

**Last Updated: September 13, 2021**

## **TERMS OF SERVICE**

**Welcome to Keyhole Club. This Agreement governs your use of the Services. By creating an account, accessing, or otherwise using the Services, you agree to be bound by the terms of this Agreement. Please read these Terms of Service carefully before accessing or otherwise using the Services. If you do not agree to the terms and conditions of this Agreement, then you must immediately cease using the Services.**

This Agreement incorporates the terms of the Privacy Policy, which you should review carefully. By agreeing to the terms of this Agreement, you also are agreeing to the terms of the Privacy Policy, which describes the collection, usage, and storage of your personal information, including logins, names, addresses, player information, and other personally identifiable information.

### **1. Definitions**

**“Dispute”** means, any controversy related to these Terms or your access and use of the Services, including without limitation claims arising out of or relating to any aspect of the relationship between you and the Company, claims that arose before this agreement, and claims that may arise after the termination of these Terms; however, this does not include claims related to or arising from the enforcement or protection of Intellectual Property Rights, and is subject to any applicable statutory consumer rights laws in your local jurisdiction.

The **“Company”** means, Keyhole Club, LLC. References to “Us,” “We,” or “Our” means Keyhole Club, LLC, including any and all subsidiaries parent companies, joint ventures, and other corporate entities under common ownership and/or any of their agents, consultants, employees, officers, and directors. The Company does not include Company Affiliates or third parties (analytics or ad tech companies, or similar organizations).

**“Company Affiliate(s)”** means, the Company’s third-party content providers, distributors, licensees, or licensors.

**“Intellectual Property Rights”** means, any and all right, title, and interest of every kind whatsoever, whether now known or unknown, registrable or otherwise, in and to patents, trade secret rights, copyrights, trademarks, service marks, trade dress and similar rights of any type under the laws of any governmental authority, including, without limitation, all applications and registrations relating to the foregoing.

**“Notice”** means, a delivered writing by e-mail or courier delivery to the other party at their respective address and will be effective upon receipt.

“**Service(s)**” means, any service, function, feature, or website provided by Company and Company Affiliates, including without limitation the following websites and all sub-pages thereof: [www.keyholeclub.com](http://www.keyholeclub.com).

“**Terms of Service**”, “**Terms**”, and “**Agreement**” means, the terms and conditions contained in this agreement.

## 2. **Ownership and Limited License**

- a) **Ownership.** The Services are owned or licensed by the Company and are protected by Intellectual Property Rights and other proprietary rights laws. The Company reserves all right, title, and interest in and to the Services, including without limitation all Intellectual Property Rights and other proprietary rights, that are not explicitly granted to you in these Terms. Your permitted use of the Services is limited by the Intellectual Property Rights of Company.
- b) **Access Limitations.** Access and use of the Services is limited to individuals who are at least eighteen (18) years of age and able to form legally binding contracts.
- c) **License.** Subject to your agreement and continuing compliance with these Terms of Service and any other relevant Company policies, the Company grants you a non-commercial, non-exclusive, non-transferable, non-sublicensable, revocable, limited license to access and use the Services for your own entertainment and informational purposes subject to the limitations in these Terms. You agree that you will not use the Services for any other purpose.
- d) **Restrictions.** Any use of the Services in violation of the law or these Terms of Service is strictly prohibited and may result in the immediate revocation of your limited license to access and use the Services at the Company’s sole discretion or may subject you to liability for violations of law. You further agree that you will not directly or indirectly:
  - i) Partake in any activity or action that the Company deems to be against the spirit or intent of the Services;
  - ii) Copy, modify, edit, create derivative works of, publicly display, publicly perform, republish, transmit, or distribute the Services or any other material obtained through the Services, in whole or in part;
  - iii) Lease, sell, rent, or otherwise exploit for commercial purposes any part of the Services, including without limitation access to or use of the Services;
  - iv) Delete, alter, or obscure any Intellectual Property Rights or other proprietary rights notices from copies of materials from the Services;
  - v) Restrict or inhibit other users from using or enjoying the Services;

- vi) Harass, threaten, bully, embarrass, abuse, or harm, or advocate or incite harassment, abuse, or harm of any person, group, the Company itself, or Company Affiliates;
- vii) Organize or participate, in conjunction with your use of the Services, in any activity or group that is hateful, harmful, or offensive towards a race, sexual orientation or preferences, religion, heritage or nationality, disability or other health class, gender, age, or similar classes determined by the Company in its sole discretion;
- viii) Initiate, assist, or become involved in any form of attack or disruption to the Services, including without limitation distribution of a virus, worm, spyware, time bombs, corrupted data, denial of service attacks upon the Services, or other attempts to disrupt the Services or other person's use or enjoyment of the Services;
- ix) Use robots, spiders, crawlers, man-in-the-middle software, or any other automated process to access, use, reverse engineer, or manipulate the Services or the Company;
- x) Use your access to the Services to obtain, generate, or infer any business information about the Company or Company Affiliates, including without limitation information about sales or revenue, Company staff, technical stack, or statistics about users;
- xi) Use your access to the Services to obtain, generate, or infer any information about other users of the Services, including without limitation, their name, contact information, or place of residence;
- xii) Promote, encourage, or participate in any activity involving hacking, phishing, distribution of counterfeit Services, or taking advantage of or creating exploits, cheats, bugs, or errors;
- xiii) Make available through the Services any material or information that infringes any intellectual property right, right of privacy, right of publicity, or other right of any person or entity or impersonates any other person, including without limitation celebrities and Company employees;
- xiv) Attempt to gain unauthorized access to Services; and,
- xv) Use the Services where it is prohibited by law.

If you violate these rules, the Company will determine in its sole but good faith discretion what action to take. The Company may provide you a warning, depending on the on the severity of the

activity in which you were engaged. If the Company believes the severity of the act warrants it, it may terminate your license and ban you any further use of the Services.

### **3. Term**

- a) **Term.** The term of this Agreement begins on the date you first access other otherwise use the Services and shall remain in full force and effect until modified, amended, or terminated by the Company.
- b) **License Termination.** Without prejudice to any of the Company's rights in this Agreement or remedies available at law, the Company may terminate this Agreement and your license to access and use the Services immediately and without any refund or reimbursement if you fail to comply with any term or condition of this Agreement or the Privacy Policy. If the Company terminates this Agreement and your license to access and use the Services, the Company may also prohibit you from re-registering or otherwise re-accessing the Services and we may terminate any other account you have with the Company to access the Services. Except to the extent required by law, all payments and fees paid to the Company or Company Affiliate are non-refundable under all circumstances, regardless of whether this Agreement and your license have been terminated.

### **4. Access**

- a) By using or accessing the Services, you represent and warrant that you are at least 18 years of age and otherwise legally competent to read, understand and accept the provisions of this agreement. MINORS MAY NOT USE THE SERVICES.
- b) If you have been previously banned from using any Company Services, then you may not use the Services.
- c) By accessing the Services, you represent and warrant that you are not located in a country or jurisdiction that is subject to a United States government embargo, or that has been designated by the United States government as a "terrorist supporting" country, and that you are not listed on any United State government list of prohibited or restricted parties.

### **5. Service Availability and Termination**

- a) You acknowledge and agree that your use of the Services does not grant or confer any interest, whether monetary or otherwise, in any aspect or feature of the Services and the Company may, in its sole and absolute discretion:
  - i) Amend, modify, enhance, upgrade, update, or otherwise change the Services;
  - ii) Terminate or restrict access to the Services, or any portion of the Services at any time and for any reason without prior Notice or liability to you;
  - iii) Interrupt your access to and use of the Services;

- iv) Limit access to and use of the Services to certain countries and geographic locations;
- b) Further, you are solely responsible for any internet connection and/or mobile fees that you may incur as a result of using the Services.
- c) By using the Services

## **6. Feedback**

When you provide the Company any feedback regarding the Services, you grant the Company a royalty-free, worldwide, perpetual, irrevocable, sublicensable, transferable, and assignable license to use, reproduce, distribute, modify, adapt, prepare derivative works based on, publicly perform, publicly display, make, have made, use, sell, offer to sell, import, and otherwise exploit Feedback for any purposes, for all current and future methods and forms of exploitation.

## **7. Intellectual Property**

- a) All content included as part of the Services, including but not limited to, text, graphics, logos, images, as well as the compilation thereof, the look and feel of the Services, including, without limitation, the text, graphics, code, and other materials contained hereon is property of the Company or its third party suppliers, or is rightfully used subject to a license agreement and is protected by copyright, trademark, and other laws that protect intellectual property and proprietary rights. You agree to observe and abide by all copyright, trademark, and other proprietary notices, legends, or other restrictions contained in any such content and will not make any changes thereto.
- b) You will not modify, publish, transmit, reverse engineer, participate in the transfer or sale, create derivative works of, or in any way exploit any of the content, in whole or in part, provided on, transmitted through, or found within the Services. Your use of the Services does not entitle you to make any unauthorized use of any such content, and in particular you shall not delete or alter any proprietary rights or attribution notices in such content. You shall use the content provided through, transmitted through, and found on the Services solely for your personal use, as outlined in these Terms, and will make no other use of the Content without the express written permission of the Company and/or related third party owners of such content. You acknowledge and agree that you do not acquire any ownership rights in the content provided through the Services. Except as provided herein, these Terms do not grant any licenses, express or implied, to such content or any other intellectual property of the Company, its licensors, or any third-party owner.

## **8. Information Collection and Usage**

- a) The Privacy Policy controls all terms of the Company's information collection and usage policy. As a condition precedent for the Company granting you a license to use the Services, you agree and consent to the Company's information collection and usage terms, as set forth in this Agreement and the Privacy Policy.
- b) The Services may contain certain tools to allow the Company to analyze how users interact with the Services. Any such data collection is on a collective and non-individual basis to improve the Services, identify bugs, and identify features and functions that work well or that may need improvement. In the event the Services crash or a bug affects usage, the Company may collect information to identify the source of the crash or bug, including the type of operating system you are using. In all cases, the Company will collect only the information reasonably necessary to identify the suspected error.
- c) YOU UNDERSTAND AND AGREE THAT ALL DATA PRIVACY ISSUES, INCLUDING THE COMPANY'S COLLECTION, USE, DISCLOSURE, AND TRANSFER OF YOUR PERSONAL INFORMATION IS SUBJECT TO OUR PRIVACY POLICY, WHICH TAKES PRECEDENCE OVER ANY OTHER STATEMENT IN THIS AGREEMENT. IF YOU DO NOT WANT YOUR INFORMATION USED OR SHARED AS DESCRIBED IN THIS AGREEMENT AND THE PRIVACY POLICY, THEN YOU SHOULD NOT USE THE SERVICES.

## **9. Links to Third Party Sites and Services**

The Services may contain links to third party websites ("**Linked Sites**"). The Linked Sites are not under the control of Company or any part of the Services. Company is not responsible for the contents of any Linked Site, including without limitation any link contained in a Linked Site, or any changes or updates to a Linked Site. Company is providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by Company of the website or any association with its operators.

## **10. Warranty**

THE SERVICES ARE PROVIDED "AS IS" AND WITHOUT PERFORMANCE ASSURANCES OR GUARANTEES OF ANY KIND. THE SERVICES ARE PROVIDED TO YOU WITH ALL FAULTS, AND THE COMPANY, COMPANY AFFILIATES, AND COMPANY LICENSORS AND DEVELOPERS AND SUPPLIERS EACH DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF LACK OF VIRUSES, AND OF LACK OF NEGLIGENCE OR LACK OF WORKMANLIKE EFFORT. IN ADDITION TO THE FOREGOING, THERE IS NO WARRANTY OR CONDITION OF TITLE, OF QUIET ENJOYMENT, OR NON-INFRINGEMENT. THE ENTIRE RISK ARISING OUT OF YOUR USE OR PERFORMANCE OF THE GAME AND THE SERVICES IS WITH YOU.

## **11. Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE COMPANY, NOR COMPANY AFFILIATES, LICENSORS, DEVELOPERS, SUPPLIERS, OR SUBSIDIARIES BE LIABLE FOR ANY PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY OTHER FORM OF DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES FROM ANY CAUSES OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SERVICES, WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT, STRICT LIABILITY OR OTHERWISE, WHETHER OR NOT THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

You agree your exclusive remedy and the Company's entire liability for breach of this Agreement is limited, at the Company's sole and exclusive discretion, to (1) replacement of the Services; or (2) refund of any license fee you paid pursuant to the Company's refund policy. In no event will the Company's total liability to you for all damages (except as required by applicable law) exceed \$150.00.

**SOME JURISDICTIONS DO NOT ALLOW A LIMITATION OF LIABILITY FOR DEATH, PERSONAL INJURY, FRAUDULENT MISREPRESENTATIONS OR CERTAIN INTENTIONAL OR NEGLIGENT ACTS, OR VIOLATION OF SPECIFIC STATUTES, OR THE LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.**

## **12. Indemnification**

- a) You agree to defend, indemnify and hold harmless the Company, Company Affiliates, and any third-parties under agreement with Company, and any employee, contractor, vendor, agent, supplier, licensee, customer, distributor, shareholder, director or officer of any of the foregoing, as well as any person using the Services and any person or entity that becomes aware of your use of the Services at any time, with respect to any and all claims, liabilities, judgments, awards, injuries, damages, losses, costs, fees, or expenses (including but not limited to attorney's fees and costs) that arise under, from or in any way, directly or indirectly, relate to:
  - i) Your failure to comply with any provision of these Terms of Service;
  - ii) Your use of the Services, including but not limited to economic, physical, emotional, psychological or privacy related considerations; and
  - iii) Your actions to knowingly affect the Services via any bloatware, malware, computer virus, worm, Trojan horse, spyware, adware, crimeware, scareware, rootkit or any other program installed in a way that executable code of any

program is scheduled to utilize or utilizes processor cycles during periods of time when such program is not directly or indirectly being used.

- b) The Company reserves the right, but not the obligation, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you. Notwithstanding the foregoing, you acknowledge and agree that the Company has no obligation to defend, indemnify or hold harmless you in any way related to this Agreement, including but not limited to your use of the Services, use of the Services by any person, or any connection between the foregoing and any other person or entity that becomes aware of your use of the Services at any time.
- c) This Section shall survive the termination of these Terms.

### **13. Dispute Resolution**

- a) **Informal Dispute Resolution.** With respect to any Dispute, you agree to attempt to negotiate the resolution of any Dispute with the Company informally for at least thirty (30) days before initiating any arbitration or other proceeding, including any legal proceeding in court or before an administrative agency. Such informal negotiations commence upon Company's receipt of Notice from you.
- b) **Mandatory Binding Arbitration.** If you are not able to satisfactorily resolve a Dispute informally within a total of thirty (30) days, or if the Company, in its sole and absolute discretion, determines that it will not be possible to satisfactorily resolve that Dispute informally within a total of thirty (30) days, you agree that either you or the Company may request resolution by final and fully binding arbitration conducted under the Commercial Arbitration Rules of the American Arbitration Association, which are incorporated into this Agreement by reference. The party requesting that a Dispute be resolved by arbitration under this Section shall be responsible for initiating such a proceeding.

The American Arbitration Association ("AAA") will run the arbitration between you and the Company, and AAA's rules and procedures (including their Supplementary Procedures for Consumer-Related Disputes, if applicable) will be used. If something in these Terms is different than AAA's rules and procedures, then we will follow these Terms instead. You can look at AAA's rules and procedures on their website [www.adr.org](http://www.adr.org) or you can call them at 1-800-778-7879.

YOU UNDERSTAND AND AGREE THAT YOU HAVE THE RIGHT TO CONSULT WITH INDEPENDENT LEGAL COUNSEL OF YOUR OWN CHOOSING REGARDING THIS THIS AGREEMENT AND THAT THIS BINDING ARBITRATION PROVISION WILL ELIMINATE YOUR LEGAL RIGHT TO SUE IN COURT, TO HAVE A JURY TRIAL, AND/OR TO PARTICIPATE IN A CLASS ACTION WITH RESPECT TO ANY SUCH DISPUTE.



- c) **Class Action Waiver.** The parties agree to arbitrate solely on an individual basis. This Agreement does not permit class arbitration or any claims brought as a plaintiff or class member in any class or representative arbitration proceeding. The arbitral tribunal may not consolidate more than one person's claims and may not otherwise preside over any form of representative or class proceeding.
- d) **Waiver of Jury Trial.** The parties waive the right to a jury trial in any action arising out of or related to this Agreement.
- e) **Governing Law.** Any dispute or claim arising out of or related to this agreement shall be governed by and construed in accordance with the laws of the State of Oregon without reference to any choice or conflict of laws principles.
- f) **Choice of Forum and Consent to Personal Jurisdiction.** Any disputes arising out of or relating to this Agreement which must be tried in court shall be resolved in the state and federal courts located in Multnomah County, Oregon and the parties irrevocably consent to the personal jurisdiction and service of process of said courts and waive any and all jurisdictional or venue defenses otherwise available to them.
- g) **Costs, Fees, and Expenses.** In any action or proceeding by the Company to enforce any provisions of this Agreement, the Company shall, in addition to any other award of damages or remedy at law or in equity, be entitled to recover reasonable costs, fees, and expenses including attorneys' fees and costs incurred in connection with such enforcement, including any appeal.

#### 14. **Miscellaneous**

- a) **Changes to these Terms.** It is your responsibility to read, understand, and accept this Agreement in connection with your use of the Services. You acknowledge that the Company may make changes to this Agreement at any time, and that Section headings in this Agreement are for purposes of convenience only. Unless the Company states otherwise, any changes to these Terms are effective when posted. If you continue to use the Services after any changes are posted then you agree that those changes will apply to your continued use of the Services and that such use constitutes your acceptance of the same. You should check this page regularly to stay informed about any changes.
- b) **Complete Agreement.** This Agreement: (1) is the final and complete agreement and understanding of the parties concerning the subject matter hereof, and supersedes and replaces any and all prior and contemporaneous agreements and understandings with respect thereto; (2) may not be changed, amended, or in any manner modified by you; (3) is not assignable by you and any attempt by you to assign or transfer this agreement or any interest herein is void; and (4) shall be binding upon, and inure to the benefit of, the parties hereto, their respective heirs, executors, administrators, successors, personal representatives, licensees, and assigns.

- c) **Force Majeure.** The Company shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party, including, war, terrorism, acts of public enemies, strikes or other labor disturbances, power failures, fires, floods, earthquakes, acts of God, and other natural disasters.
- d) **Waiver.** No act or failure to act by the Company will be deemed a waiver of any right contained in this agreement. If the Company does expressly waive any provision of this agreement, such waiver shall not be a waiver of any other provisions of this agreement, and the waived provision shall not be waived for all time in the future. Any waiver must be in writing and signed by an officer of the Company.
- e) **Severability.** If any provision of this agreement is found to be invalid or unenforceable, the remainder shall be enforced as fully as possible, and the unenforceable provision or sub-provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the parties as expressed herein.
- f) **Equitable Relief.** You acknowledge and agree that any violation or threatened violation of this agreement will cause irreparable injury to the Company, entitling the Company to seek injunctive relief without the necessity of proving actual damages, in addition to all other remedies at law or in equity. You specifically acknowledge that money damages alone would be an inadequate remedy for the injuries and damages that would be suffered and incurred by the Company as a result of a breach of any of the provisions of this agreement.
- g) **Language.** The controlling language for these Terms of Service is English.

## 15. Contact Us

If you have any questions or comments about these Terms or the Services, please contact us at: [legal@keyholeclub.com](mailto:legal@keyholeclub.com).