arbinteractive.com

19. Disruptions, Errors & Omissions

19.1 Disclaimer of Warranties. THE SERVICE, IN WHOLE AND IN PART (INCLUDING, WITHOUT LIMITATION, ALL CONTENT, AND USER MATERIALS), IS PROVIDED, TRANSMITTED, DISTRIBUTED, AND MADE AVAILABLE "AS IS" AND "AS AVAILABLE" WITHOUT EXPRESS OR IMPLIED WARRANTIES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE MAKE NO WARRANTY: (A) THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; (B) THAT DEFECTS OR ERRORS IN THE SERVICE WILL BE CORRECTED; (C) THAT THE SERVICE WILL BE FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS; (D) AS TO THE QUALITY, ACCURACY, COMPLETENESS AND VALIDITY OF ANY INFORMATION OR MATERIALS IN CONNECTION WITH THE SERVICE; (E) THAT YOUR USE OF THE SERVICE WILL MEET YOUR REQUIREMENTS;(F) THAT TRANSMISSIONS OR DATA WILL BE SECURE; OR (G) THAT IT IS LAWFUL FOR YOU TO ACCESS THE SERVICES OR PROMOTIONS AT THE TIME AND PLACE FROM WHICH YOU ACCESS THE SERVICES.

19.2 DISCLAIMER OF WARRANTIES OR REPRESENTATIONS OF LEGALITY. YOU ACKNOWLEDGE AND AGREE THAT IT IS YOUR SOLE RESPONSIBILITY TO ENSURE THAT YOU ARE LEGALLY ALLOWED TO PARTICIPATE IN THE GAMES AND ACCESS THE SERVICE UNDER THE LAWS OF THE JURISDICTION(S) APPLICABLE TO YOU. YOU UNDERSTAND AND ACCEPT THAT WE ARE UNABLE TO PROVIDE YOU WITH ANY LEGAL ADVICE OR ASSURANCES AND THAT IT IS YOUR SOLE RESPONSIBILITY TO ENSURE THAT AT ALL TIMES YOU COMPLY WITH THE LAWS THAT GOVERN YOU AND THAT YOU HAVE THE COMPLETE LEGAL RIGHT TO USE THE SERVICE.

19.3 We are not liable for any downtime, server disruptions, errors, lagging, or any technical or political disturbance to the Service or Games, nor attempts by You to participate by methods, means or ways not intended by Us.

19.4 We accept no liability for any damages or losses which are deemed or alleged to have arisen out of or in connection with any Service 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 Service or any errors or omissions in the Service.

19.5 In the event of a Service system malfunction, then all Game play on the Service will be void.

19.6 In the event of an error or malfunction in a Game, then all Game play and outcomes resulting from the error or malfunction will be voided.

19.7 We reserve the right to remove any part of the Games from the Service at any time. Any part of the Games that indicate incorrect behavior affecting, game data, or Virtual Coins balances, that may be due to error, misconfiguration or a bug, will be cancelled and removed from the Service. We reserve the right to adjust player balances and User Account details under such circumstances, at our sole discretion, in order to correct any mistake.

19.8 We may temporarily suspend the whole or any part of the Service 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 will restore the Service, as soon as is reasonably practicable, after such temporary suspension.

19.9 We reserve the right to declare participation in a Game void, partially or in full, if, in our sole discretion, We determine that there was an error, mistake, misprint or technical error on the pay-table, minimum or maximum play amount, odds or software.

19.10 If You are incorrectly awarded any Virtual Coins or prizes as a result of (a) any human error; (b) any bug, defect or error in the Service; or (c) the failure of any Games to operate in accordance with the rules of the relevant game, then We will not be liable to award You any such Virtual Coins or prizes, and You agree that any such Virtual Coins or prizes that have been awarded in error to Your User Account will be voided.

19.11 We retain absolute discretion in the event of a discrepancy between the result showing on a User's device and the server software. Such discretion includes the authority to recognize the result showing on the server software as the official and governing result.

19.12 <u>Exceptions</u>. SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER, EXCLUSION OR LIMITATION OF CERTAIN WARRANTIES, LIABILITIES AND DAMAGES, SO SOME OF THE ABOVE DISCLAIMERS, EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU. TO THE EXTENT THE LAW OF SUCH JURISDICTIONS MAY APPLY, OUR WARRANTIES, LIABILITIES AND AVAILABLE DAMAGES WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

SEVERABILITY. TO THE EXTENT ANY OF THE ABOVE LIMITATIONS OR DISCLAIMERS ARE NOT PERMITTED BY LAW OF ANY APPLICABLE JURISDICTION, SUCH PROVISIONS SHALL NOT APPLY AND SHALL BE DEEMED AS SEVERABLE AND STRICKEN FROM THESE TERMS. THE PARTIES AGREE FURTHER THAT SUCH PROVISION(S) SHALL NOT AFFECT THE ENFORCEABILITY OF THE TERMS OR THE ARBITRATION AGREEMENT (SECTION 22), WHICH THE PARTIES AGREE SHALL REMAIN IN PLACE AND IN FORCE LESS ANY SUCH STRICKEN PROVISIONS. To the fullest extent allowable by law and equity, the parties agree that any such provision shall be blue-penciled or otherwise construed by the forum presiding over any dispute to preserve the formation of the agreement and otherwise give effect to the intent of the parties and consistent with the overall purpose and

intent of the agreement and may be deemed replaced by an enforceable provision that comes closest to the intention underlying the unenforceable provision.

20. Limitation of Liability and Indemnification

20.1 LIMITATION OF LIABILITY. BY ACCESSING, USING OR DOWNLOADING THE SERVICE, YOU ACKNOWLEDGE AND AGREE THAT SUCH USE IS AT YOUR OWN RISK AND THAT NEITHER THE COMPANY NOR ANY OF THE PARTIES INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICE OR THE COMPANY NOR ANY OF THEIR RESPECTIVE AFFILIATES, SUBSIDIARIES, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, CONSULTANTS, SUPPLIERS, ADVERTISERS, MARKETERS, PAYMENT PROCESSORS, BANKS, FINANCIAL INTERMEDIARIES, INTERNET SERVICE PROVIDERS, APPLICATION DEVELOPERS OR HOSTS, DATA STORAGE SERVICES, VENDORS, SERVICE PROMOTERS, PARTNERS, OR CONTRACTORS (COLLECTIVELY "RELEASED PARTIES") ARE LIABLE FOR ANY DIRECT, INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES, OR ANY OTHER LOSSES, COSTS, OR EXPENSES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF DATA, LEGAL FEES, EXPERT FEES, COST OF PROCURING SUBSTITUTE SERVICE, LOST OPPORTUNITY, OR OTHER DISBURSEMENTS) WHICH MAY ARISE, DIRECTLY OR INDIRECTLY, THROUGH THE ACCESS TO, USE OF, RELIANCE ON ANY MATERIAL OR CONTENT ON THE SERVICE, OR BROWSING OF THE SERVICE OR THROUGH YOUR DOWNLOADING OF ANY MATERIALS, DATA, TEXT, IMAGES, VIDEO OR AUDIO FROM THE SERVICE, SPECIFICALLY INCLUDING BUT NOT LIMITED TO ANY PAST, PRESENT OR FUTURE USE OF "COOKIES," "GET REQUESTS," PIXELS AND OTHER TRACKING TECHNOLOGY, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

RELEASED PARTIES CANNOT AND DO NOT WARRANT OR GUARANTEE CONTINUOUS, UNINTERRUPTED, OR SECURE ACCESS TO THE SERVICE. WITHOUT LIMITING THE FOREGOING, RELEASED PARTIES ASSUME NO RESPONSIBILITY, AND WILL NOT BE LIABLE, FOR ANY DAMAGES RELATING TO OR CAUSED BY ANY VIRUSES, BUGS, HUMAN ACTION OR INACTION OF ANY COMPUTER SYSTEM, PHONE LINE, HARDWARE, SOFTWARE OR PROGRAM MALFUNCTIONS, OR ANY OTHER ERRORS, FAILURES OR DELAYS IN COMPUTER TRANSMISSIONS OR NETWORK CONNECTIONS ON ACCOUNT OF YOUR ACCESS TO OR USE OF THE SERVICE.

IF YOU ARE A CONSUMER WHO RESIDES IN CALIFORNIA, YOU WAIVE YOUR RIGHTS UNDER CALIFORNIA CIVIL CODE § 1542, WHICH PROVIDES: A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

20.2 Indemnification. BY USING THE SERVICE, YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS (INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS OF SUIT) THE RELEASED PARTIES FROM ANY AND ALL THIRD-PARTY CLAIMS AGAINST THE COMPANY RELATED IN ANY WAY TO YOUR BREACH OF THE TERMS OF USE OR ARBITRATION AGREEMENT.

20.3 One Year Limitations Period. For All Claims. *Unless applicable law provides a shorter time* to assert a claim, You and Modo® agree that any claims arising out of or related to the Site (including the Service) or the Terms of Use or Arbitration Agreement or Privacy Policy must BE ASSERTED NOT LATER THAN ONE (1) YEAR of the action, omission, event or occurrence giving rise to the claim or suit, after which such claims will be time-barred and prohibited, notwithstanding the existence of a statues or law providing a longer time.

20.4 SOLE AND EXCLUSIVE REMEDY/LIMITATION ON RECOVERY. UNLESS OTHERWISE PROHIBITED BY LAW, IN ANY DISPUTE WITH THE RELEASED PARTIES, YOUR SOLE AND EXCLUSIVE REMEDY UNDER ANY LEGAL THEORY FOR ANY LOSS OR DAMAGE WHATSOEVER ARISING FROM ANY CAUSE SHALL BE LIMITED TO THE AMOUNT PAID TO US IN THE THIRTY (30) DAYS IMMEDIATELY PRECEDING THE DATE ON WHICH YOU FIRST ASSERT ANY SUCH CLAIM.

20.5 YOU RECOGNIZE AND AGREE THAT THE WARRANTY DISCLAIMERS IN SECTION 19.1, AND THE INDEMNITIES, LIMITATIONS OF LIABILITY AND LIMITATIONS OF REMEDIES IN THIS SECTION 20, ARE MATERIAL AND BARGAINED-FOR BASES OF THESE TERMS AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN THE DECISION BY YOU AND Modo® TO ENTER INTO THESE TERMS OF USE.

20.6 UNLESS AND EXCEPT TO THE EXTENT ALLOWED OTHERWISE BY LAW, THESE TERMS OF USE SHALL NOT OPERATE SO AS TO EXCLUDE ANY LIABILITY OF MODO® FOR DEATH OR PERSONAL PHYSICAL INJURY THAT IS DIRECTLY AND PROXIMATELY CAUSED BY MODO'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

20.7 SEVERABILITY. TO THE EXTENT ANY OF THE LIMITATIONS OF REMEDY ARE NOT PERMITTED BY LAW OF ANY APPLICABLE JURISDICTION, SUCH LIMITATIONS SHALL NOT APPLY AND SHALL BE DEEMED AS SEVERABLE AND STRICKEN FROM THESE TERMS. THE PARTIES AGREE FURTHER THAT SUCH PROVISION(S) SHALL NOT AFFECT THE ENFORCEABILITY OF THE TERMS OR THE ARBITRATION AGREEMENT (SECTION 22), WHICH THE PARTIES AGREE SHALL REMAIN IN PLACE AND IN FORCE LESS ANY SUCH STRICKEN PROVISIONS. To the fullest extent allowable by law and equity, the parties agree that any such provision shall be blue-penciled or otherwise construed by the forum presiding over any dispute to preserve the formation of the agreement and give effect to the intent of the parties and consistent with the overall purpose and intent of the agreement, and may be deemed replaced by an enforceable provision that comes closest to the intention underlying the unenforceable provision

21. CUSTOMER SERVICE SUPPORT AND INITIAL DISPUTE RESOLUTION PROCEDURE

Customer Support.

21.1 If You need customer service support in relation to the Service, You may contact Us by at support@modo.us.

21.2 To protect Your privacy, all communications between You and Us should be carried out using or referencing the email address that You used to register Your User Account for the Service. Failure to do so may result in our response being delayed.

Mandatory Initial Dispute Resolution Procedure.

21.3 The parties shall use best efforts to resolve informally any customer support issue or claim (a "Dispute") promptly and in good faith. If for some reason, You are not satisfied or Your Dispute is not resolved by customer support, You must first submit a Notice of Dispute as set forth in this Section 21 and attempt to resolve the Dispute informally, as set out in this Section, with Modo® prior to and as a condition precedent to initiating arbitration or any other formal proceeding over a Dispute as required by Section 22. After You and Modo® have completed this informal dispute resolution procedure, You may then pursue arbitration as set out below in Section 22 (or lawsuit if You have properly opted out of arbitration).

21.4 All informal dispute resolution procedures shall be conducted individually, between Modo® and You. Multiple individuals with Disputes cannot participate in the same informal dispute resolution process.

21.5 Notice of Dispute Required Prior to Arbitration or Suit. The party initiating a claim over a Dispute must give notice to the other party in writing of its intent to initiate an informal dispute resolution procedure ("Notice of Dispute"). A **Notice of Dispute must be sent to the Company within ten (10) calendar days** of the situation giving rise to the dispute and **must** include the following information:

(a) Shall be labelled "**NOTICE OF DISPUTE**" or otherwise contain such words at the beginning of the Notice or in the subject line;

(b) Shall be sent to Modo® at disputeresolution@arbinteractive.com;

(c) Your username and email address associated with Your User Account;

(d) Your first and last name, as registered on Your User Account;

(e) Your residence address;

(f) Your telephone number (home and/or mobile);

(g) A detailed explanation of the complaint/claim and basis for the claim;

(h) Any specific dates and times associated with the complaint/claim (if applicable); and

(i) The remedy, action and/or the amount of money You are seeking from Modo®.

21.6 Upon receipt of Your Notice of Dispute, if We require additional information to review and investigate Your Notice of Dispute, We will request the additional information in our written response to Your Notice of Dispute. You are required to provide any additional information requested by the Company within seven (7) calendar days. Failure to submit a written communication with the information outlined above may result in a delay in our ability to identify and respond to Your Notice of Dispute in a timely manner, and shall extend the time period for resolution before a formal proceeding may be commenced, as permitted by these Terms.

21.7 Depending upon the amount and nature of the Dispute, the Company may require a video or telephonic informal dispute resolution conference and, in such case, participation in the conference is a condition precedent to initiating arbitration or any formal proceeding over a Dispute as required by Section 22. If a party is represented by counsel (which such representation will be at such parties' sole cost and expense), counsel may participate in the informal dispute resolution conference, but each party shall also attend and participate in any informal dispute resolution conferences, as permitted by this Section 21.

21.8 Good Faith Efforts to Settle Disputes. After submission of the Notice and information, if any, requested under the procedures outlined above, the parties shall engage in good faith negotiations to settle any Dispute as a condition of and prior to either party initiating a formal arbitration as provided in Section 22. If the parties do not reach an agreed upon solution within a period of sixty (60) days from the time of the initial Notice of Dispute, then either party may initiate binding arbitration under Section 22.16 as the sole means to resolve the Dispute, subject to this Arbitration Agreement.

21.9 The aforementioned Notice of Dispute and informal dispute resolution process is a condition precedent to commencing any formal arbitration proceeding under the Arbitration Agreement (Section 22 below) or any lawsuit (if You have successfully opted-out of the arbitration agreement or proceed in small claims). The parties agree that any relevant limitations period or other deadlines will be tolled solely by the amount of time the parties initiate and engage in this informal dispute resolution process.

21.10 Regardless of whether You decide to opt out of arbitration, the terms set forth in this Section 21 Initial Dispute Resolution shall remain in full force and effect as part of these Terms.

22. BINDING ARBITRATION AGREEMENT AND CLASS ACTION WAIVER

THIS ARBITRATION AGREEMENT IS A SEPARATE AGREEMENT FROM THE TERMS OF USE. THE AGREEMENT TO ARBITRATE IS SEPARATE FROM AND IS NOT CONTINGENT UPON THE ENFORCEABILITY OR VALIDITY OF THE TERMS OF USE OR ANY PROVISION OF THE TERMS OF USE. WHILE YOU MUST

AGREE TO ACCEPT THE TERMS OF USE IN ORDER TO USE THE SERVICE, YOU MAY OPT-OUT OF THIS ARBITRATION AGREEMENT.

ARBITRATION MEANS YOU WILL NOT BE ABLE TO SEEK DAMAGES IN COURT OR PRESENT YOUR CASE TO A JURY.

OPT-OUT OF ARBITRATION AGREEMENT - YOU MAY OPT OUT OF THIS ARBITRATION AGREEMENT IF YOU HAVE NOT PREVIOUSLY AGREED TO AN ARBITRATION PROVISION WITH US IN CONNECTION WITH YOUR USE OF OUR SERVICE. IF YOU WISH TO OPT-OUT OF THE OBLIGATION TO RESOLVE DISPUTES VIA ARBITRATION, THERE IS AN OPTION, DESCRIBED BELOW IN SECTION 22.2, TO OPT OUT OF THE ARBITRATION PROVISIONS. THE OPTION TO OPT-OUT IS TIME-LIMITED TO THIRTY (30) DAYS OF ENTERING THIS AGREEMENT AND REQUIRES YOUR IMMEDIATE ATTENTION.

PLEASE READ THIS BINDING ARBITRATION AGREEMENT AND CLASS ACTION WAIVER (THE "AGREEMENT" OR "ARBITRATION AGREEMENT") CAREFULLY. IT REQUIRES YOU AND MODO® TO ARBITRATE CERTAIN DISPUTES AND CLAIMS AND LIMIT THE MANNER IN WHICH YOU AND MODO® CAN SEEK RELIEF FROM EACH OTHER. THIS AGREEMENT APPLIES TO ANY CLAIMS YOU OR COMPANY CURRENTLY POSSESS AND ANY CLAIMS THE PARTIES MAY RAISE IN THE FUTURE.

WHETHER TO AGREE TO ARBITRATION IS AN IMPORTANT DECISION. IT IS YOUR DECISION TO MAKE AND YOU ARE NOT REQUIRED TO RELY SOLELY ON THE INFORMATION PROVIDED IN THIS AGREEMENT. YOU SHOULD TAKE REASONABLE STEPS TO CONDUCT FURTHER RESEARCH AND TO CONSULT WITH YOUR OWN LAWYER REGARDING THE CONSEQUENCES OF YOUR DECISION.

THIS AGREEMENT INCLUDES PROVISIONS WHICH SET FORTH HOW PAST, PENDING OR FUTURE DISPUTES BETWEEN YOU AND MODO® SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION.

THIS ARBITRATION AND CLASS ACTION WAIVER AGREEMENT ALSO REQUIRES THAT ANY PAST, PENDING OR FUTURE DISPUTES WITH THE COMPANY SHALL PROCEED FOR YOUR OWN LOSSES ONLY. YOU MAY NOT PROCEED AS A CLASS REPRESENTATIVE, CLASS MEMBER OR PART OF ANY PROPOSED CLASS, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL SUIT, QUI TAM ACTION, OR ANY REPRESENTATIVE PROCEEDING, OR OTHERWISE SEEK TO RECOVER ON BEHALF OF OTHERS OR FOR THE BENEFIT OF OTHERS IN ANY TYPE OF CLAIM OR ACTION.

OPTION AND PROCEDURE TO OPT OUT OF ARBITRATION

22.1 IF YOU HAVE <u>NOT</u> PREVIOUSLY AGREED TO AN ARBITRATION PROVISION IN CONNECTION WITH US WITH YOUR USE OF OUR SERVICE, YOU MAY OPT OUT OF THE AGREEMENT TO ARBITRATE BY FOLLOWING THE

INSTRUCTIONS BELOW. IF YOU DO NOT OPT-OUT, THE ARBITRATION PROVISIONS WILL APPLY RETROACTIVELY TO ALL CLAIMS YOU MAY POSSESS, WHETHER ASSERTED TO DATE OR NOT.

22.2 **OPT-OUT PROCEDURE. IF YOU DO NOT WISH TO AGREE TO THE PROVISIONS OF THIS SECTION 22 ARBITRATION AGREEMENT AND CLASS ACTION WAIVER AND YOU HAVE NOT PREVIOUSLY AGREED TO AN ARBITRATION PROVISION IN CONNECTION WITH YOUR USE OF OUR SERVICE, YOU MUST, WITHIN THIRTY (30) DAYS OF ENTERING THIS AGREEMENT, SEND A WRITTEN NOTICE OF YOUR DECISION TO OPT OUT TO ARB GAMING LLC, ATTN: ARBITRATION OPT-OUT, 13802 N SCOTTSDALE RD SUITE 151-94 SCOTTSDALE AZ 85254-3403, WITH THE SUBJECT "OPT-OUT." **REQUESTS TO OPT OUT AFTER THE 30 DAY PERIOD SHALL NOT BE EFFECTIVE.****

WAIVER OF CLASS RELIEF AND COLLECTIVE ACTION

22.3 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER YOU NOR MODO® SHALL BE ENTITLED TO ARBITRATE OR LITIGATE ANY DISPUTE IN A REPRESENTATIVE CAPACITY. YOU MAY ONLY ARBITRATE OR LITIGATE ON AN INDIVIDUAL CLAIMS BASIS ONLY AND FOR YOUR OWN LOSSES ONLY. UNDER THIS AGREEMENT, YOU MAY NOT PROCEED IN ARBITRATION OR COURT AS A CLASS REPRESENTATIVE, MEMBER OR PART OF ANY PROPOSED CLASS, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL SUIT, QUI TAM ACTION OR ANY REPRESENTATIVE PROCEEDING, OR OTHERWISE SEEK TO RECOVER ON BEHALF OF OTHERS OR FOR THE BENEFIT OR USE OF OTHERS IN ANY TYPE OF CLAIM OR ACTION. YOU AND MODO® ARE EACH WAIVING RESPECTIVE RIGHTS TO PARTICIPATE IN A CLASS ACTION. BY ACCEPTING THIS AGREEMENT, YOU GIVE UP YOUR RIGHT TO PARTICIPATE IN ANY PAST, PENDING OR FUTURE CLASS ACTION OR ANY OTHER CONSOLIDATED OR REPRESENTATIVE PROCEEDING, INCLUDING ANY PROCEEDING EXISTING AS OF THE DATE YOU AGREED TO THIS AGREEMENT

22.4 Modo® Scope of Agreement to Arbitrate. You and Modo® agree that any past, pending, or future dispute, claim or controversy arising out of or relating to any purchase or transaction by You, Your access to or use of any Platform or the Service, or relating to this Agreement, the Terms of Use, or Privacy Policy, including without limitation any dispute concerning the breach, enforcement, construction, validity, interpretation, severability, enforceability, or arbitrability of this Agreement or, the Terms of Use or any provisions thereof) (a "Dispute"), shall be determined by arbitration, including claims that arose before acceptance of any version of this Agreement.

22.4.1 Other Parties. To the extent the Dispute involves or includes any persons involved in offering, providing or administering the Service, including but not limited to Company's affiliates, subsidiaries, agents, employees, officers, directors, consultants, suppliers, advertisers, marketers, payment processors, banks, financial intermediaries, Internet service providers, application developers

or hosts, data storage services, vendors, service promoters, partners or contractors, such Disputes shall also be deemed within the scope of the Agreement and such other parties shall be entitled to enforce this Arbitration Agreement.

22.5 Delegation of Disputes to Arbitrator. In addition, in the event of any Dispute — (which expressly includes the scope, validity, enforceability, or severability of this Agreement or its provisions, the Terms or their provisions, as well as the arbitrability of any claims), — You and Modo® agree and delegate to the Arbitrator the exclusive jurisdiction to decide and rule on their own jurisdiction over the Dispute, including any objections with respect to the scope, validity, enforceability, or severability of this Agreement, the Terms or their provisions, as well as the arbitrability of any claims or counterclaims presented as part of the Dispute.

22.6 Small Claims. Notwithstanding the requirement to arbitrate in this Section 22.4, all parties retain the right to seek relief in a small claims court for disputes or claims solely within the scope of a small claim's court jurisdiction.

22.7 Third-Party Beneficiaries.

22.7.1 You further agree and intend that this Agreement and the Terms are entered into for the express benefit of Your spouse, heirs, children and next-of-kin and shall bind same to the extent of any claims arising from Your use of the Service which is brought by them or by any person for the use or benefit of Your spouse, heirs, children and next-of-kin.

22.7.2 You and Company agree also that this Agreement is intended to benefit and shall bind any successor-in-interest or assignee of Modo®.

22.7.3 Other Parties. Company's affiliates, subsidiaries, agents, employees, officers, directors, consultants, suppliers, advertisers, marketers, payment processors, banks, financial intermediaries, Internet service providers, application developers or hosts, data storage services, vendors, service promoters, partners or contractors, shall be deemed to be third party beneficiaries of this Arbitration Agreement.

22.8 Intellectual Property Disputes Not Arbitrable. Notwithstanding the requirement to arbitrate in Section 22, You and Modo® are NOT required to arbitrate any claims for the alleged unlawful use of copyrights, trademarks, trade names, trade dress, logos, trade secrets, or patents, and the parties agree that in the event of infringement of copyrights, trademarks, trade names, trade dress, logos, trade secrets, or patents of a party, they shall also be entitled to seek injunctive relief from a court of competent jurisdiction, and the parties shall not be able to hold out a User's access to the Service as a basis to enforce this arbitration agreement as to such claims.

22.9 Arbitration is a Separate Agreement. The parties acknowledge that this Arbitration Agreement is a separate agreement between the parties governed by the Federal Arbitration Act, is deemed a separate agreement between the parties from any other agreement including the Terms of Use, and that any alleged or determined invalidity or illegality of all or

any part of the Terms of Use, the Service, the Platform, or the Privacy Policy shall have no effect upon the validity and, enforceability or formation of this Agreement.

22.10 Applicable Law. The Arbitration Agreement shall be governed solely by the Federal Arbitration Act, notwithstanding any consideration or application of choice of law or conflicts of law principles.

22.11 SEVERABILITY. TO THE EXTENT ANY OF THE PROVISIONS OF THIS ARBITRATION AGREEMENT ARE NOT PERMITTED BY LAW OF ANY APPLICABLE JURISDICTION OR ARE UNENFORCEABLE, SUCH PROVISIONS SHALL NOT APPLY AND SHALL BE DEEMED AS SEVERABLE AND STRICKEN FROM THE ARBITRATION AGREEMENT. THE PARTIES AGREE FURTHER THAT SUCH PROVISION(S) SHALL NOT AFFECT THE ENFORCEABILITY OF THE ARBITRATION AGREEMENT, WHICH THE PARTIES AGREE SHALL REMAIN IN PLACE AND IN FORCE LESS ANY SUCH STRICKEN PROVISIONS. In the event any provision of this Arbitration Agreement is held unenforceable as written, such provision will be ineffective but shall not affect the enforceability of the remaining provisions of the Arbitration Agreement. To the fullest extent allowable by law and equity, the parties agree that any such provision shall be blue-penciled or otherwise construed by the arbitrator or forum presiding over any dispute to give effect to preserve the formation of the Arbitration Agreement and the intent of the parties consistent with the overall purpose and intent of the agreement and may be deemed replaced by an enforceable provision that comes closest to the intention underlying the unenforceable provision.

INITIATING ARBITRATION UNDER JAMS RULES

22.12 Following the conclusion of the initial dispute resolution process required by Section 21, You or Modo® may seek arbitration of a Dispute in accordance with the provisions of this Agreement. You and Modo® agree that JAMS ("JAMS") will administer the arbitration under its Comprehensive Arbitration Rules and Procedures and, to the extent applicable, the JAMS Mass Arbitration Procedures and Guidelines (collectively, the "JAMS Rules") in effect at the time this Agreement is accepted by You. If the JAMS Rules are updated or changed in any way which may be applicable to a dispute between the parties, the parties agree to consider in good faith whether the most recent version of the JAMS Rules shall apply. The JAMS Rules referenced above are available at https://www.jamsadr.com/adr-rules-procedures/ or otherwise via the JAMS website at www.jamsadr.com.

22.13 In the event JAMS is unavailable or unwilling to hear the dispute in accordance with this Agreement, the parties shall agree to another arbitration provider subject to the procedural agreements of this Section 22. In the event the parties fail to agree, any party may petition a court to compel arbitration and appoint an arbitral body.

22.14 Location. **Any arbitration proceeding shall be commenced and administered by JAMS' offices in New York, NY**, provided that either You or the Company may elect that the arbitration proceedings be conducted telephonically or via other remote electronic means. In the event a party initiates an arbitration proceeding in a JAMS office other than **New York, NY** in breach of this agreement, said party shall not object or otherwise oppose a request by the other

party to transfer the administration of the arbitration to JAMS' office in **New York, NY**, and shall, if necessary, refile and reinstitute the arbitration proceeding with JAMS' office in **New York, NY. The parties further agree and direct JAMS to terminate said proceeding or transfer administration to JAMS offices in New York. Notwithstanding the location of commencement of arbitration, any award shall be deemed entered in New York for purposes of the Federal Arbitration Act, 9 U.S. Code § 9.**

22.15 Confidentiality of Arbitral Proceedings and Awards. The parties agree that the nature and existence of all arbitration proceedings, including filings of the parties, testimony, evidence at hearings, or any issued decision, award or order of JAMS or an Arbitrator, shall be kept confidential and not used or disclosed to any person or entity other than their accountant, tax preparer, legal counsel, insurer, officers or board members or employees involved in the Dispute. Such filings and information shall not be filed in court or submitted as precedent or for any purpose in other proceedings, with the exception that an award that is *final and not subject to appeal* within JAMS or further reconsideration by the Arbitrator or JAMS may be filed for confirmation in federal court under the Federal Arbitration Act, provided further that the parties shall file such award(s) under seal and shall not object to filing under seal to the fullest extent permitted by the appropriate court.

22.16 Lack of Estoppel or Preclusive Effect. The parties agree that any issues determined in arbitration or any other proceeding between the parties shall be conducted and decided confidentially for the benefit of the parties only and shall have no preclusive or estoppel effect against a party or their counsel in any subsequent or other arbitration or litigation matter, such that all issues shall be decided anew in any subsequent or other proceedings involving either party. The parties reach this agreement in order to narrowly and efficiently tailor their legal positions without concern that any third-party may attempt to offensively or defensively use any finding or determination of fact or law against You or Modo® or their legal counsel.

22.17 Limited Discovery. The parties agree that to preserve the benefits and efficiencies of arbitration in comparison to civil litigation, that discovery shall be limited and narrow. Discovery or exchange of non-privileged information relevant to the dispute shall be allowed but shall not be conducted as to issues which are not in dispute in the case and which do not pertain to Your specific transactions or, in the case of a Mass Arbitration, the specific transactions of the mass claimants. Discovery may not be used to cure or avoid defects in pleadings. To the extent of any claims brought by persons other than a User of the Platform, Company shall not be required to provide any information concerning transactions or data other than those pertaining to specifically named and identified users of the Platform, which may be subject further to express agreement and release of such information by the User. Further, to the extent of any claims brought by You, Company shall not be required to provide any information concerning transactions or data other than Your account.

22.18 By signing a demand for arbitration, a party certifies, to the best of their knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that: (i) the demand for arbitration is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution; (ii) the claims and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law; and (iii) the

factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery. The Arbitrator shall be authorized to afford any relief or impose any sanctions under the strict standard applicable under Federal Rule of Civil Procedure 11 for either party's violation of this requirement.

22.19 Individual Arbitration Procedures. **The following procedures shall apply to arbitrations which are initiated by You or Company individually** and which are ***not*** subject to be treated as Mass Arbitrations under Section 22.20 below:

22.19.1 Sections 22.0 - 22.18 shall apply;

22.19.2 Applicable Rules. JAMS ("JAMS") will administer the individual arbitration claim under its Comprehensive Arbitration Rules and Procedures, subject to the exceptions and modifications in this Agreement. For purpose of Sections 22.1 and 22.2 of the JAMS Rules, the JAMS Streamlined Arbitration Rules and Procedures and JAMS Expedited Procedures shall *not* apply unless otherwise explicitly agreed to by all parties to the Dispute;. Under no circumstances shall JAMS Class Action Procedures apply.

22.19.3 JAMS Fees. The JAMS Rules will govern payment of all arbitration fees, currently available at https://www.jamsadr.com/arbitration-fees. You will not be required to pay JAMS more than the applicable maximum consumer arbitration fee (currently $250) in connection with any arbitration initiated under this Section 22, but You will still be responsible for paying Your own attorneys' fees, costs and expenses.

22.19.4 Arbitrator Selection for Individual Arbitration. The individual arbitration will be handled on the merits by a sole arbitrator. In lieu of JAMS Rule 15, the parties shall be presented with a list of eight (8) potential arbitrators, be allowed three (3) strikes and the parties shall rank those potential arbitrators in order of preference. JAMS shall select the arbitrator with the highest combined preference (e.g., if both parties select a potential arbitrator as their top preference, that arbitrator will be selected). The parties agree that any JAMS arbitrator presented on the strike list, including merits and process arbitrator (if any), must have the following minimum qualification: practicing attorneys or retired federal court judges who have *at least ten years* of substantive expertise in litigating and resolving of complex business disputes, including motions to compel arbitration and litigation or adjudication regarding whether disputes are arbitrable. To the extent a process arbitrator is appointed pursuant to the JAMS Rules, the selection process shall also be as prescribed in this subparagraph;

22.19.5 Initial Dispositive Motions. In lieu of JAMS Rule 18, the parties shall have the right to submit and be heard on dispositive motions at the outset of the arbitration to the Arbitrator in order to resolve issues other than the ultimate issue of fact. Such dispositive motions shall, by way of example, assert defenses such as failure to state a cause of action, to dismiss on the pleadings and to assert

affirmative defenses of the sort contemplated by Rule 12 of the Federal Code of Civil Procedure. The submission and scheduling of such motions shall be addressed at a conference held before the JAMS arbitrator, and the Parties agree that any dispositive motions shall be resolved and the remainder of the arbitral proceeding including any discovery shall be stayed pending resolution, absent good cause and immediate necessity to proceed;

22.19.6 Summary Judgment Disposition. Prior to final hearing, to the extent claims, counterclaims or defenses remain pending after Initial Dispositive Motions (if any) have been heard, the parties shall have the right to submit and be heard on summary disposition motions to resolve remaining fact or legal issues as to which there is no genuine dispute as to any material fact and as to which a party is entitled to judgment as a matter of law. Such motions shall, by way of example, proceed in the manner contemplated by Rule 56 of the Federal Code of Civil Procedure. The submission and scheduling of such motions, if any, shall be addressed at a conference held before the JAMS arbitrator, and the Parties agree that any summary disposition motions shall be resolved prior to the final evidentiary hearing.

22.19.7 Non-Waiver of Claims, Remedies or Defenses. The parties agree that it is not the intent of the Arbitration Agreement to limit or waive any claims, counterclaims, remedies or defenses otherwise available to the parties. Any claims or defenses which could have been asserted in court but for the agreement to arbitrate shall be available to the parties. The Arbitration Agreement shall not affect or serve as a basis to assert any claim or defense, with the exception that claims for breach of the Arbitration Agreement and the right to enforce the Arbitration Agreement itself are not waived and are reserved by the parties. The JAMS arbitrator shall be authorized to award any remedies, including equitable or injunctive relief, to the same extent that would be available to a party in an individual lawsuit under applicable law.

22.19.8 Reasoned Award. The arbitration decision and award shall consist of a written statement signed by the Arbitrator regarding the disposition of each claim and the relief, if any, as to each claim. Unless the parties agree otherwise, the award shall be a reasoned award and contain a concise written statement of the factual and legal grounds for the award;

22.19.9 Appeals. You and Modo® agree that any award issued by the Arbitrator as to the following may be appealed in accordance with the JAMS Optional Arbitration Appeal Procedures at either party's election: 1) granting or denying relief in excess of $50,000 in favor of either party; 2) any award which grants or denies any form of declaratory or equitable relief that would significantly impact the operation of the Platform; 3) any award which grants or denies a finding that the Terms of Use or governing law provisions are unenforceable by either party or unconscionable; or 4) any award which grants or denies a finding that this Arbitration Agreement is unenforceable by either party or unconscionable. In the event such an award or finding is part of an initial or

interim award, the parties agree it may be appealed and that the remainder of the proceeding shall be stayed. The JAMS Optional Arbitration Appeal Procedures are available at https://www.jamsadr.com/appeal. The panel of appellate arbitrators shall have the same qualifications as arbitrators per paragraph 22.19.4 supra.

22.20 Mass Arbitration Procedures. For purposes of this Agreement, a Mass Arbitration is defined as *25 or more similar Demands for Arbitration*, filed against the same Party or related Parties by individual Claimants represented by either the same law firm or law firms acting in coordination. **The following procedures shall apply to Mass Arbitrations**:

22.20.1 Sections 22.0 - 22.18 shall apply**;**

22.20.2 Applicable Administrative and Procedural Rules. JAMS ("JAMS") will administer Mass Arbitrations including any claim by You that is part of a Mass Arbitration under the JAMS Mass Arbitration Procedures and Guidelines in effect at the time this Agreement is accepted by the Parties, subject to the exceptions and modifications in this Agreement. For purposes of Procedure 3 of the JAMS Mass Arbitration Procedures and Guidelines, the parties agrees that the JAMS Comprehensive Arbitration Rules and Procedures, subject to the exceptions and modifications below. For purpose of Sections 22.1 and 22.2 of the JAMS Comprehensive Arbitration Rules and Procedures, the JAMS Streamlined Arbitration Rules and Procedures and JAMS Expedited Procedures shall *not* apply unless otherwise explicitly agreed to by all parties to the Dispute. Under no circumstances shall JAMS Class Action Procedures apply.

22.20.3 JAMS Mass Arbitration Fee Schedule. In a Mass Arbitration, the parties agree that the Mass Arbitration Procedures
Fee Schedule shall apply. Mass Claimants shall be responsible for such JAMS fees as required to be paid by Mass Claimants under the Mass Arbitration Procedures Fee Schedule, and Claimants will still be responsible for paying Claimants' own attorneys' fees, costs and expenses.

(a) No Per Case Administrative Fees. The parties agree that the administrative fee structure without per case fees to Claimants or Respondent(s) as set forth in the **JAMS Mass Arbitration Fee Schedule** is a highly material consideration for the parties' agreement to participate in a Mass Arbitration proceeding before JAMS. It is the mutual understanding and intent of the parties that the **JAMS Mass Arbitration Fee Schedule** administrative fees shall apply as follows: 1) the initial Non-Refundable Claimants' Filing Fee (currently $8000) expressly applies *regardless of the number of cases* and 2) JAMS charges for administration expenses a 13% Case Management Fee 3) and a JAMS arbitration filing fee ($2,500 for a two-party matter and $4,000 for matters involving three or more parties) for each arbitrator appointed *regardless of the number of cases or batches of cases the arbitrator is appointed to*

or the number of times the arbitrator is appointed to cases in the Mass Arbitration. **No party shall argue in JAMS or any other forum that any party must pay a per claimant case filing or per claimant case administrative fee or otherwise oppose the argument of an affected party that it is not subject to pay per claimant case filing or per claimant case administrative fees.**

22.20.4 Process Arbitrator Selection in Mass Arbitration. The parties agree that a Process Arbitrator shall be appointed to any Mass Arbitration. In lieu of JAMS Rule 15 and Procedure 3, the parties shall request to be presented by JAMS with a list of seven (7) potential Process arbitrators, be allowed two (2) strikes and the Claimants and Respondent(s) shall rank those potential Process Arbitrators in order of preference. JAMS shall select the Process Arbitrator with the highest combined preference (e.g., if both parties select a potential arbitrator as their top preference, that arbitrator will be selected). The parties agree that each Process Arbitrator presented on the strike list must have the following minimum qualification: practicing attorneys or retired federal court judges who have *at least ten years* of substantive expertise in litigating and resolving complex business disputes, including motions to compel arbitration and litigation or adjudication regarding whether disputes are arbitrable.

22.20.5 Batching by Process Administrator. It is the expectation of the parties that subsequent to the determination of threshold Initial Dispositive Motions, that the Process Arbitrator shall batch, consolidate or otherwise group the remaining Demands or claims in the Mass Arbitration, whether for purposes of discovery, arbitrator appointments, merits hearings or otherwise The Process Arbitrator shall manage and conduct the arbitration proceedings before JAMS in an efficient and expeditious manner, including by batching related claims, coordinating overlapping discovery, and batching common procedural matters where practicable, so as to minimize unnecessary delay, redundancy, and cost to the parties. The JAMS Process Administrator shall have the authority to implement the procedures set forth in the JAMS Mass Arbitration Procedures and Guidelines, including the authority to group together individual arbitration demands into a single coordinated batch or proceeding.

22.20.6 Initial Dispositive Motions. In lieu of JAMS Rule 18, at the election of Claimants or Respondent(s), the parties shall have the right to submit dispositive motions at the outset of the arbitration in order to resolve issues other than the ultimate issue of fact that pertain to all Claimants or similar claims of subsets of Claimants. Such dispositive motions shall, by way of example, assert defenses such as failure to state a cause of action, to dismiss and affirmative defenses of the sort contemplated by Rule 12 of the Federal Code of Civil Procedure or entitlement to judgment on the pleadings. The submission and scheduling of such motions shall be addressed at a conference held before the JAMS Process Arbitrator. The Parties agree that any dispositive motions shall be resolved and the remainder of the arbitral proceeding including any discovery

shall be stayed pending resolution, absent good cause and immediate necessity to proceed.

22.20.7 Process and Cooperation. As the Platform generally provides the same Services to all Users, the parties shall endeavor to seek and stipulate to an agreed expeditious process for resolution of initial dispositive motions, including but not limited to:

> **(a)** the potential for a single Merits Arbitrator to decide the Initial Dispositive Motions and issue a single reasoned award applicable to all claims and defenses affected by the Dispositive Motions;
>
> **(b)** That a Merits Arbitrator(s) be appointed for claims and defenses remaining after determination of dispositive motions with as few batches of remaining claims as reasonably practicable under the circumstances; and
>
> **(c)** That each batch of claims shall result in the issuance of a single reasoned award applicable to such claims and defenses within the batch.

22.20.8 Summary Judgment Disposition. Prior to final hearing, to the extent claims, counterclaims or defenses remain pending after Initial Dispositive Motions (if any) have been heard, the parties shall have the right to submit and be heard on summary disposition motions to resolve remaining fact or legal issues as to which there is no genuine dispute as to any material fact and as to which a party is entitled to judgment as a matter of law. Such motions shall, by way of example, proceed in the manner contemplated by Rule 56 of the Federal Code of Civil Procedure. The submission and scheduling of such motions, if any, shall be addressed at a conference held before the JAMS Merits Arbitrator, and the Parties agree that any summary disposition motions shall be resolved prior to the final evidentiary hearing.

22.20.9 Non-Waiver of Claims, Remedies or Defenses. The parties agree that it is not the intent of the Arbitration Agreement to limit or waive any claims, counterclaims, remedies or defenses otherwise available to the parties. Any claims or defenses which could have been asserted in court but for the agreement to arbitrate shall be available to the parties. The Arbitration Agreement shall not affect or serve as a basis to assert any claim or defense, with the exception that claims for breach of the Arbitration Agreement and the right to enforce the Arbitration Agreement itself are not waived and are reserved by the parties. The JAMS arbitrator shall be authorized to award any remedies, including equitable or injunctive relief, to the same extent that would be available to a party in an individual lawsuit under applicable law.

22.20.10 Merits Arbitrator Selection for Mass Arbitration. In lieu of JAMS Rule 15, for each Merits Arbitrator to be appointed in the Mass Arbitration, the parties shall be presented with a list of eight (8) potential arbitrators, be allowed three (3) strikes and the Claimants and Respondent(s) shall rank those potential arbitrators in order of preference. JAMS shall select the arbitrator with the highest combined preference (e.g., if both parties select a potential arbitrator as their top preference, that arbitrator will be selected). The parties agree that any JAMS Merits Arbitrator presented on the strike list, must have the following minimum qualification: practicing attorneys or retired federal court judges who have *at least ten years* of substantive expertise in litigating and resolving complex business disputes, including motions to compel arbitration and litigation or adjudication regarding whether disputes are arbitrable.

22.21 Appeals. You and Modo® agree that any award issued by the Arbitrator as to the following may be appealed in accordance with the JAMS Optional Arbitration Appeal Procedures at either party's election: 1) granting or denying relief to Modo® in excess of $50,000 in favor of either party; 2) any award which grants or denies any form of declaratory or equitable relief that would significantly impact the operation of the Platform; 3) any award which grants or denies a finding that the Terms of Use or governing law provisions are unenforceable by either party or unconscionable; or 4) any award which grants or denies a finding that this Arbitration Agreement is unenforceable by either party or unconscionable. In the event such an award or finding is part of an initial or interim award, the parties agree it may be appealed and that the remainder of the proceeding shall be stayed. The JAMS Optional Arbitration Appeal Procedures are available at https://www.jamsadr.com/appeal. The panel of appellate arbitrators shall have the same qualifications as arbitrators per paragraph 22.20.10**.**

END OF SECTION 22 ARBITRATION AGREEMENT

23. WAIVER OF JURY TRIAL

23.1 EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THE PLATFORM OR SERVICE OR ANY TRANSACTIONS BETWEEN THE PARTIES, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY.

24. Miscellaneous

24.1 SMS Text Messaging / One-Time Passcode (OTP) Program

24.1.1 Program description. If you choose to enable text message (SMS) login, Modo will use your mobile phone number to send you one-time passcodes (OTPs) and related authentication messages so we can verify your identity and allow you to access your account. This is a transactional, account-security program; it is not a marketing program.

24.1.2 Opt-in and consent. Enrollment in SMS-based login is optional and is a separate, standalone choice. You are not required to opt in to SMS messaging in order to create an account or otherwise use the Service, and your consent to receive SMS messages is separate from, and is not a condition of, your acceptance of these Terms, our Privacy Policy, or any purchase. By opting in, you confirm that you are the subscriber or customary user of the mobile number provided and that you consent to receive automated text messages from us at that number.

24.1.3 No sharing or sale of your number. We do not share or sell your mobile phone number or your SMS opt-in or consent information with third parties or affiliates for their own marketing or promotional purposes. We share your mobile phone number only with the service providers that help us deliver these SMS messages on our behalf, and only as needed to provide this functionality.

24.1.4 Message frequency and rates. Message frequency varies based on your account activity. Message and data rates may apply. Carriers are not liable for delayed or undelivered messages.

24.1.5 Opting out and help. You may opt out at any time by replying STOP to any message, after which we will send one confirmation message and then stop sending SMS messages for this purpose. Reply HELP for help, or contact us at support@modo.us. Opting out of SMS login may limit your ability to use text-message-based authentication.

24.1.6 Changes. We may modify or discontinue the SMS program at any time. Your continued participation after any change constitutes acceptance of the updated terms.

24.2 Marketing Text Message Program

24.2.1 Program description. Separately from the OTP program described above, Modo offers an optional marketing text message program through which we may send you recurring automated text messages about promotions, bonuses, sweepstakes, new games, events, and other offers and updates related to the Service (the "Marketing SMS Program"). Messages may be sent using an automatic telephone dialing system or other automated technology.

24.2.2 Opt-in and consent. Enrollment in the Marketing SMS Program is optional and requires your separate, affirmative opt-in. Opting in to SMS-based login or receiving OTP messages does not enroll you in the Marketing SMS Program, and opting in to the Marketing SMS Program does not enroll you in SMS-based login. Your consent to receive marketing text messages is not a condition of creating an account, making any purchase, or otherwise using the Service, and you may use the Service in full without opting in. By opting in, you (a) confirm that you are at least 18 years of age (or the age of majority in your state, if higher) and are the subscriber or customary user of the mobile number you provided; (b) provide your prior express written consent to receive recurring automated marketing text

messages from Modo at that number; and (c) agree to these Marketing SMS Program terms. You may be asked to confirm your enrollment by replying to an initial text message; your enrollment is not complete until you do so.

24.2.3 Message frequency and rates. Message frequency varies. Message and data rates may apply. Carriers are not liable for delayed or undelivered messages. You are responsible for any charges imposed by your wireless carrier.

24.2.4 Opting out and help. You may opt out of the Marketing SMS Program at any time by replying STOP, END, CANCEL, UNSUBSCRIBE, or QUIT to any marketing text message, by adjusting your notification preferences in your account settings, or by contacting us at support@modo.us. After you opt out, we will send one final message confirming your opt-out and will not send further marketing text messages unless you re-enroll. Opting out of the Marketing SMS Program does not affect SMS-based login or OTP messages, which are governed separately above; to stop those messages, follow the opt-out instructions in the OTP program section. Reply HELP to any message for assistance. If you change or deactivate your mobile number, you agree to notify us promptly or update your account so that we do not continue to send messages to that number.

24.2.5 No sharing or sale of your number. We do not share or sell your mobile phone number or your SMS opt-in or consent information with third parties or affiliates for their own marketing or promotional purposes. We share your mobile phone number only with the service providers that deliver text messages on our behalf, and only as needed to operate the Marketing SMS Program.

24.2.6 Eligibility and state restrictions. The Marketing SMS Program is available only to users who are eligible to use the Service under these Terms & Conditions. We will not send marketing text messages to users who have self-excluded, taken a timeout, or otherwise restricted their account under our Responsible Social Gaming program, or to users located in states where we do not offer the Service. Marketing text messages will be sent only between the hours permitted by applicable law in your state.

24.2.7 Consent records. We retain records of your opt-in, including the date, time, mobile number, and the method by which consent was obtained, for as long as necessary to comply with applicable law.

24.2.8 Changes. We may modify, suspend, or discontinue the Marketing SMS Program at any time. If we make material changes to these Marketing SMS Program terms, we will notify you by text message or other appropriate means, and your continued enrollment after the effective date of the change constitutes your acceptance. Nothing in this section limits your right to opt out at any time.

24.3 Entire Agreement. These Terms constitute the entire agreement between You and Us with respect to Your use of the Service and supersede all prior or contemporaneous

communications and proposals, whether electronic, oral or written, between You and Us with respect to Your participation.

24.4 Tax. You are solely responsible for any taxes which apply to Your use of the Service.

24.5 Force Majeure. We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by events outside of our reasonable control, including but not limited to an act of God, hurricane, war, fire, riot, earthquake, weather, pandemic or endemic, terrorism, act of public enemies, strikes, labor shortage, actions of governmental authorities or other *force majeure* event.

24.6 Severability. In the event that any provision of the Terms is held unenforceable as written, such provision will be ineffective but shall not affect the enforceability of the remaining provisions of the agreement. To the fullest extent allowable by law and equity, the parties agree that any such provision shall be blue-penciled or otherwise construed by the arbitrator or forum presiding over any dispute to preserve the formation of the agreement and give effect to the intent of the parties consistent with the overall purpose and intent of the agreement, and may be deemed replaced by an enforceable provision that comes closest to the intention underlying the unenforceable provision.

24.7 Assignment. The Terms 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, and in such case the Terms shall apply to and bind any successor-in-interest or assignee of ours.

24.8 Third-Party Beneficiaries. You further agree and intend that the Terms are entered into for the express benefit of Your spouse, heirs, children and next-of-kin and shall bind same to the extent of any claims arising from Your use of the Service which is brought by them or by any person for their use or benefit.

24.9 Business Transfers. In the event We undergo a change of control, merger, acquisition, or sale of assets, Your User Account and associated data may be part of the assets transferred to the purchaser or acquiring party.

24.10 Waiver. Our failure to assert breach or a violation of the Terms or otherwise failure to exercise any rights under the Terms shall not constitute or be deemed a waiver or forfeiture of such rights or a waiver or forfeiture of such rights in the future.

24.11 Survival of Obligations. SECTIONS 19, 20, 21, 22, and 23 and SHALL BE DEEMED TO SURVIVE THE TERMINATION OF THESE TERMS OF USE OR YOUR USER ACCOUNT FOR ANY REASON.

25. Applicable Law and Jurisdiction

25.1 Governing Law. While the Arbitration Agreement contained in Section 22, which is governed by the Federal Arbitration Act, the parties agree that the Terms and the related Service are governed by and shall be construed in accordance with the laws of the State of Delaware USA, which shall apply without regard to application of principles of conflicts of law or choice of law of any state. The parties expressly waive application of, and shall not assert, contrary law or laws of states other than Delaware. Solely and limited to the extent this governing law provision is finally determined to be unenforceable as it relates to the use of the Service, the parties agree that the governing law shall in such event be the applicable law in the jurisdiction in which the user who is a party to the dispute resides.

25.2 Exclusive Forum and Venue in Delaware Courts Only. Subject to and without any waiver of the Arbitration Agreement contained in Section 22 and the exclusive delegation by the parties to the Arbitrator, the parties agree that any lawsuits filed by a party asserting any dispute, controversy, or claim arising out of or in connection with these Terms, the Arbitration Agreement, the Services or any Game must be filed in the state or federal courts in Delaware only. You and We consent to the exclusive venue and personal jurisdiction of those courts. Neither You nor We shall object to a motion to transfer venue to the appropriate agreed venue in Delaware, nor shall any party assert any objection to any such motion to transfer on grounds of inconvenience of forum. 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.

26. Electronic Delivery of Form 1099 and Other Tax Documentation

26.1 Consent to Electronic Delivery. By accepting these Terms and creating a User Account, You expressly consent to receive all tax-related forms and documents, including but not limited to Forms 1099 and any related statements or corrections, electronically rather than in paper format. This consent applies to all tax years for which You maintain an active User Account or have had activity on the Platform.

26.2 Electronic Delivery Requirements. You acknowledge and agree that:

26.2.1 You have access to a computer or mobile device with internet connectivity that allows You to access, view, download, and retain electronic documents;

26.2.2 You have access to and the ability to use Adobe Acrobat Reader or other software capable of reading PDF files;

26.2.3 You have access to a printer or the ability to download and save electronic documents for Your records;

26.2.4 Your email address associated with Your User Account is current and accessible to You.

26.3 Method of Electronic Delivery. We will provide electronic tax forms and documents by:

26.3.1 Posting them to a secure area of Your User Account on the Platform accessible through Your login credentials; and/or

26.3.2 Sending an email notification to the email address associated with Your User Account containing either the forms/documents or instructions on how to access them through the Platform.

26.4 Timing of Electronic Delivery. Electronic tax forms will be made available to You by January 31st of the year following the tax year for which the form applies, or such other date as may be required by applicable law. You will receive email notification when forms are available for Your access and download.

26.5 Record Retention. You are responsible for:

26.5.1 Downloading, printing, or otherwise saving copies of all electronic tax forms and documents for Your records;

26.5.2 Maintaining these records in accordance with applicable tax laws and regulations;

26.5.3 Ensuring You can access and view the electronic documents when needed for tax preparation or other purposes.

26.6 Updating Contact Information. You must promptly update Your email address and other contact information in Your User Account to ensure You receive proper notification of available tax documents. Failure to maintain current contact information may result in Your inability to timely receive required tax documentation.

26.7 Paper Delivery Option**.** You may withdraw Your consent to electronic delivery at any time by either contacting customer support at support@modo.us and requesting paper delivery of tax forms or changing the settings in your User Account. Any such request:

26.7.1 Must be received by December 1st to be effective for tax forms issued in the following calendar year;

26.7.2 Does not apply retroactively to forms already delivered electronically.

26.8 Technical Problems. If You experience technical difficulties accessing Your electronic tax forms, You must contact customer support at support@modo.us within thirty (30) days of the email notification of availability. We will work to resolve technical issues and may provide paper copies if electronic delivery cannot be successfully completed.

26.9 Confirmation of Receipt. By downloading or accessing electronic tax forms through Your User Account, You acknowledge receipt of such forms. If You do not access Your electronic tax forms within sixty (60) days of email notification, You will be deemed to have received the forms as of the date they were made available in Your User Account.

26.10 Changes to Electronic Delivery. We reserve the right to modify the method or format of electronic delivery upon thirty (30) days' advance notice to You. Any such changes will be communicated via email to Your registered email address and/or through notifications in Your User Account.

26.11 Compliance with Tax Laws. This electronic delivery consent is subject to applicable federal and state tax laws and regulations. In the event of any conflict between these provisions and applicable tax law, the requirements of applicable law shall control.

26.12 Personal Jurisdiction Over Company in Delaware Courts Only. You agree and understand that the Company is providing online entertainment services to You and not providing any commercial services to You in the State where You live. The Company is an internet-based business and does not, by entering into these Terms with You, agree to be subject to any suit in the courts of any state other than Delaware. Further to this express purpose, You and the Company have agreed to arbitrate all disputes (Section 22) and further have allowed either party to elect to a remote arbitration hearing in order that neither You nor the Company must appear in a court in a State which is inconvenient or which lacks personal jurisdiction over You or the Company. Accordingly, You expressly agree that the Company is not agreeing to or subjecting itself to the jurisdiction of any court of any state other than Delaware by entering into these Terms, the Arbitration Agreement or providing You with access to the Platform or the Service.

26.13 Third Party Beneficiaries. Company's affiliates, subsidiaries, agents, employees, officers, directors, consultants, suppliers, advertisers, marketers, payment processors, banks, financial intermediaries, Internet service providers, application developers or hosts, data storage services, vendors, service promoters, partners or contractors, shall be deemed to be third party beneficiaries of the Terms of Use.

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