

## **Terms and conditions of use**

**Effective:** November 20, 2019

### **1. Subject**

The company BETONYOU operating under the commercial name "Octo" (hereinafter: "**OCTO**") publishes a mobile application (hereinafter the "**Application**") that allows its users (hereinafter the "**Users**") to accumulate points by playing video games, which can be converted into gifts from partner companies (hereinafter the "**Partners**").

The purpose of these general terms and conditions (hereinafter: "the **General Terms and Conditions**") is to define the terms and conditions of use of the services offered by OCTO (hereinafter: "the **Services**") as well as to define the rights and obligations of the parties in this context.

They are accessible and printable at any time via a direct link at the bottom of the <https://octo-gaming.com> website (hereinafter "the Site").

### **2. Application and Services Operator, contact**

The Application and Services are operated by BETONYOU, operating under the commercial name "Octo", SAS registered with the Rouen Trade and Companies Register under no. 844 094 540, whose registered office is located at 34 rue Raymond Aron 76130 MONT-SAINT-AIGNAN.

OCTO can be contacted at the following address: [hello@bet-on-you.com](mailto:hello@bet-on-you.com).

### **3. Access to the Application and Services**

#### **3.1 Legal capacity**

The Application and Services are accessible:

- To any natural person with full legal capacity to commit under these Terms and Conditions. A natural person who does not have full legal capacity may only access the Application and Services with the agreement of his or her legal representative.
- To any legal entity acting through a natural person having the legal capacity to contract in the name and on behalf of the legal entity.

### **4. Acceptance of the General Terms and Conditions**

Acceptance of these Terms and Conditions by the User is effective when the player clicks on " Sign up and accept ".

This acceptance can only be full and complete. Any conditional membership is considered null and void. A User who does not agree to be bound by these General Terms and Conditions must not access the Application or use the Services.

## **5. Registration**

- 5.1** Use of the Services requires that the User registers on the Application, by filling out the form provided for this purpose.

Any incomplete registration will not be validated.

Registration entails the opening of an account in the name of the User (hereinafter: the "**Account**"), giving him access to a personal space (hereinafter: the "**Personal Space**") that enables him to manage his use of the Services in a form and according to the technical means that OCTO deems the most appropriate for rendering said Services.

- 5.2** The User guarantees that all the information he or she provides in the registration form is accurate, up to date and truthful and is not misleading.

It undertakes to update this information in its Personal Space in the event of changes, so that it always corresponds to the above-mentioned criteria.

The User is informed and accepts that the information entered for the purpose of creating or updating his Account is proof of his identity. The information entered by the User commits him/her as soon as it is validated.

- 5.3** The User may access his Personal Space at any time after having identified himself using his login and password.

The User undertakes to use the Services personally and not to allow any third party to use them in his place or on his behalf, unless he bears full responsibility for them.

The User is likewise responsible for maintaining the confidentiality and security of his or her identifier and password, any access to the Application using the latter being deemed to be made by the User. The User must immediately contact OCTO if he notices that his Account has been used without his knowledge. The User acknowledges that OCTO has the right to take all appropriate measures in such a case.

## **6. Services**

### **6.1 Description of Services**

The User has access to OCTO's Services, in a form and according to the functionalities and technical means that OCTO deems most appropriate.

OCTO offers the Services described in the tab "How does it work ? "tab of the Site.

### **6.2 Application Hosting**

OCTO undertakes to ensure, under the terms of an obligation of means, the hosting of the Accounts and any content published by the User on his Account in accordance with the practices of the profession and the state of the art, on its own servers or by a professional hosting provider, exercising its activity in accordance with the practices of the profession and the state of the art.

Within this framework, OCTO undertakes to provide the User with sufficient storage and processing capacities within the framework of the Services, in accordance with the practices of the profession and the state of the art.

OCTO undertakes to implement all technical means, in accordance with the state of the art, necessary to ensure the security and access to the Services, relating to the protection and monitoring of the infrastructures, the control of physical and/or immaterial access to said infrastructures, as well as the implementation of detection, prevention and recovery measures to protect the servers from malicious acts.

OCTO also undertakes to take all useful precautions, with regard to the nature of the data and the risks presented by the automated data processing implemented for the needs of the Services, to preserve the security of the data, and in particular to prevent them from being distorted, damaged or accessed by unauthorized third parties.

### **6.3 Other Services**

OCTO reserves the right to offer any other Service that it deems useful, in a form and according to the functionalities and technical means that it deems the most appropriate for providing said Services.

## **7. Service Level Guarantee**

OCTO undertakes to ensure the permanence, continuity and quality of access to the Services.

In this respect, OCTO shall make its best efforts to maintain access to the Application 24 hours a day, 7 days a week and guarantees the availability of the Services at 98% except in the event of force majeure.

Moreover, in view of the complexity of the Internet, the unequal capacities of the various subnetworks, the influx at certain hours, the various bottlenecks over which OCTO has no control, OCTO's liability shall be limited to the operation of its servers, the outer limits of which are constituted by the connection points.

OCTO shall not be held liable for (i) access speeds to its servers, (ii) external slowdowns to its servers, (iii) bad transmissions due to a failure or malfunction of these networks and (iv) a bad connection to the Internet.

If necessary, OCTO reserves the right to limit or suspend access to the Application in order to carry out any maintenance and/or improvement operation. In this case, OCTO undertakes to inform the User in advance of these maintenance and/or improvement operations, within a reasonable time, by any useful means and in particular by a general informative message on the Application of these maintenance operations.

As part of these maintenance and/or upgrade operations, OCTO undertakes to make its best efforts to make backups of the contents stored in the User's Account and/or the Application.

The User acknowledges and accepts that this service level guarantee does not cover any breakdown or interruption of the Services caused by telecom operators or internet and mobile web service providers or by poor internet coverage or saturation of internet access linked to the location of an event.

In any event, it is expressly agreed that the breach of any commitment provided for in this article may in no case be sanctioned by the termination of contractual relations with the User, and its liability shall be limited under the conditions provided for below in the article "Liability".

#### **8. Free services**

The Services are provided free of charge.

OCTO nevertheless reserves the right to offer additional Services under the financial conditions it deems appropriate.

#### **9. Duration of Services and Unsubscription**

The Services are subscribed for an indefinite period.

The User may unsubscribe from the Services at any time on the Application or by contacting OCTO directly at the contact address indicated in the article "Operator of the Application and Services, contact".

Unsubscription is effective within a maximum of 7 (seven) days from this request. It entails the automatic deletion of the User's Account.

OCTO also reserves the right to close and delete any Account that remains inactive for a continuous period of 6 (six) months.

#### **10. Right of withdrawal**

The User is informed that he or she has the right to withdraw from the Application within 14 (fourteen) days from the date of his or her registration on the Application. The User may exercise this right by sending to OCTO, at the address mentioned in the article "*Application and Services Operator, contact*", before the expiry of the aforementioned period, the form appearing in the Appendix to these General Terms and Conditions or any other declaration, free of ambiguity, expressing his wish to withdraw.

**However, the User is expressly informed and accepts that, if he makes *a first use of the Services*, before the expiration of the above-mentioned period, OCTO will then have fully executed its Services before the end of the withdrawal period. Consequently, the User expressly waives, in this case, his right of retraction, which cannot be exercised, in accordance with article L.221-28 of the French Consumer Code.**

#### **11. Convention of proof**

The User expressly acknowledges and accepts:

- that the data collected on the Application and OCTO's computer equipment are proof of the reality of the operations carried out within the framework of the present document,

- that such data constitute the principal mode of evidence admitted between the parties.

## **12. Obligations and responsibility of the User**

Without prejudice to the other obligations provided for in these General Terms and Conditions, the User undertakes to respect the following obligations:

**12.1** The User undertakes, in his use of the Services, to respect the present General Terms and Conditions, as well as the laws and regulations in force, and not to infringe the rights of third parties or public order.

He is solely responsible for his use of the Application and the Services.

**12.2** The User undertakes to provide OCTO with all the information necessary for the proper execution of the Services. More generally, the User undertakes to cooperate actively with OCTO for the proper execution of the General Conditions.

**12.3** The User is solely responsible for the documents, elements, data, information and any content that he provides to OCTO in the context of the use of the Services. He guarantees OCTO that he is authorized to provide these elements and that he has all the rights and authorizations necessary for their use within the framework of the Services.

**12.4** The User acknowledges having read the Application and its characteristics.

**12.5** The User undertakes to make strictly personal use of the Services. Consequently, he shall refrain from assigning, conceding or transferring all or part of his rights or obligations hereunder to a third party in any manner whatsoever.

**12.6** The User is solely responsible for the content of any kind (editorial, graphic, audio, audiovisual or other) that he or she publishes on the Application (hereinafter the "**Content**") and for any consequences arising therefrom.

The User agrees that the Content published on the Application is made public by default and is likely to be seen by other users of the Application.

**12.7** The User guarantees to OCTO that he has all the rights and authorizations necessary for the diffusion of these Contents. The User undertakes that the said Content is lawful, does not infringe public order, morality or the rights of third parties, does not violate any legislative or regulatory provision and, more generally, is in no way liable to bring into play the civil or criminal liability of OCTO.

The User thus refrains from diffusing, in particular and without this list being exhaustive:

- Child pornographic, pornographic, defamatory, abusive, racist, obscene, indecent, shocking, violent, xenophobic or revisionist Content,
- infringing Content,
- Contents that are detrimental to the image of a third party,
- Content that is false, misleading or that proposes or promotes illegal, fraudulent or deceptive activities,
- and more generally Content that may infringe the rights of third parties or be prejudicial to third parties, in any manner and in any form whatsoever.

### **13. User Warranty**

The User guarantees OCTO against any complaints, claims, actions and/or demands whatsoever that it may suffer as a result of the violation by the User of any of its obligations or guarantees under the terms of these General Conditions.

The User undertakes to guarantee OCTO for any prejudice it may suffer and to pay it all costs, charges and/or sentences it may have to bear as a result.

### **14. Responsibility and guarantee of OCTO**

**14.1** OCTO undertakes to provide the Services diligently and according to the rules of art, it being specified that it has an obligation of means, to the exclusion of any obligation of result, which the User expressly acknowledges and accepts.

**14.2** OCTO intervenes exclusively for the purpose of providing the Services described in these General Terms and Conditions.

**14.3** OCTO is not a party to the relations between the User and the Partners and shall not be liable for any difficulties arising from these relations, nor be a party to any disputes whatsoever, in particular concerning the products or services offered by the Partners, the guarantees, declarations and other obligations whatsoever to which the Partner may be bound.

**14.4** OCTO does not guarantee the User that the Services offered will satisfy all of his needs and expectations.

**14.5** OCTO shall not be held liable for decisions made by the User or by any third party designated by him. Likewise, OCTO may not be held liable for the Content published by the User on the Application, over which it exercises no control, verification or moderation of any kind.

**14.6** OCTO undertakes to carry out regular checks in order to verify the operation and accessibility of the Application and the Website. In this respect, OCTO reserves the right to temporarily interrupt access to the Application for maintenance reasons.

Likewise, OCTO shall not be held liable for momentary difficulties or impossibilities of access to its Application which are due to circumstances beyond its control, force majeure, or which are due to disruptions of the telecommunication networks, Users being informed of the complexity of the global networks and the influx, at certain hours, of Internet users.

**14.7** The Services are provided by OCTO as is and without any guarantee of any kind, express or implicit. In particular, OCTO does not guarantee to the Users (i) that the Services, subject to constant research to improve their performance and progress, will be totally free of errors, defects or faults, (ii) that the Services, being standard and in no way proposed solely to a given customer according to his own personal constraints, will specifically meet his needs and expectations.

### **15. Prohibited behaviors**

**15.1** It is strictly forbidden to use the Services for the following purposes:

- engaging in activities that are illegal, fraudulent or that infringe the rights or safety of third parties,
- breach of public order or violation of the laws and regulations in force,
- Intrusion into a third party's computer system or any activity that could harm, control, interfere with, or intercept all or part of a third party's computer system, violate its integrity or security,
- Manipulations intended to improve the referencing of a third-party site,
- aiding or abetting, in any form and in any manner whatsoever, one or more of the acts and activities described above,
- and more generally any practice that diverts the Services to purposes other than those for which they were designed.

**15.2** Users are strictly prohibited from copying and/or diverting for their own purposes or those of third parties the concept, technologies, all or part of the data or any other element of the Application.

**15.3** The following are also strictly prohibited: (i) any behavior likely to interrupt, suspend, slow down or prevent the continuity of the Services, (ii) any intrusion or attempted intrusion into OCTO's systems, (iii) any detour of the Application's system resources, (iv) any action likely to impose a disproportionate burden on the Application's infrastructure, (v) any breaches of security and authentication measures, (vi) any acts likely to harm the financial, commercial or moral rights and interests of OCTO, and finally more generally (vii) any breach of these General Terms and Conditions.

**15.4** It is strictly forbidden to monetize, sell or concede all or part of the access to the Services or the Application, as well as the information hosted and/or shared therein.

## **16. Penalties for non-compliance**

In the event of failure to comply with any of the provisions of the Contract, or more generally, of violation of laws and regulations by the User, OCTO reserves the right to take any appropriate measures and in particular to:

- suspend, remove or prevent access to the Services to the User, author of the breach or infringement, or having participated in it,
- remove any Content that relates to the breach or infringement in question, in whole or in part,
- take all appropriate measures and initiate any legal action,
- to notify the competent authorities where appropriate, to cooperate with them and to provide them with all useful information for the investigation and suppression of illegal or unlawful activities.

The User is informed and accepts that any failure to comply with its obligations may result, in addition to the consequences provided for above, in the immediate termination of the Contract by OCTO, by any written means.

## **17. Intellectual Property**

The systems, software, structures, infrastructures, databases, codes and contents of any kind (texts, images, visuals, logos, trademarks, databases, etc.) used by OCTO on the Application are protected by all intellectual property rights or rights of the database producers in force.

Any disassembly, decompilation, decryption, extraction, reuse, copy and more generally, any act of reproduction, representation, distribution and use of any of these elements, in whole or in part, without the authorization of OCTO are strictly prohibited and may be subject to legal proceedings.

## **18. Personal data**

OCTO has a personal data protection policy, the characteristics of which are explained in the document entitled "*Privacy Policy*", of which the User is expressly invited to take cognizance here <https://bet-on-you.com/privacy-policy>.

## **19. Authorization to broadcast the image and testimonials**

- 19.1** The User expressly authorizes OCTO to use his profile image for the purposes of illustration on the Site or the Application or for the promotion thereof, by any means and on any medium, worldwide, for the duration of the User's registration on the Application. This authorization is granted free of charge.
- 19.2** For the duration of their use of the Services, Users authorize OCTO to use the testimonials that they publish on the Site or the Application (hereinafter the "**Testimonials**") for the promotion of the Site or the Application, according to the following terms and conditions:
- They agree that their Testimonials may be distributed free of charge by OCTO on the Site and on all other French or foreign websites published by all companies with which the Company has agreements,
  - They agree that their Testimonials may be disseminated by OCTO by any means and on any medium for the purpose of promoting the Application,
  - They accept that their Testimonies be translated into any language,
  - They acknowledge and accept that the Testimonials may be subject to modifications, in particular as regards their framing, format and colors, as well as alterations or degradation in their quality, depending on the technical constraints of the Application,
  - They waive the right to ask OCTO for any remuneration, fees, indemnity or financial compensation in this respect.

## **20. Links and third-party sites**

OCTO may under no circumstances be held liable for the technical availability of websites operated by third parties (including its Partners) to which the User would access through the Application.

OCTO assumes no responsibility for the content, advertising, products and/or services available on such third-party sites, which are governed by their own terms of use.



OCTO is also not responsible for transactions between the User and any advertiser, professional or merchant (including its possible partners) to which the User would be directed through the Application and shall not be party to any dispute whatsoever with these third parties concerning in particular the purchase of products and/or services, guarantees, declarations and other obligations whatsoever to which these third parties are bound.

## **21. Force majeure**

Neither Party may be held liable for failure to perform its contractual obligations if such failure is due to an event beyond the Parties' control and constitutes force majeure, as defined in Article 1218 of the Civil Code.

By force majeure, the parties agree in particular to understand the occurrence of an event with the characteristics of unpredictability and irresistibility usually recognized by French law and courts as well as strikes, terrorist activities, riots, insurrections, wars, government actions, epidemics, natural disasters or default attributable to a third-party telecommunications provider.

The prevented party must inform the other party as soon as possible, indicating the nature of the case of force majeure. The parties will get closer in order to determine together the most appropriate means to mitigate, if possible, the consequences of the event(s) constituting the force majeure.

If the case of force majeure lasts for more than 3 (three) months, either party may terminate the Contract, ipso jure, without legal formality, without notice and without right to compensation of any kind whatsoever, by sending a registered letter with acknowledgement of receipt with immediate effect.

If, as a result of force majeure, the affected party is prevented from fulfilling only part of its contractual obligations, it remains responsible for the fulfilment of the obligations that are not affected by the force majeure as well as its payment obligations.

Upon cessation of the force majeure, the prevented party must immediately inform the other party and resume performance of the affected obligations within a reasonable period of time.

## **22. Advertising**

OCTO reserves the right to insert on any page of the Application and in any communication to Users any advertising or promotional messages in a form and under conditions of which OCTO shall be the sole judge.

## **23. Modifications**

OCTO reserves the right to modify these General Conditions at any time.

Users will be informed of these changes by any useful means.

Users who do not accept the modified General Terms and Conditions must unsubscribe from the Services in accordance with the terms and conditions set forth in the article "Duration of the Services and unsubscription".

Any User who uses the Services after the entry into force of the modified General Terms and Conditions is deemed to have accepted these modifications.

## **24. Language**

In the event of a translation of these general terms and conditions into one or more languages, the language of interpretation shall be the French language in the event of a contradiction or dispute as to the meaning of a term or provision.

## **25. Mediation**

The User has the right to have recourse free of charge to a consumer mediator with a view to the amicable resolution of any dispute relating to the execution of the present document which would oppose him/her to OCTO, under the conditions provided for in Articles L611-1 et seq. and R612-1 et seq. of the Consumer Code.

For this purpose, he can contact the following consumer ombudsman:

Center for Mediation and Amicable Settlement of Judicial Officers (Medicys)

Mailing address: 73 Boulevard de Clichy, 75009 Paris

E-mail address: [contact@medicys.fr](mailto:contact@medicys.fr)

Telephone: 01 49 70 15 93

<https://medicys.fr/>

## **26. Applicable law**

The present general conditions are governed by French law.