

LGPHY Mobile Gaming Terms of Use

1. Acceptance of Terms of Use.

a. By signing up for, installing and/or using the App in any manner, you agree to these Terms of Use and all other operating rules, policies and procedures that may be published from time to time through the App by us, each of which is incorporated by reference and each of which may be updated from time to time without notice to you.

b. Certain of the Services may be subject to additional terms and conditions specified by us from time to time; your use of such Services is subject to those additional terms and conditions, which are incorporated into these Terms of Use by this reference.

c. These Terms of Use apply to all users of the Services, including, without limitation, users who are contributors of content, information, and other materials or services, registered or otherwise.

d. **ARBITRATION NOTICE AND CLASS ACTION WAIVER: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE ARBITRATION SECTION BELOW (SECTION 13), YOU AGREE THAT DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.**

2. You represent and warrant that you are an individual person at least 18 years of age. If you are under age 18, you may not, under any circumstances or for any reason, use the Services. We may, in our sole discretion, refuse to offer the Services to any person or entity and change its eligibility criteria at any time. You are solely responsible for ensuring that these Terms of Use are in compliance with all laws, rules and regulations applicable to you and the right to access the Services is revoked where these Terms of Use or use of the Services is prohibited or to the extent offering, sale or provision of the Services conflicts with any applicable law, rule or regulation. Further, the Services are offered only for your use, and not for the use or benefit of any third party. You are not eligible for our Contests if you violate any provision of these Terms of, as determined in Company's sole discretion.

3. **Registration.** To sign up for the Services, we may require you to register for an Account on the Services (an "Account") or log in via Facebook Connect, Twitter or another authentication mechanism (a "Third Party Account"). You must provide accurate and complete information and keep your Account information updated. If you provide any information that is inaccurate, not current or incomplete, or Company has reasonable grounds to suspect that such information is inaccurate, not current or incomplete, Company may deny you access to Contests, areas requiring registration,

disqualify you from Contests, revoke Prizes, and/or terminate your Account, at its sole discretion.

You shall not: (i) select or use as a username a name of another person with the intent to impersonate that person; (ii) use as a username a name subject to any rights of a person other than you without appropriate authorization; or (iii) use, as a username, a name that is otherwise offensive, vulgar or obscene. You are solely responsible for the activity that occurs on your Account, and for keeping your Account password and login credentials secure. You may never use another person's user Account or registration information for the Services without permission. You must notify us immediately of any change in your eligibility to use the

Services (including any changes to or revocation of any licenses from state authorities), breach of security or unauthorized use of your Account. You should never publish, distribute or post login information for your Account. You shall have the ability to delete your Account, either directly or through a request made to one of our employees or affiliates.

You may establish, maintain, use and control only one Account on the Service. Each Account on the Service may only be owned, maintained, used and controlled by one individual. For avoidance of doubt, users may not "co-own" accounts on the Service. In the event Company determines that you have opened, maintained, used or controlled more than one Account, in addition to any other rights that Company may have, Company reserves the right to suspend or terminate any or all of your accounts and terminate, withhold or revoke the awarding of any Prizes.

Each year all winners over the previous year may be required to provide updated address and social security (or other tax identification number) details to Company. These details will be used to allow Company to comply with tax regulations and may be shared with appropriate tax authorities. You, not Company, are responsible for filing and paying applicable state and federal taxes on any winnings. Company does not provide tax advice, nor should any statements in this Agreement or on the Service be construed as tax advice.

4. Content.

a. Definition. For purposes of these Terms of Use, the term "Content" includes, without limitation, information, data, text, photographs, videos, audio clips, written posts and comments, software, scripts, graphics, and interactive features generated, provided, or otherwise made accessible on or through the Services. For the purposes of this Agreement, "Content" also includes all User Content (as defined below).

b. User Content. All Content added, created, uploaded, submitted, distributed, or posted to the Services by users (collectively "User Content"), whether publicly posted or privately transmitted, is the sole responsibility of the person who originated such User Content. You represent that all User Content provided by you is accurate, complete, up-

to-date, and in compliance with all applicable laws, rules and regulations. You retain ownership of any and all User Content created and/or uploaded by you. You acknowledge that all Content, including User Content, accessed by you using the Services is at your own risk and you will be solely responsible for any damage or loss to you or any other party resulting therefrom. We do not guarantee that any Content you access on or through the Services is or will continue to be accurate.

c. Notices and Restrictions. The Services may contain Content specifically provided by us, our partners or our users and such Content is protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws. You shall abide by and maintain all copyright notices, information, and restrictions contained in any Content accessed through the Services.

d. Use License. Subject to these Terms of Use, we grant each user of the Services a worldwide, non-exclusive, non-sublicensable and non-transferable license to use (i.e., to download and display locally) Content solely for purposes of using the Services. Use, reproduction, modification, distribution or storage of any Content (other than your User Content) for other than purposes of using the Services is expressly prohibited without prior written permission from us. You shall not sell, license, rent, or otherwise use or exploit any Content (other than your User Content) for commercial use or in any way that violates any third party right.

e. License Grant. By submitting User Content through the Services, you hereby do and shall grant us a worldwide, non-exclusive, perpetual, royalty-free, fully paid, sublicensable and transferable license to use, edit, modify, manipulate, truncate, aggregate, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit the User Content in connection with the App, the Services and our (and our successors' and assigns') businesses, including without limitation for promoting and redistributing part or all of the App or the Services (and derivative works thereof) in any media formats and through any media channels (including, without limitation, third party websites and feeds), and including after your termination of your Account or the Services. For the sake of clarity, to the extent any User Content you submit includes your name, likeness, voice, video, or photograph, you acknowledge and agree that the foregoing license of this Section 4(e) shall apply to the same. You also hereby do and shall grant each user of the App and/or the Services a non-exclusive, perpetual license to access your User Content through the App and/or the Services, and to use, edit, modify, reproduce, distribute, prepare derivative works of, display and perform such User Content, including after your termination of your Account or the Services. For clarity, the foregoing license granted to us and our users does not affect your other ownership or license rights in your User Content, including the right to grant additional licenses to your User Content, unless otherwise agreed in writing. You represent and warrant that you have all rights to grant such licenses to us without infringement or violation of any third-party rights, including without limitation, any privacy rights, publicity rights, copyrights, trademarks, contract rights, or any other intellectual property or proprietary rights.

f. Availability of Content. We do not guarantee that any Content will be made available on the App or through the Services. We reserve the right to, but do not have any obligation to, (i) remove, edit or modify or otherwise manipulate any Content in our sole discretion, at any time, without notice to you and for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content or if we are concerned that you may have violated these Terms of Use), or for no reason at all and (ii) to remove or block any Content from the Services.

5. Rules of Conduct.

a. As a condition of use, you promise not to use the Services for any purpose that is prohibited by these Terms of Use. You are responsible for all of your activity in connection with the Services. Violation of our rules may result in the termination and cancellation of your Account and forfeiture of your winnings. You acknowledge and agree that we may terminate any LGPHY Mobile Gaming Account at any time for any reason (including, but not limited to, our independent assessment or the receipt of claims or allegations from third parties or authorities).

b. By way of example, and not as a limitation, you shall not (and shall not permit any third party to) either (a) take any action or (b) upload, download, post, submit or otherwise distribute or facilitate distribution of any Content on or through the Service, including without limitation any User Content, that:

i. infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any other person or entity or violates any law or contractual duty, including but not limited to, facilitating the rebroadcast of the LGPHY Mobile Gaming Services (see our DMCA Copyright Policy in Section 16 below);

ii. uses the Services for any unauthorized purpose, or in violation of any applicable law, including intellectual property laws;

iii. uses screen reader technology, algorithms, or any other automated technological means to interpret, analyze, research, or gain information about a question or submit an answer to a question;

iv. you know is false, misleading, untruthful or inaccurate, including, but not limited to, providing inaccurate contact or Account information;

v. illicitly manufactures benefits by providing inaccurate information, buying or selling such benefits, creating multiple accounts, or other means;

vi. results in the creation or operation of multiple user accounts;

vii. creates multiple entries into Contests, by any means, including multi-accounting;

viii. logs an Account into multiple devices simultaneously;

ix. logs an Account into more than five different devices over the course of the history of the Account;

x. logs multiple Accounts into a single device over the course of the history of any of the Accounts;

xi. enters you into a contest for which you are not eligible, whether by multi-accounting, providing misleading information, masking or altering your IP address, or other means;

xii. results in the sale or transfer of your Account;

xiii. is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, vulgar, pornographic, offensive, profane, contains or depicts nudity, contains or depicts sexual activity, otherwise violates any law or right of any third party, or is otherwise inappropriate as determined by us in our sole discretion;

xiv. constitutes unauthorized or unsolicited advertising, junk or bulk email ("spamming");

xv. contains software viruses or any other computer codes, files, content, or programs that are designed or intended to disrupt, damage, limit or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any system, data, password or other information of ours or of any third party;

xvi. is designed or intended to obtain password, Account, or private information from any LGPHY Mobile Gaming user;

xvii. impersonates any person or entity, including any of our employees, representatives, or users;

xviii. promotes or links to affiliate programs, multi-level marketing schemes, sites repurposing existing stories or off-topic content; or

xix. includes anyone's identification documents or sensitive financial information.

c. You shall not: (i) take any action that imposes or may impose (as determined by us in our sole discretion) an unreasonable or disproportionately large load on our (or our third party providers') infrastructure; (ii) interfere or attempt to interfere with the proper working of the Services or any activities conducted on the Services; (iii) bypass, circumvent or attempt to bypass or circumvent any measures we may use to prevent or restrict access to the Services (or other accounts, computer systems or networks connected to the Services); (iv) run any form of auto-responder or "spam" on the Services; (v) use manual or automated software, devices, or other processes to "crawl" or "spider" any page of the App without our express written permission; (vi) harvest or

scrape any Content from the Services; or (vii) otherwise take any action in violation of our guidelines and policies.

d. You shall not (directly or indirectly): (i) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Services (including without limitation any application), except to the limited extent applicable laws specifically prohibit such restriction, (ii) modify, translate, or otherwise create derivative works of any part of the Services, or (iii) copy, rent, lease, distribute, or otherwise transfer any of the rights that you receive hereunder. You shall abide by all applicable local, state, national and international laws and regulations.

e. We also reserve the right to access, read, preserve, and disclose any information as we reasonably believe is necessary to (i) satisfy any applicable law, regulation, legal process or governmental request, (ii) enforce these Terms of Use, including investigation of potential violations hereof, (iii) detect, prevent, or otherwise address fraud, security or technical issues, (iv) respond to user support requests, or (v) protect the rights, property or safety of us, our users and the public.

f. If for any reason the Service is not running as originally planned (e.g., if it becomes corrupted or does not allow the proper usage and processing of entries in accordance with the rules, or if infection by a computer virus, bugs, tampering, unauthorized intervention, actions by entrants, fraud, technical failures, or any other causes of any kind, in the sole opinion of Company corrupts or affects the administration, security, fairness, integrity or proper conduct of the Service), Company reserves the right, in its sole discretion, to disqualify any individual implicated in or relating to the cause and/or to cancel, terminate, extend, modify or suspend the Service, and select the winner(s) from all eligible entries. If such cancellation, termination, modification or suspension occurs, notification may be posted on the Site.

6. Third-Party Services. The Services may permit you to link to or otherwise access other websites, services or resources on your device and the Internet, and other websites, services or resources may contain links to or be accessed by the Services or the App. These other resources are not under our control, and you acknowledge that we are not responsible or liable for the content, functions, accuracy, legality, appropriateness or any other aspect of such websites or resources. The inclusion of any such link or access does not imply our endorsement or any association between us and their operators. You further acknowledge and agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services available on or through any such website or resource.

7. Location-Based Services. We may offer features that are based on the location of users and which may report on the locations of those users as they use the Services (the "Location-Based Services"). You may partake in using these Location-Based Services solely at your own discretion and may opt out of providing such information by

turning off those features. Should you use Location-Based Services, you are consenting to our collection and dissemination of your location information through the Services. Under no circumstances shall we be liable for claims or damages therefrom arising out of your informed decision to disseminate your location information through the Service.

8. Termination. We may terminate your access to all or any part of the Services at any time, with or without cause, with or without notice, effective immediately, which may result in the forfeiture and destruction of all information associated with your use of the Services. If you wish to terminate your Account, you may do so by removing the App from your device and following the instructions on the App or through the Services. All provisions of these Terms of Use which by their nature should survive termination shall survive termination, including, without limitation, licenses of User Content, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

9. Warranty Disclaimer.

a. We have no special relationship with you or fiduciary duty to you. You acknowledge that we have no duty to take any action regarding:

- i. which users gain access to the Services;
- ii. what Content you access via the Services; or
- iii. how you may interpret or use the Content.

b. You release us from all liability for you having acquired or not acquired Content through the Services. We make no representations concerning any Content contained in or accessed through the Services, and we will not be responsible or liable for the accuracy, copyright compliance, or legality of material or Content contained in or accessed through the Services.

c. The views and opinions of our hosts are their own and not necessarily representative of the views and opinions of the Company or its employees, and the Company assumes no responsibility for the Content, accuracy, or views of or opinions expressed by such hosts.

d. THE SERVICES AND CONTENT ARE PROVIDED "AS IS", "AS AVAILABLE" AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. WE, AND OUR DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, PARTNERS AND CONTENT PROVIDERS DO NOT WARRANT THAT: (I) THE SERVICES WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (II) ANY DEFECTS OR ERRORS WILL BE CORRECTED; (III) ANY CONTENT OR SOFTWARE AVAILABLE

AT OR THROUGH THE SERVICES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (IV) THE RESULTS OF USING THE SERVICES WILL MEET YOUR REQUIREMENTS. YOUR USE OF THE SERVICES IS SOLELY AT YOUR OWN RISK.

10. Indemnification. You shall defend, indemnify, and hold harmless us, our affiliates and each of our and their respective employees, contractors, directors, suppliers and representatives from all liabilities, claims, and expenses, including reasonable attorneys' fees, that arise from or relate to your use or misuse of, or access to, the Services, Content, or otherwise from your User Content, violation of these Terms of Use, or infringement by you, or any third party using your Account or identity in the Services, of any intellectual property or other right of any person or entity. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will assist and cooperate with us in asserting any available defenses.

11. Limitation of Liability. IN NO EVENT SHALL WE, NOR OUR DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SERVICES (I) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, COMPENSATORY OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (HOWEVER ARISING), (II) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGIN), OR (III) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) OF THE GREATER OF (A) THE VALUE OF THE PRIZES YOU HAVE WON DURING THE IMMEDIATELY PREVIOUS THREE (3) MONTH PERIOD OR (B) \$50.00.

12. ARBITRATION CLAUSE & CLASS ACTION WAIVER—IMPORTANT—PLEASE REVIEW AS THIS AFFECTS YOUR LEGAL RIGHTS

12.1. Binding Arbitration

a. Either party may initiate binding arbitration as the sole means to resolve claims, subject to the terms set forth below. Specifically, all claims arising out of or relating to these Terms (including their formation, performance and breach), the parties' relationship with each other and/or your use of the Service shall be finally settled by binding arbitration administered by the JAMS in accordance with the provisions of its Streamlined Arbitration Rules & Procedures, excluding any rules or procedures governing or permitting class actions.

b. The arbitrator, and not any federal, state or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability or formation of these Terms, including, but not limited to any claim that all or any part of these Terms are void or voidable, or whether a claim is

subject to arbitration. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be written, and binding on the parties and may be entered as a judgment in any court of competent jurisdiction.

c. The Commercial Arbitration Rules governing the arbitration may be accessed at www.jamsadr.com. The parties understand that, absent this mandatory provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

12.2 Location

a. If you are a resident of the United States and Canada, arbitration will take place in Atlanta, Georgia.

12.3 Class Action Waiver

a. The parties further agree that any arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. YOU AND COMPANY AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

12.4 Exception—Litigation of Intellectual Property and Small Claims Court Claims

a. Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring an action in state or federal court in Atlanta, GA to protect its intellectual property rights ("intellectual property rights" means patents, copyrights, moral rights, trademarks, and trade secrets, but not privacy or publicity rights). Either party may also seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction.

12.5 30-Day Right to Opt Out

a. You have the right to opt out and not be bound by the arbitration and class action waiver provisions set forth above by sending written notice of your decision to opt out to the following address: Let's Get PHYSICal, LLC. The notice must be sent within 30 days of your first use of the Service, whichever is later, otherwise you shall be bound to arbitrate disputes in accordance with the terms of those paragraphs. If you opt out of these arbitration provisions, Company also will not be bound by them.

12.6 Changes to this Section

a. Company will provide 60-days' notice of any changes to this section. Changes will become effective on the 60th day and will apply prospectively only to any claims arising after the 60th day.

b. For any dispute not subject to arbitration you and Company agree to submit to the personal and exclusive jurisdiction of and venue in the federal and state courts located in Atlanta, GA. You further agree to accept service of process by mail, and hereby waive any and all jurisdictional and venue defenses otherwise available.

c. The Terms and the relationship between you and Company shall be governed by the laws of the State of Georgia without regard to conflict of law provisions.

13. Governing Law and Jurisdiction. These Terms of Use shall be governed by and construed in accordance with the laws of the State of Georgia, including its conflicts of law rules, and the United States of America. You agree that any dispute arising from or relating to the subject matter of these Terms of Use shall be governed by the exclusive jurisdiction and venue of the state and Federal courts of Atlanta, GA.

14. Modification. Except with regarding to Section 13, we reserve the right, in our sole discretion, to modify or replace any of these Terms of Use, or change, suspend, or discontinue the Services (including without limitation, the availability of any feature, database, or content) at any time by posting a notice on the App or by sending you notice through the Services, via email or by another appropriate means of electronic communication. We may also impose limits on certain features and services or restrict your access to parts or all of the Services without notice or liability. While we will timely provide notice of modifications, it is also your responsibility to check these Terms of Use periodically for changes. Your continued use of the Services following notification of any changes to these Terms of Use constitutes acceptance of those changes, which will apply to your continued use of the Services going forward. Your use of the Services is subject to the Terms of Use in effect at the time of such use.

15. DMCA Copyright Policy.

a. The Company has adopted the following general policy toward copyright infringement in accordance with the Digital Millennium Copyright Act. The address of the Designated Agent to Receive Notification of Claimed Infringement ("Designated Agent") is listed at the end of this policy.

b. Procedure for Reporting Copyright Infringement. If you believe that material or content residing on or accessible through the Services infringes a copyright, please send a notice of copyright infringement containing the following information to the Designated Agent listed below:

15.1. A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed;

15.2. Identification of works or materials being infringed;

15.3. Identification of the material that is claimed to be infringing including information regarding the location of the infringing materials that the copyright owner seeks to have removed, with sufficient detail so that Company is capable of finding and verifying its existence;

15.4. Contact information about the notifier including address, telephone number and, if available, email address;

15.5. A statement that the notifier has a good faith belief that the material is not authorized by the copyright owner, its agent, or the law; and

15.6. A statement made under penalty of perjury that the information provided is accurate and the notifying party is authorized to make the complaint on behalf of the copyright owner.

16. Apple Device and Application Terms. In the event you are accessing the Services via an application on a device provided by Apple, Inc. ("Apple") or an application obtained through the Apple App Store (in either case, an "Application"), the following shall apply:

a. Both you and the Company acknowledge that these Terms of Use are concluded between you and the Company only, and not with Apple, and that Apple is not responsible for the Application or the Content;

b. The Application is licensed to you on a limited, non-exclusive, non-transferable, non-sublicensable basis, solely to be used in connection with the Services for your private, personal, non-commercial use, subject to all the terms and conditions of these Terms of Use as they are applicable to the Services;

c. You will only use the Application in connection with an Apple device that you own or control;

d. You acknowledge and agree that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application;

e. In the event of any failure of the Application to conform to any applicable warranty, including those implied by law, you may notify Apple of such failure; upon notification, Apple's sole warranty obligation to you will be to refund to you the purchase price, if any, of the Application;

f. You acknowledge and agree that the Company, and not Apple, is responsible for addressing any claims you or any third party may have in relation to the Application;

g. You acknowledge and agree that, in the event of any third-party claim that the Application or your possession and use of the Application infringes that third party's intellectual property rights, the Company, and not Apple, will be responsible for the investigation, defense, settlement and discharge of any such infringement claim;

h. You represent and warrant that you are not located in a country subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, and that you are not listed on any U.S. Government list of prohibited or restricted parties;

i. Both you and the Company acknowledge and agree that, in your use of the Application, you will comply with any applicable third-party terms of Agreement which may affect or be affected by such use; and

j. Both you and the Company acknowledge and agree that Apple and Apple's subsidiaries are third party beneficiaries of these terms, and that upon your acceptance of these terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these terms against you as the third-party beneficiary hereof.

17. Miscellaneous.

a. Entire Agreement and Severability. These Terms of Use are the entire Agreement between you and us with respect to the Services, including use of the App, and supersede all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and us with respect to the Services. If any provision of these Terms of Use is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms of Use will otherwise remain in full force and effect and enforceable. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder

b. Force Majeure. We shall not be liable for any failure to perform our obligations hereunder where such failure results from any cause beyond our reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation.

c. Assignment. These Terms of Use are personal to you, and are not assignable, transferable or sublicensable by you except with our prior written consent. We may assign, transfer or delegate any of our rights and obligations hereunder without consent.

d. Agency. No agency, partnership, joint venture, or employment relationship is created as a result of these Terms of Use and neither party has any authority of any kind to bind the other in any respect.

e. Notices. Unless otherwise specified in these Term of Service, all notices under these Terms of Use will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or email; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Electronic notices should be sent to support@lgphy.com

f. No Waiver. Our failure to enforce any part of these Terms of Use shall not constitute a waiver of our right to later enforce that or any other part of these Terms of Use. Waiver of compliance in any particular instance does not mean that we will waive compliance in the future. In order for any waiver of compliance with these Terms of Use to be binding, we must provide you with written notice of such waiver through one of our authorized representatives.

g. Headings. The section and paragraph headings in these Terms of Use are for convenience only and shall not affect their interpretation.

h. Relationships. The App is not sponsored, endorsed, administered by, or associated with Apple or its subsidiaries or affiliates.

Contact. You may contact us at the following email address:

support@lgphy.com

Effective Date of Terms of Use: 02/02/2020

IMPORTANT NOTICE: THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION AND A WAIVER OF CLASS ACTION RIGHTS AS DETAILED IN SECTION 13 BELOW

Please read these Terms of Use (collectively with the LGPHY Mobile Gaming Privacy Policy and the LGPHY Mobile Gaming “Terms of Use”) fully and carefully before using any LGPHY Mobile Gaming applications (the “App”) and the services, features, content or applications (together with the App, the “Services”) offered by Let’s Get PHYSICal, LLC (“Company,” “we”, “us” or “our”). These Terms of Use set forth the legally binding terms and conditions for your use of the App and the Services.

LGPHY RADIO

Terms of Use

Welcome to LGPHY ARCADE & Radio™, a service provided by Let's Get PHYSICal, LLC™ ("LGPHY", "we" "our", or "us").

These Terms of Use govern your use of lgphy.com and m.lgphy.com (together, the "Website"), our mobile and desktop apps (our "Apps") and all related players, widgets, tools, features, applications, data, software, APIs (which may also be subject to separate API Terms of Use) and other services provided by LGPHY Radio (the "Services").

These Terms of Use and any other terms specifically referred to in any of those documents, all of which are incorporated by reference into these Terms of Use, constitute a legally binding contract (the "Agreement"), between you and LGPHY Radio in relation to your use of the Website, Apps and Services (together, the "Platform").

Please also be sure to review our Privacy Policy for more information on how we collect and use data relating to the use and performance of the Platform, as well as our responsibilities and your rights in relation to any processing of your personal data.

These Terms of Use consist of the following sections:

- **Acceptance of Terms of Use Basically**, by using LGPHY Radio® you accept our Terms of Use and agree to abide by them.
- **Changes to Terms of Use** This section explains that our terms of Use may change from time to time.
- **Description of the Platform** This provides a general description of the Platform, its features and functionality.
- **Your LGPHY Radio account** This section explains your responsibilities should you choose to register for a LGPHY Radio® account.
- **Your Use of the platform** This section sets out your right to use the Platform, and the conditions that apply to your use of the Platform.
- **Your content** This section deals with ownership of your content, and includes your agreement not to upload anything that infringes on anyone else's rights.
- **Grant of license** This section explains how your content will be used on LGPHY Radio® and the permissions that you grant by uploading your content – for example, the right for other users to listen to your sounds.
- **Representations and warranties** This section includes important promises and guarantees that you give when uploading content to LGPHY Radio® – in particular, your promise that everything you upload and share is owned by you and won't infringe anyone else's rights.
- **Liability for content** This section explains that LGPHY Radio is a hosting service and that its users are solely liable for material that they upload to LGPHY Radio®.
- **Reporting infringements** This section explains how to notify us of any content on LGPHY Radio® that you believe infringes your copyright or any other

intellectual property right, or that is unlawful, abusive, defamatory or otherwise contrary to our Terms of Use.

Third party websites and services Through LGPHY Radio® you may have access to other websites and services. This section explains that these are separate third party services that are not under the control of LGPHY Radio.

Blocking and removal of content This section makes it clear that LGPHY Radio may block or remove content from the Platform.

Repeat infringers Users who repeatedly infringe third party rights or breach our Terms of Use risk having their LGPHY Radio® accounts suspended or terminated, as explained in this section.

Disclaimer This section explains that LGPHY Radio® cannot give any guarantees that the Platform will always be available – sometimes even a platform as awesome as ours will have a few problems.

Limitation of liability This section explains some of those things that LGPHY Radio will not be liable for. Please make sure you read and understand this section.

Indemnification If you use the Platform in a way that results in damage to us, you will need to take responsibility for that.

Data protection and privacy It is really important to us that you understand how we use your personal information. All information is collected, stored and used in accordance with our Privacy Policy, so please make sure that you read and understand that policy.

Linkups This section deals with LGPHY Radio® linkups and explains that these are not "official" LGPHY Radio events, so we cannot be responsible for anything that happens at linkups.

Competitions and other promotions This section deals with competitions, contests and sweepstakes on LGPHY Radio®. These are not run by LGPHY Radio, and therefore we cannot be responsible for them. If you want to run your own competition on LGPHY Radio.

Use of LGPHY Radio players and widget This section includes a few restrictions on how you can use our players and widgets – basically, don't try to use our players to create a new music or audio streaming service.

Changes to the Platform and accounts From time to time, we may need to make some changes to LGPHY Radio®. This section explains your rights in this situation.

Termination This section explains how you can terminate your LGPHY Radio® account, and the grounds on which we can terminate your use of LGPHY Radio®.

Assignment to third parties This section deals with LGPHY Radio's right to transfer this agreement to someone else.

Severability This is a standard legal provision, which says that any term that is not valid will be removed from the agreement without affecting the validity of the rest of the agreement.

Entire agreement Your use of LGPHY Radio® is governed by these Terms of Use and our Privacy Policy. Any changes need to be made in writing.

Third party rights These Terms of Use apply to the relationship between you and LGPHY Radio only.

Applicable law and jurisdiction All of our documents are generally governed by US law.

Disclosures This section provides information about LGPHY Radio, including how to contact us.

Acceptance of Terms of Use

Please read these Terms of Use, Privacy Policy, very carefully. If you do not agree to any of the provisions set out in those documents, you should not use the Website, Apps or any of the Services. By accessing or using the Platform, registering an account, or by viewing, accessing, streaming, uploading or downloading any information or content from or to the Platform, you represent and warrant that you have read and understood the Terms of Use, will abide by them, and that you are either 18 years of age or more, or the applicable age of majority in your jurisdiction, or if you are under 18 years of age or the age of majority in your jurisdiction, you are 16 years of age or more if you reside in the European Union or 13 years of age or more if you reside in the United States or anywhere else.

Changes to Terms of Use

We reserve the right to change, alter, replace or otherwise modify these Terms of Use at any time, for example to address legal or regulatory changes or changes to features or functionality made available through the Platform, in our discretion. The date of last modification is stated at the end of these Terms of Use. It is your responsibility to check this page from time to time for updates.

When we make any material changes to these Terms of Use, we will provide you with prominent notice under the circumstances, including for example displaying a notice within the Platform and/or by sending you an email to the email address that you have provided us or a message to your LGPHY Radio account, and the revised Terms of Use will become effective two (2) weeks after such notification.

You will have no obligation to continue using the Platform following any such notification, but if you do not terminate your account as described in the Termination section below during such two (2) week period, your continued use of the Platform after the end of that two (2) week period will constitute your acceptance of the revised Terms of Use.

Description of the Platform

The Platform is a hosting service. Registered users of the Platform may submit, upload and post audio, text, photos, pictures, graphics, comments, and other content, data or information ("Content"), which will be stored by LGPHY Radio at the direction of such registered users, and may be shared and distributed by such registered users, and other users of the Platform, using the tools and features provided as part of the Platform and accessible via the Website, Apps and elsewhere. The Platform also enables registered users to interact with one another and to contribute to discussions, and enables any user of the

Website, Apps or certain Services (who may or may not be registered users of the Platform) to view, listen to and share Content uploaded and made available by registered users.

The Platform also includes social and interactive features that enable users to engage with and learn from the LGPHY Radio community in order to build a following and ensure you get the content that interests you most. For example, users who upload content to LGPHY Radio will gain access to our creator stats feature, which provides creators with insights into how the content they upload fares among users, including which users are top listeners and downloaders of such content.

In order to make the Platform available for free and provide you with personally relevant features, we serve tailored ads on the Platform on behalf of third party advertisers. To that end, we use information that you make available to us when you interact with the Platform to inform the nature of the ads we show you and provide you with a customized experience. More information on how we use data to show you personalized ads is described in our Privacy Policy.

We may, from time to time, release new tools and resources on the Website, release new versions of our Apps, or introduce other services and/or features for the Platform. Any new services and features will be subject to these Terms of Use as well as any additional terms and conditions that we may release for those specific services or features.

Your LGPHY Radio account

You are not obliged to register to use the Platform. However, access to the Apps and certain Services is only available to registered users. As an example, our App, LGPHY ARCADE enables registered users to upload their content in an effort to be featured within the app for a 24 hour period.

When you register to use the Platform, you will provide us with your email address and will choose a username for your account. You must ensure that the email address that you provide is, and remains, valid. Your email address and any other information you chose to provide about yourself will be treated in accordance with our Privacy Policy.

You are solely responsible for maintaining the confidentiality and security of your username and you will remain responsible for all use of your username and all activity emanating from your account, whether or not such activity was authorized by you.

You can change your username at any time inside the LGPHY ARCADE App.

We reserve the right to disallow, cancel, remove or reassign certain usernames and permalinks in appropriate circumstances, as determined by us in our sole discretion, and may, with or without prior notice, suspend or terminate your account if activities occur on that account which, in our sole discretion, would or might constitute a violation of these Terms of Use, or an infringement or violation of the rights of any third party, or of any applicable laws or regulations.

You may terminate your account at any time as described in the Termination section below.

Your use of the Platform

Subject to your strict compliance with these Terms of Use at any and all times during your use of the Platform, LGPHY Radio grants you a limited, personal, non-exclusive, revocable, non-assignable and non-transferable right and license to use the Platform in order to view Content uploaded and posted to the Website, to listen to audio Content streamed from the Platform or offline and to share and download audio Content using the features of the Platform where the appropriate functionality has been enabled by the user who uploaded the relevant Content (the "Uploader"), and subject to the territorial availability of that feature and audio Content.

In addition, if you register to use the Platform, and subject to your strict compliance with these Terms of Use at any and all times during your use of the Platform, LGPHY Radio grants you a limited, personal, non-exclusive, revocable, non-assignable and non-transferable right and license to:

- (i) submit, upload or post Content to and keep such Content available on the Platform strictly as permitted in accordance with these Terms of Use and any other applicable terms posted on the Website from time to time;
- (ii) participate in the community areas and communicate with other members of the LGPHY Radio® community strictly in accordance with these Terms of Use;
- (iii) use Apps and other Services provided as part of the Platform strictly as permitted in accordance with these Terms of Use and any other terms applicable to those Apps or Services from time to time.

The above licenses are conditional upon your strict compliance with these Terms of Use at any and all times during your use of the Platform, including, without limitation, the following:

- (i) You must not copy, rip or capture, or attempt to copy, rip or capture, any audio Content from the Platform or any part of the Platform, other than by means of download or store for offline listening in circumstances where the relevant Uploader has elected to permit downloads or offline listening of the relevant item of Content.
- (ii) You must not adapt, copy, republish, make available or otherwise communicate to the public, display, perform, transfer, share, distribute or otherwise use or exploit any Content on or from the Platform at any and all times, except (i) where such Content is Your Content at any and all times during your use of the applicable Content, or (ii) as permitted under these Terms of Use, and within the parameters set by the Uploader.
- (iii) You must not use any Content (other than Your Content) in any way that is designed to create a separate content service or that replicates any part of the Platform offering.
- (iv) You must not employ scraping or similar techniques to aggregate, repurpose, republish or otherwise make use of any Content.
- (v) You must not employ any techniques or make use of any services, automated or otherwise, designed to misrepresent the popularity of Your Content on the Platform, or to misrepresent your activity on the Platform, including without limitation by the use of bots, botnets, scripts, apps, plugins, extensions or other automated means to register accounts, log in, add followers to your account, play Content, follow or unfollow other users, send messages, post comments, or otherwise to act on your behalf, particularly where such activity occurs in a multiple or repetitive fashion. You must not offer or promote the availability of any such techniques or services to any other users of the Platform.

(vi) You must not alter or remove, or attempt to alter or remove, any trademark, copyright or other proprietary or legal notices contained in, or appearing on, the Platform or any Content appearing on the Platform (other than Your Content).

(vii) You must not, and must not permit any third party to, copy or adapt the object code of the Website or any of the Apps or Services, or reverse engineer, reverse assemble, decompile, modify or attempt to discover any source or object code of any part of the Platform, or circumvent or attempt to circumvent or copy any copy protection mechanism or territorial restrictions or access any rights management information pertaining to Content other than Your Content.

(viii) You must not use the Platform to upload, post, store, transmit, display, copy, distribute, promote, make available, continue to make available or otherwise communicate to the public:

- any Content that is abusive, libelous, defamatory, pornographic or obscene, that promotes or incites violence, terrorism, illegal acts, or hatred on the grounds of race, ethnicity, cultural identity, religious belief, disability, gender, identity or sexual orientation, or is otherwise objectionable in LGPHY Radio's reasonable discretion;
- any information, Content or other material that violates, plagiarizes, misappropriates or infringes the rights of third parties including, without limitation, copyright, trademark rights, rights of privacy or publicity, confidential information or any other right; or
- any Content that violates, breaches or is contrary to any law, rule, regulation, court order or is otherwise is illegal or unlawful in LGPHY Radio's reasonable opinion;
- any material of any kind that contains any virus, Trojan horse, spyware, adware, malware, bot, time bomb, worm, or other harmful or malicious component, which or might overburden, impair or disrupt the Platform or servers or networks forming part of, or connected to, the Platform, or which does or might restrict or inhibit any other user's use and enjoyment of the Platform; or
- any unsolicited or unauthorized advertising, promotional messages, spam or any other form of solicitation.

(ix) You must not commit or engage in, or encourage, induce, solicit or promote, any conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law or regulation.

(x) You must not rent, sell or lease access to the Platform, or any Content on the Platform, although this shall not prevent you from including links from Your Content to any legitimate online download store from where any item of Your Content may be purchased.

(xi) You must not deliberately impersonate any person or entity or otherwise misrepresent your affiliation with a person or entity, for example, by registering an account in the name of another person or company, or sending messages or making comments using the name of another person.

(xii) You must not stalk, exploit, threaten, abuse or otherwise harass another user, or any LGPHY Radio employee.

(xiii) You must not use or attempt to use another person's account, password, or other information, unless you have express permission from that other person.

(xiv) You must not sell or transfer, or offer to sell or transfer, any LGPHY Radio account to any third party without the prior written approval of LGPHY Radio.

(xv) You must not collect or attempt to collect personal data, or any other kind of information about other users, including without limitation, through spidering or any form of scraping.

(xvi) You must not violate, circumvent or attempt to violate or circumvent any data security measures employed by LGPHY Radio or any Uploader; access or attempt to access data or materials which are not intended for your use; log into, or attempt to log into, a server or account which you are not authorized to access; attempt to scan or test the vulnerability of LGPHY Radio's servers, system or network or attempt to breach LGPHY Radio's data security or authentication procedures; attempt to interfere with the Website or the Services by any means including, without limitation, hacking LGPHY Radio's servers or systems, submitting a virus, overloading, mail-bombing or crashing. Without limitation to any other rights or remedies of LGPHY Radio under these Terms of Use, LGPHY Radio reserves the right to investigate any situation that appears to involve any of the above, and may report such matters to, and co-operate with, appropriate law enforcement authorities in prosecuting any users who have participated in any such violations.

You agree to comply with the above conditions at any and all times during your use of the Platform, and acknowledge and agree that LGPHY Radio has the right, in its sole discretion, to terminate your account or take such other action as we see fit if you breach any of the above conditions or any of the other terms of these Terms of Use. This may include taking court action and/or reporting offending users to the relevant authorities.

Your content

Any and all audio, text, photos, pictures, graphics, comments, and other content, data or information that you upload, store, transmit, submit, exchange or make available to or via the Platform (hereinafter "Your Content") is generated, owned and controlled solely by you, and not by LGPHY Radio.

LGPHY Radio does not claim any ownership rights in Your Content, and you hereby expressly acknowledge and agree that Your Content remains your sole responsibility.

Without prejudice to the conditions set forth in Your Use of the Platform you must not upload, store, distribute, send, transmit, display, perform, make available, continue to make available or otherwise communicate to the public any Content to which you do not hold the necessary rights. In particular, any unauthorized use of copyright protected material within Your Content (including by way of reproduction, distribution, modification, adaptation, public display, public performance, preparation of derivative works, making available or otherwise communicating to the public via the Platform), independent of whether it is or becomes unauthorized at a later point, may constitute an infringement of third party rights and is *strictly prohibited*. Any such infringements may result in termination of your access to the Platform as described in the Repeat Infringers section below, and may also result in civil litigation or criminal prosecution by or on behalf of the relevant rightsholder.

We may, from time to time, invite or provide you with means to provide feedback regarding the Platform, and in such circumstances, any feedback you provide will be deemed non-confidential and LGPHY Radio shall have the right, but not the obligation, to use such feedback on an unrestricted basis.

Grant of license

By uploading or posting Your Content to the Platform, you initiate an automated process to transcode any audio Content and direct LGPHY Radio to store Your Content on our servers, which may or may not be featured on any or all of LGPHY, LLC websites, apps, or affiliates. To the extent it is necessary in order for LGPHY Radio to provide you with any of the aforementioned hosting services, to undertake any of the tasks set forth in these Terms of Use, including the distribution of advertising or other promotional material on our Platform and/or to enable your use of the Platform, you hereby grant such licenses to LGPHY Radio on a limited, worldwide, non-exclusive, royalty-free and fully paid basis.

By uploading Your Content to the Platform, you also grant a limited, worldwide, non-exclusive, royalty-free, fully paid up, license to other users of the Platform, and to operators and users of any other websites, apps and/or platforms to which Your Content has been shared, to use, copy, listen to offline, repost, transmit or otherwise distribute, publicly display, publicly perform, adapt, prepare derivative works of, compile, make available and otherwise communicate to the public. Your Content utilizing the features of the Platform from time to time, and within the parameters set by you using the Services. Notwithstanding the foregoing, nothing in these Terms of Use grants any rights to any other user of the Platform with respect to any proprietary name, logo, trademark or service mark uploaded by you as part of Your Content (for example, your profile picture) ("Marks"), other than the right to reproduce, publicly display, make available and otherwise communicate to the public those Marks, automatically and without alteration, as part of the act of reposting sounds with which you have associated those Marks.

The licenses granted in this section are granted separately with respect to each item of Your Content that you upload to the Platform. Licenses with respect to audio Content will (subject to the following paragraph of these Terms of Use) terminate automatically within 24 hour if your content is chosen to be featured. Licenses with respect to comments or other contributions that you make on the Platform will be perpetual and irrevocable, and will continue notwithstanding any termination of your account.

Once your music is uploaded, you cannot "undo" it. It may or may not be uploaded to the platform for a feature. However, notwithstanding the foregoing, you hereby acknowledge and agree that once Your Content is featured LGPHY Radio is not obligated to ensure the deletion of Your Content from any servers or systems operated by the operators of any Linked Service, or to require that any user of the Platform or any Linked Service deletes any item of Your Content. Furthermore, if you authorize any of Your Content to be available for offline listening, after deletion of an item of Your Content or removal from the ability for other users to listen to the applicable Content offline, the applicable Content may still be temporarily available to other users of the Platform who saved the applicable Content for offline listening on their devices, but no longer than 30 days from the time of deletion.

Any Content other than Your Content is the property of the relevant Uploader, and is or may be subject to copyright, trademark rights or other intellectual property or proprietary rights. Such content may not be downloaded, reproduced, distributed, transmitted, re-uploaded, republished, displayed, sold, licensed, made available or otherwise

communicated to the public or exploited for any purposes except via the features of the Platform from time to time and within the parameters set by the Uploader on the Platform or with the express written consent of the Uploader. Where you repost another user's Content, or include another user's Content in a playlist or station or where you listen to another user's Content offline, you acquire no ownership rights whatsoever in that Content. Subject to the rights expressly granted in this section, all rights in Content are reserved to the relevant Uploader.

Representations and warranties

You hereby represent and warrant to LGPHY Radio as follows: (i) Your Content, and each and every part thereof, is an original work by you, or you have obtained all rights, licenses, consents and permissions necessary in order to use at any and all times during any applicable use, and (if and where relevant) to authorize LGPHY Radio to use, Your Content pursuant to these Terms of Use, including, without limitation, the right to upload, reproduce, store, transmit, distribute, share, publicly display, publicly perform, make available (including for listening offline) and otherwise communicate to the public Your Content, and each and every part thereof, on, through or via the Platform, any and all Services and any Linked Services.

(ii) Your Content and the availability thereof on the Platform does not and will not infringe or violate the rights of any third party, including, without limitation, any intellectual property rights, performers' rights, rights of privacy or publicity, or rights in confidential information.

(iii) You have obtained any and all necessary consents, permissions and/or releases from any and all persons appearing in Your Content in order to include their name, voice, performance or likeness in Your Content and to publish the same on the Platform and via any Linked Services.

(iv) Your Content, including any comments that you may post on the Website, is not and will not be unlawful, abusive, libelous, defamatory, pornographic or obscene, and will not promote or incite violence, terrorism, illegal acts, or hatred on the grounds of race, ethnicity, cultural identity, religious belief, disability, gender, identity or sexual orientation.

(v) Your Content does not and will not create any liability on the part of LGPHY Radio, its subsidiaries, affiliates, successors, and assigns, and their respective employees, agents, directors, officers and/or shareholders. LGPHY Radio reserves the right to remove Your Content, suspend or terminate your access to the Platform and/or pursue all legal remedies if we believe that any of Your Content breaches any of the foregoing representations or warranties, or otherwise infringes another person's rights or violates any law, rule or regulation.

Liability for content

You hereby acknowledge and agree that LGPHY Radio (i) stores content and other information at the direction, request and with the authorization of its users, (ii) acts merely as a passive conduit and/or host for the uploading, storage and distribution of such content, and (iii) plays no active role and gives no assistance in the presentation or use of the content. You are solely responsible for all of Your Content that you upload, post or distribute to, on or through the Platform, and to the extent permissible by law, LGPHY

Radio excludes all liability with respect to all content (including Your Content) and the activities of its users with respect thereto.

You hereby acknowledge and agree that LGPHY Radio briefly reviews content uploaded by its users, and neither LGPHY Radio nor its subsidiaries, affiliates, successors, assigns, employees, agents, directors, officers and shareholders has any obligation, and may, but does not undertake or assume any duty to, monitor the Platform for content that is inappropriate, that does or might infringe any third party rights, or has otherwise been uploaded in breach of these Terms of Use or applicable law.

LGPHY Radio and its subsidiaries, affiliates, successors, assigns, employees, agents, directors, officers and shareholders hereby exclude, to the fullest extent permitted by law, any and all liability which may arise from any content uploaded to the Platform by users, including, but not limited to, any claims for infringement of intellectual property rights, rights of privacy or publicity rights, any claims relating to publication of abusive, defamatory, pornographic, or obscene material, or any claims relating to the completeness, accuracy, currency or reliability of any information provided by users of the Platform. By using the Platform, you irrevocably waive the right to assert any claim with respect to any of the foregoing against LGPHY Radio or any of its subsidiaries, affiliates, successors, assigns, employees, agents, directors, officers or shareholders.

Reporting infringements

If you discover any content on the Platform that you believe infringes your copyright, please report this to us through email support@lgphy.com.

Third party websites and services

The Platform may provide you with access to third party websites, databases, networks, servers, information, software, programs, systems, directories, applications, products or services, including without limitation, linked services (hereinafter "External Services").

LGPHY Radio does not have or maintain any control over External Services, and is not and cannot be responsible for their content, operation or use. By linking or otherwise providing access to any External Services, LGPHY Radio does not give any representation, warranty or endorsement, express or implied, with respect to the legality, accuracy, quality or authenticity of content, information or services provided by such External Services.

External Services may have their own terms of use and/or privacy policy, and may have different practices and requirements to those operated by LGPHY Radio with respect to the Platform. You are solely responsible for reviewing any terms of use, privacy policy or other terms governing your use of these External Services, which you use at your own risk. You are advised to make reasonable enquiries and investigations before entering into any transaction, financial or otherwise, and whether online or offline, with any third party related to any External Services.

External services

You are solely responsible for taking the precautions necessary to protect yourself from fraud when using External Services, and to protect your computer systems from viruses, worms, Trojan horses, and other harmful or destructive content and material that may be included on or may emanate from any External Services.

LGPHY Radio disclaims any and all responsibility or liability for any harm resulting from your use of External Services, and you hereby irrevocably waive any claim against LGPHY Radio with respect to the content or operation of any External Services.

Blocking and removal of content

Notwithstanding the fact that LGPHY Radio has no legal obligation to monitor the content on the Platform, LGPHY Radio reserves the right to block, remove or delete any content at any time, and to limit or restrict access to any content, for any reason and without liability, including without limitation, if we have reason to believe that such content does or might infringe the rights of any third party, has been uploaded or posted in breach of these Terms of Use or is otherwise unacceptable to LGPHY Radio..

Repeat infringers

LGPHY Radio will suspend or terminate your access to the Platform if LGPHY Radio determines, in its reasonable discretion, that you have repeatedly breached these Terms of Use.

If we receive a valid notification from a third party in accordance with our reporting processes or applicable law that any of Your Content infringes the copyright or other rights of such third party we will send you a warning to this effect. Any user that receives more than two of these warnings is liable to have their access to the Platform terminated forthwith.

We will also suspend or terminate your account without warning if ordered to do so by a court, and/or in other appropriate circumstances, as determined by LGPHY Radio at its discretion. Please note we do not offer refunds to Subscription account holders whose accounts are terminated as a result of repeated infringement or any violation of these Terms of Use.

Disclaimer

THE PLATFORM, INCLUDING, WITHOUT LIMITATION, THE WEBSITE, THE APPS AND ALL CONTENT AND SERVICES ACCESSED THROUGH OR VIA THE WEBSITE, THE APPS, THE SERVICES OR OTHERWISE, ARE PROVIDED "AS IS", "AS AVAILABLE", AND "WITH ALL FAULTS".

WHILST LGPHY RADIO USES REASONABLE ENDEAVORS TO CORRECT ANY ERRORS OR OMISSIONS IN THE PLATFORM AS SOON AS PRACTICABLE ONCE THEY HAVE BEEN BROUGHT TO LGPHY RADIO'S ATTENTION, LGPHY RADIO MAKES NO PROMISES, GUARANTEES, REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER (EXPRESS OR IMPLIED) REGARDING THE WEBSITE, THE APPS, THE SERVICES OR ANY PART OR PARTS THEREOF, ANY CONTENT, OR ANY LINKED SERVICES OR OTHER EXTERNAL SERVICES. LGPHY RADIO DOES NOT WARRANT THAT YOUR USE OF THE PLATFORM WILL BE UNINTERRUPTED, TIMELY,

SECURE OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE PLATFORM OR ANY PART OR PARTS THEREOF, THE CONTENT, OR THE SERVERS ON WHICH THE PLATFORM OPERATES ARE OR WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. LGPHY RADIO DOES NOT WARRANT THAT ANY TRANSMISSION OF CONTENT UPLOADED TO THE PLATFORM WILL BE SECURE OR THAT ANY ELEMENTS OF THE PLATFORM DESIGNED TO PREVENT UNAUTHORIZED ACCESS, SHARING OR DOWNLOAD OF CONTENT WILL BE EFFECTIVE IN ANY AND ALL CASES, AND DOES NOT WARRANT THAT YOUR USE OF THE PLATFORM IS LAWFUL IN ANY PARTICULAR JURISDICTION.

LGPHY RADIO AND ITS SUBSIDIARIES, AFFILIATES, SUCCESSORS, AND ASSIGNS, AND THEIR RESPECTIVE EMPLOYEES, AGENTS, DIRECTORS, OFFICERS AND SHAREHOLDERS, SPECIFICALLY DISCLAIM ALL OF THE FOREGOING WARRANTIES AND ANY OTHER WARRANTIES NOT EXPRESSLY SET OUT HEREIN TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING WITHOUT LIMITATION ANY EXPRESS OR IMPLIED WARRANTIES REGARDING NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

WHERE THE LAW OF ANY JURISDICTION LIMITS OR PROHIBITS THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES AS SET OUT ABOVE, THE ABOVE DISCLAIMERS SHALL NOT APPLY TO THE EXTENT THAT THE LAW OF SUCH JURISDICTION APPLIES TO THIS AGREEMENT.

Limitation of Liability

IN NO EVENT SHALL LGPHY RADIO'S AGGREGATE LIABILITY TO YOU UNDER THIS AGREEMENT.

LGPHY RADIO AND ITS SUBSIDIARIES, AFFILIATES, SUCCESSORS, AND ASSIGNS, AND THEIR RESPECTIVE EMPLOYEES, AGENTS, DIRECTORS, OFFICERS AND SHAREHOLDERS, SHALL HAVE NO LIABILITY FOR:

1. ANY LOSS OR DAMAGE ARISING FROM:

(A) YOUR INABILITY TO ACCESS OR USE THE PLATFORM OR ANY PART OR PARTS THEREOF, OR TO ACCESS ANY CONTENT OR ANY EXTERNAL SERVICES VIA THE PLATFORM;

(B) ANY CHANGES THAT LGPHY RADIO MAY MAKE TO THE PLATFORM OR ANY PART THEREOF, OR ANY TEMPORARY OR PERMANENT SUSPENSION OR CESSATION OF ACCESS TO THE PLATFORM OR ANY CONTENT IN OR FROM ANY OR ALL TERRITORIES;

(C) ANY ACTION TAKEN AGAINST YOU BY THIRD PARTY RIGHTSHOLDERS WITH RESPECT TO ANY ALLEGED INFRINGEMENT OF SUCH THIRD PARTY'S RIGHTS RELATING TO YOUR CONTENT OR YOUR USE OF THE PLATFORM, OR ANY ACTION TAKEN AS PART OF AN INVESTIGATION BY LGPHY RADIO OR ANY RELEVANT LAW ENFORCEMENT AUTHORITY REGARDING YOUR USE OF THE PLATFORM;

(D) ANY ERRORS OR OMISSIONS IN THE PLATFORM'S TECHNICAL OPERATION, OR FROM ANY INACCURACY OR DEFECT IN ANY CONTENT OR ANY INFORMATION RELATING TO CONTENT;

(E) YOUR FAILURE TO PROVIDE LGPHY RADIO WITH ACCURATE OR COMPLETE INFORMATION, OR YOUR FAILURE TO KEEP YOUR USERNAME OR PASSWORD SUITABLY CONFIDENTIAL;

- (F) ANY MISCONDUCT BY OTHER USERS OR THIRD PARTIES USING THE PLATFORM, ESPECIALLY IN BREACH OF THE AGREEMENT;
2. ANY LOSS OR DAMAGE TO ANY COMPUTER HARDWARE OR SOFTWARE, ANY LOSS OF DATA (INCLUDING YOUR CONTENT), OR ANY LOSS OR DAMAGE FROM ANY SECURITY BREACH; AND/OR
 3. ANY LOSS OF PROFITS, OR ANY LOSS YOU SUFFER WHICH IS NOT A FORESEEABLE CONSEQUENCE OF LGPHY RADIO BREACHING THESE TERMS OF USE. LOSSES ARE FORESEEABLE WHERE THEY COULD BE CONTEMPLATED BY YOU AND LGPHY RADIO AT THE TIME YOU AGREE TO THESE TERMS OF USE, AND THEREFORE DO NOT INCLUDE ANY INDIRECT LOSSES, SUCH AS LOSS OF OPPORTUNITY.

ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO YOUR USE OF THE PLATFORM MUST BE NOTIFIED TO LGPHY RADIO AS SOON AS POSSIBLE.

APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH CASES, YOU ACKNOWLEDGE AND AGREE THAT SUCH LIMITATIONS AND EXCLUSIONS REFLECT A REASONABLE AND FAIR ALLOCATION OF RISK BETWEEN YOU AND LGPHY RADIO AND ARE FUNDAMENTAL ELEMENTS OF THE BARGAIN BETWEEN YOU AND LGPHY RADIO, AND THAT LGPHY RADIO'S LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

NOTHING IN THESE TERMS OF USE LIMITS OR EXCLUDES THE LIABILITY OF LGPHY RADIO, ITS SUBSIDIARIES, SUCCESSORS, ASSIGNS, OR THEIR RESPECTIVE EMPLOYEES, AGENTS, DIRECTORS, OFFICERS AND/OR SHAREHOLDERS: (I) FOR ANY DEATH OR PERSONAL INJURY CAUSED BY ITS OR THEIR NEGLIGENCE, (II) FOR ANY FORM OF FRAUD OR DECEIT, (III) FOR ANY DAMAGES CAUSED WILFULLY OR BY GROSS NEGLIGENCE, OR (IV) FOR ANY FORM OF LIABILITY WHICH CANNOT BE LIMITED OR EXCLUDED BY LAW.

Indemnification

You hereby agree to indemnify, defend and hold harmless LGPHY Radio, its successors, assigns, affiliates, agents, directors, officers, employees and shareholders from and against any and all claims, obligations, damages, losses, expenses, and costs, including reasonable attorneys' fees, resulting from:

- (i) any violation by you of these Terms of Use;
- (ii) any third party claim of infringement of copyright or other intellectual property rights or invasion of privacy arising from the hosting of Your Content on the Platform, and/or your making available thereof to other users of the Platform, and/or the actual use of Your Content by other users of the Platform or Linked Services in accordance with these Terms of Use and the parameters set by you with respect to the distribution and sharing of Your Content;
- (iii) any activity related to your account, be it by you or by any other person accessing your account with or without your consent unless such activity was caused by the act or default of LGPHY Radio.

Data protection and privacy

All personal data that you provide to us in connection with your use of the Platform is collected, stored, used, disclosed and otherwise processed by LGPHY Radio in accordance with our Privacy Policy.

Linkups

LGPHY Radio has an active community of users, many of whom organize and attend face-to-face meetings at venues all over the world ("Linkups"). While LGPHY Radio is generally supportive of Meetups and may provide branded promotional materials to help organizers promote their Meetups, LGPHY Radio does not sponsor, oversee or in any way control such Meetups. You hereby acknowledge and agree that your attendance and participation in any Meetups is entirely at your own risk and LGPHY Radio does not bear any responsibility or liability for the actions of any LGPHY Radio users or any third parties who organize, attend or are otherwise involved in any Meetups.

Competitions and other promotions

From time to time, some LGPHY Radio® users may promote competitions, promotions, prize draws and other similar opportunities on the Platform ("Third Party Competitions"). LGPHY Radio is not the sponsor or promoter of these Third Party Competitions, and does not bear any responsibility or liability for the actions or inactions of any third parties who organize, administer or are otherwise involved in any promotion of these Third Party Competitions. If you wish to participate in any of these Third Party Competitions, it is your responsibility to read the terms and conditions applicable to the relevant Third Party Competition and to ensure that you understand the rules and any eligibility requirements, and are lawfully able to participate in such Third Party Competitions in your country of residence.

Use of LGPHY Radio players and widget

The Platform includes access to customizable players ("Players"), and an embeddable version of the LGPHY Radio waveform player ("Widget") for incorporation into users' own sites, third party sites or social media profiles, whether or not a Linked Service. This functionality is provided to enable Uploaders to put their Content without the guarantee of being featured.

You may not, without the prior written consent of LGPHY Radio, use the Players or the Widget in such a way that you aggregate Content from the Platform into a separate destination that replicates substantially the offering of the Website, or comprises a content service of which Content from the Platform forms a material part. Similarly, you may not, without the prior written consent of LGPHY Radio, use the Players or the Widget to embed Content into any website or other destination dedicated to a particular artist (except where the relevant Content is Your Content and you are the person or are authorized to represent the person to whom the site or destination is dedicated), or to a particular genre. You may not use the Players or Widget in any way that suggests that LGPHY Radio or any artist, audio creator or other third party endorses or supports your website, or your use of the Players or Widget. The foregoing shall apply whether such use is commercial or non-commercial.

LGPHY Radio reserves the right to block your use of the Players and the Widget at any time and for any reason in its sole discretion.

Changes to the Platform and accounts

LGPHY Radio reserves the right at any time and for any reason to suspend, discontinue, terminate or cease providing access to the Platform or any part thereof, temporarily or permanently, and whether in its entirety or with respect to individual territories only. In the case of any temporary or permanent suspension, discontinuation, termination or cessation of access, LGPHY Radio shall use its reasonable endeavors to notify registered users of such decision in advance.

You hereby agree that LGPHY Radio and its subsidiaries, affiliates, successors, assigns, employees, agents, directors, officers and shareholders shall not be liable to you or to any third party for any changes or modifications to the Website, Apps and/or any Services that LGPHY Radio may wish to make from time to time, or for any decision to suspend, discontinue or terminate the Website, the Services or any part or parts thereof, or your possibility to use or access the same from or within any territory or territories.

LGPHY Radio may change the features of any type of account, may withdraw or, or introduce new features, products or types of account at any time and for any reason.

Termination

LGPHY Radio may suspend your access to the Platform and/or terminate this Agreement at any time if (i) you are deemed to be a Repeat Infringer as described above; (ii) you are in breach of any of the material provision of these Terms of, including without limitation, the provisions of the following sections: Your Use of the Platform, Your Content, Grant of License , and Your Representations and Warranties; (iii) LGPHY Radio elects at its discretion to cease providing access to the Platform in the jurisdiction where you reside or from where you are attempting to access the Platform, or (iv) in other reasonable circumstances as determined by LGPHY Radio at its discretion.

Once your account has been terminated, any and all Content residing in your account, or pertaining to activity from your account (for example, data relating to the distribution or consumption of your sounds), will be irretrievably deleted by LGPHY Radio, except to the extent that we are obliged or permitted to retain such content, data or information for a certain period of time in accordance with applicable laws and regulations and/or to protect our legitimate business interests. You are advised to save or back up any material that you have uploaded to your account before terminating your account, as LGPHY Radio assumes no liability for any material that is irretrievably deleted following any termination of your account. LGPHY Radio is not able to provide you with any .csv or other similar file of data relating to activity associated with your account, whether before or after termination or cancellation. This data is provided and is accessible only for viewing via your account page on the Website for as long as your account is active.

If you access the Platform via any of our Apps or via any third party app connected to your account, deleting that app will not delete your account. If you wish to delete your account, you will need to do so from the Account page within your Settings on the Website. The provisions of these Terms of Use that are intended by their nature to survive the termination or cancellation of this Agreement will survive the termination of this

Agreement, including, but not limited to, those Sections entitled Your LGPHY Radio Account, Your Content, Grant of License , Representations and Warranties, Liability for Content, Disclaimer, Limitation of Liability, Indemnification, Termination and Right of Cancellation, Assignment to Third Parties, Severability, Entire Agreement, and Applicable Law and Jurisdiction, respectively.

Assignment to third parties

LGPHY Radio may assign its rights and (where permissible by law) its obligations under this Agreement, in whole or in part, to any third party at any time without notice, including without limitation, to any person or entity acquiring all or substantially all of the assets or business of LGPHY Radio. You may not assign this Agreement or the rights and duties hereunder, in whole or in part, to any third party without the prior written consent of LGPHY Radio.

Severability

Should one or more provisions of these Terms of Use be found to be unlawful, void or unenforceable, such provision(s) shall be deemed severable and will not affect the validity and/or enforceability of the remaining provisions of the Terms of Use, which will remain in full force and effect.

Entire agreement

The Terms of Use constitute the entire agreement between you and LGPHY Radio with respect to your use of the Platform (other than any use of LGPHY Radio's APIs which may also be subject to separate [API Terms of Use]), and supersede any prior agreement between you and LGPHY Radio. Any modifications to this Agreement must be made in writing.

Third party rights

These Terms of Use are not intended to give rights to anyone except you and LGPHY Radio. This does not affect our right to transfer our rights or obligations to a third party as described in the Assignment to Third Parties section.

Applicable law and jurisdiction

Except where otherwise required by the mandatory law of the United States or any member state of the European Union

(i) this Agreement is subject to the laws of the United States of America, excluding the UN Convention on Contracts for the International Sale of Goods (CISG) and excluding the principles of conflict of laws (international private law); and

(ii) you hereby agree, and LGPHY Radio agrees, to submit to the exclusive jurisdiction of the courts in Atlanta, Georgia USA for resolution of any dispute, action or proceeding arising in connection with this Agreement.

The foregoing provisions of this Applicable Law and Jurisdiction section do not apply to any claim in which LGPHY Radio seeks equitable relief of any kind. You acknowledge that, in the event of a breach of this Agreement by LGPHY Radio or any third party, the damage or harm, if any, caused to you will not entitle you to seek injunctive or other equitable relief against LGPHY Radio, including with respect to Your Content, and your only remedy shall be for monetary damages, subject to the limitations of liability set forth in these Terms of Use.

Disclosures

The services hereunder are offered by Let's Get PHYSICal, LLC with its main place of business locate in Atlanta, GA. You may contact us by emailing us at support@lgphy.com.