



## Zokay Entertainment

### GPI Terms Of Use

Last Updated:

13<sup>th</sup> January 2014



#### Scope & Acceptance of Terms

THESE TERMS OF USE ("**TERMS**") IS A LEGAL AGREEMENT BETWEEN YOU ("**YOU**" OR "**YOUR**") AND MEDIARAX ENTERPRISES LTD D/B/A ZOKAY ENTERTAINMENT ("**ZOKAY/ US/ WE/OUR**"). BY ACCESSING THE ZOKAY GPI WEBSITE, OR BY DOWNLOADING OR OTHERWISE USING THE WEBSITE CONTENT YOU AGREE THAT YOU HAVE READ, UNDERSTOOD, ACCEPT AND AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE SERVICE AND CANCEL ANY ACCOUNTS YOU HAVE CREATED WITH ZOKAY.

ZOKAY'S [PRIVACY POLICY](#) IS EXPRESSLY INCORPORATED INTO THIS AGREEMENT BY REFERENCE.

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#### **Gambling Prohibition**

**The Website and all content thereon is strictly for entertainment purposes and must not be used for or in connection with any form of gambling.**

#### **Revised Terms**

Zokay reserves the right, in its sole discretion, to modify or change these Terms, in whole or in part, at any time by posting the changes on or within the Website. Your continued use of the Website following the posting of such changes constitutes your acceptance of the revised Terms. **It is your responsibility to check and read the latest version of the terms.** If the modified Terms are not acceptable to you, you must stop using the Website. You agree that Zokay may discontinue or change any part of the Website, including its content, at any time, for any reason, without notice and without liability to you.

Zokay reserves the right, in its sole and unfettered discretion, to modify, suspend or discontinue the Website, the Website Content (both defined below), or any license granted to you hereof, or any part thereof without notice to you. Any updates to the Website and to the Website Content shall be subject to these Terms.

#### **Introduction**

The Global Poker Index is a mathematical ranking system that utilizes tournament results to calculate the relative ability and performance of poker players and rank, including without limitation the top 300 live tournament poker players in the world, 1,000 poker players for GPI's "Player of the Year" distinction and the top 10 ranked players worldwide (collectively "**GPI**").

Zokay owns and operates the website located at the following URL: [www.globalpokerindex.com](http://www.globalpokerindex.com) ("**Website**"). In particular, Zokay owns, or licenses and publishes the content and services found on the Website, including without limitation all features, materials, information, content, text, design, graphics, logos, icons, trademarks, images, audio

and video clips, and software appearing on or offered on the Website, as well as the selection, assembly and arrangement thereof, the GPI, scores, performance, rankings, GPI 300 and GPI TOP 10 (collectively “**Website Content**”).

### **GPI Exclusion of Players**

We at GPI and Zokay believe that in order for poker to flourish and grow, the games of poker as well as the actions of poker players must be unblemished from actual or suspected immoral or unfair behaviour. In particular, players that cheat spoil the game of poker for everybody.

Zokay reserves the right, in its sole and unfettered discretion, to remove individual poker players and /or the player’s results from the GPI database and/or the GPI website for any reason whatsoever. Such reasons may include without limitation, allegations or suspicions of cheating – of any nature or type, actions by the player that are immoral or otherwise bring their own reputation or that of poker into disrepute.

Removal of players will occur without notice and Zokay’s decision to remove a player from the GPI database and/or website will be final. Such removal by Zokay, will not incur any compensation or payment to any player or third party. Neither will Zokay be liable for any damages (howsoever arising), and any such liability is excluded to fullest extent permitted, that a player may allege has occurred due to any removal from the GPI database or site

If you believe that you have been removed from the GPI in error, please contact us at [gpi@zokay.com](mailto:gpi@zokay.com).

### **Eligibility**

To use, access or view the Website, you must be a natural person, at least 18 years old. At our sole discretion, we may require proof that you meet this condition in connection with your use of the Website.

### **Geographic Restrictions – Void Where Prohibited**

Not all features, products or services discussed, referenced, provided or offered through the Website are available to all persons, in all geographic locations, or at all times. Access to the Website may not be legal in certain countries. If you access the Website from outside the US or EU, you do so on your own initiative and are responsible for compliance with local laws.

### **Facebook Disclaimer**

You agree and acknowledge, as condition of participating in the Website, that Facebook does not sponsor, endorse, administer, or is in any way associated with the Website. All questions regarding the Website must be directed to Zokay, not Facebook. You also agree that as a condition of participating in the Website you shall release Facebook from any and all liability arising out of your participation in the Website.

### **Privacy**

**Zokay** will only use any personal information that you provide in connection with your use of the Website in accordance with the terms of our Privacy Policy available at <http://www.globalpokerindex.com/privacy-policy>. By accessing or using the Website, you consent to the collection, use and storage of your information as outlined in the Privacy Policy. Questions regarding privacy issues should be directed via email to [gpi@zokay.com](mailto:gpi@zokay.com).

## **GPI CONTENT LICENSES**

### **GPI TOP 10 License**

Subject to your agreement and continual compliance with all of the conditions set out in these Terms, the Privacy Policy and any applicable rules and directions as issued by Zokay from time to time, Zokay grants you a personal, non-exclusive, non-transferable, limited, revocable license, without the right to sub-license, and solely in respect of the GPI TOP 10 of the GPI 300 list (“**GPI TOP 10**”), to:

- (i) Reproduce and display the GPI TOP 10 both on and offline (website, print, newsletter, catalogs, magazines, newspapers, periodicals, leaflets, promotional or advertising materials); and
- (ii) Reproduce and display the GPI TOP 10 in relation to the advertising and the promotion of Zokay, the GPI, as well as in relation to rights particular to fair use (i.e. commenting, newsworthy) to the extent that such fair use is carried out in a ‘de minimise’ manner, on the GPI TOP 10.

You must include, affix and/or append with each reproduction and display of the GPI TOP 10:

- (i) the following intellectual property attribution:

“Data licensed by Global Poker Index ([www.globalpokerindex.com](http://www.globalpokerindex.com)). Patent Pending. All Rights Reserved. © Zokay Entertainment 2013.”

- (ii) The “Global Poker Index” and/or “GPI” trademarks and logos shall also be affixed to the display, reproduction or data feed; and

In respect of (i) and (ii) above, both affixations shall be in the manner used by Zokay or as per Zokay’s instructions.

**Restrictions** You hereby acknowledge that your license to use the Website, Website Content and the GPI TOP 10 is limited by these Terms. If you violate, or if at any time you do not agree to any of these Terms, your license to use the Website, Website Content and the GPI TOP 10 shall immediately terminate and you must immediately stop using, remove and/or refrain from using the Website, Website Content and the GPI TOP 10.

You must not amend, change, edit or modify the look and feel or design of the format of the GPI TOP 10 or any of the GPI trademarks, or do anything that would detract, dilute or otherwise degrade the intellectual property rights of Zokay.

**Data Feed License** Zokay provides data feeds of its GPI content to third parties, subject to your entering into a license agreement. If you would like further information as to how to obtain the rights to receive and display a GPI data feed, please contact us via [gpi@zokay.com](mailto:gpi@zokay.com) – stating Data Feed in the subject matter.

**Other Website Content** If you wish to obtain permission to quote, reproduce or represent any Website Content, please contact us at [gpi@zokay.com](mailto:gpi@zokay.com).

**Intellectual Property Rights; Reservation**

“**Intellectual Property**” shall mean any and all rights existing from time to time under patent, copyright, moral rights, trade secret, trade dress, trademark, database, unfair competition, publicity rights, privacy rights law, and any and all other proprietary laws and rights, all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide.”

The Website, Website Content, GPI TOP 10, data feed and all Intellectual Property therein or arising there from are the sole property of or are licensed to Zokay and are protected by international Intellectual Property laws and treaties. All rights not expressly granted in these Terms are expressly reserved.

You shall not, nor shall you permit, allow or cause any other party to: modify, decompile, disassemble, reverse engineer, copy, transfer, create derivative works from, rent, sub-license, distribute, reproduce, frame, republish, scrape, download, display, transmit, post, lease and/or sell in any form or by any means, in whole or in part, or use or exploit, for any purpose, the Website or any Website Content (in whole or in part) otherwise than in compliance with these Terms. Use of the Website and the Website Content other than in compliance with these Terms is strictly prohibited and may subject you to civil and /or criminal penalties.

You may not access the Website (including the Website Content) to build similar or competing websites. You are strictly prohibited from, and agree not to modify, adapt, translate, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of any software or data feed contained on the Website or any part of it or to create, publish or distribute derivative works from any software contained on the Website or from any Website Content.

You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Website.

You acknowledge and agree that you do not acquire any ownership rights by using the Website, or by accessing any of the Website Content or rights to any derivative works thereof.

**Any other use of the Website, of the Website Content and of the GPI TOP 10 is strictly prohibited.**

## **Termination**

Zokay may, without notice and without liability to you, refuse you access to the Website or any licenses granted to you herein at any time, including but not limited to a threatened or suspected violation of these Terms or of any license terms granted to you hereof, or the illegal or improper use of any account you may have with Zokay, the Website, and/or User Contributions (defined below), Zokay's Intellectual Property, or as otherwise determined by Zokay in its sole and unfettered discretion.

## **User Contributions & Feedback**

The Website may include various forums, blogs, and chat rooms where you and other users can post your observations and comments ("**User Contribution**"). Zokay cannot and does not guarantee that other users, whether registered or unregistered with the Website, will not use the ideas and information that you share. Therefore, if you have an idea or information that you would like to keep confidential do not post it on the Website.

ZOKAY IS NOT RESPONSIBLE AND HEREBY EXCLUDES TO THE FULLEST EXTENT PERMITTED BY LAW, FOR YOUR OR ANY USER'S, PROVISION, USE, MISUSE OR MISAPPROPRIATION OF ANY CONTENT OR INFORMATION POSTED IN ANY FORUMS, BLOGS AND CHAT ROOMS.

You acknowledge and agree that you are solely responsible for all User Contributions that you make available via the Website. You represent and warrant that: (i) you are either the sole and exclusive owner of all User Contribution that you make available through the Website or that you have all rights, licenses, consents and releases that are necessary to grant to Zokay the rights in such User Contributions as contemplated under these Terms; and (ii) neither the User Contributions nor your posting, uploading, publication, submission or transmittal of the User Contributions or Zokay's use of the User Contributions (or any portion thereof) on, through or by means of the Website will infringe, misappropriate or violate a third party's patent, copyright, trademark, trade secret, moral rights or any other proprietary or intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

Zokay may or may not monitor or regulate User Contributions and provides no representations or guarantees regarding the accuracy, quality, or integrity of any User Contributions posted on the Website. You acknowledge that chats, postings, or materials posted by users are neither endorsed nor controlled by Zokay, and these communications should not be considered as being reviewed or approved by Zokay.

By using the Website you acknowledge and accept that you may be exposed to material you find offensive or objectionable. You are solely responsible for your activities in connection with User Contribution and You agree that Zokay will not, under any circumstances, be responsible or liable for any User Contributions, including, but not limited to, errors in any User Contributions or any loss or damage incurred by use of the User Contributions or for any failure or delay in removing User Contributions.

Zokay reserves the right (but shall at no time be obligated) to, in its sole discretion, remove, block, edit, move, disable or permanently delete you or User Contributions from the Website, with or without notice, for any reason whatsoever. You hereby agree that, to the maximum extent permitted by applicable law, Zokay shall at no time be responsible or held liable for the removal, modification or blocking of material or User Contributions and shall at no time be obligated to effect such removal.

Zokay shall have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity of anyone posting any materials on or through the Website. YOU WAIVE AND HOLD HARMLESS ZOKAY FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ZOKAY DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER ZOKAY OR LAW ENFORCEMENT AUTHORITIES.

## **User Contributions License**

By making available any User Contributions through the Website, you hereby grant to Zokay a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free license, with the right to sublicense, to use, copy, adapt, modify, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast, access, view, and otherwise exploit in such manner, whether for commercial, non-commercial or promotional purposes, as Zokay in its sole and unfettered discretion decides.

## **Feedback License**

Subject to the license that you must grant to Zokay hereunder, Zokay welcomes and encourages your feedback, comments and suggestions for changes or improvements to the Website ("**Feedback**"). You may submit Feedback by emailing us at [gpi@zokay.com](mailto:gpi@zokay.com).

You acknowledge and agree that all Feedback will be the sole and exclusive property of Zokay and you hereby irrevocably assign to Zokay and agree to irrevocably assign to Zokay all of your right, title, and interest in and to all Feedback, including without limitation all worldwide patent, copyright, trade secret, trademark, moral rights and other proprietary or intellectual property rights therein. At Zokay's request and reasonable expense, you will execute all such documents and take such further acts as Zokay may reasonably request to assist Zokay to acquire, perfect, and maintain its intellectual property rights in and other legal protections for the Feedback.

#### **User Contributions & Feedback; No Payment**

**You acknowledge that any and all User Contributions and Feedback that you provide to Zokay is done so voluntarily and that Zokay shall not be obligated to remunerate you or any other person or entity even if Zokay subsequently uses the same.**

By using the Website you acknowledge and accept that you may be exposed to material you find offensive or objectionable. You are solely responsible for your activities in connection with User Contribution and You agree that Zokay will not, under any circumstances, be responsible or liable for any User Contributions, including, but not limited to, errors in any User Contributions or any loss or damage incurred by use of the User Contributions or for any failure or delay in removing User Contributions.

Zokay reserves the right (but shall at no time be obligated) to, in its sole discretion, remove, block, edit, move, disable or permanently delete you or User Contributions from the Website, with or without notice, for any reason whatsoever. You hereby agree that, to the maximum extent permitted by applicable law, Zokay shall at no time be responsible or held liable for the removal, modification or blocking of material or User Contributions and shall at no time be obligated to effect such removal.

Zokay shall have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity of anyone posting any materials on or through the Website. YOU WAIVE AND HOLD HARMLESS ZOKAY FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ZOKAY DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER ZOKAY OR LAW ENFORCEMENT AUTHORITIES.

#### **Promotional Activities – Publicity Release**

By registering for any promotion, you agree that Zokay may display your name, prize winnings on the Website and Zokay's promotional material. By accepting any prize from the Website, you agree to allow us to publish, print, broadcast and use, worldwide, in any media at any time, now or hereafter created, your name, picture, voice, likeness, and/or biographical information for promotional purposes without additional compensation and execute such releases as we may require for this purpose.

#### **Links to Third Party Sites**

The Website may contain links to third-party websites or resources that are not owned or controlled by Zokay. You acknowledge and agree that Zokay is not responsible or liable for: (i) the availability or accuracy of such websites or resources; or (ii) the content, products, or services on or available from such websites or resources. Zokay does not control nor does it review, research, verify, validate or approve the third-party sites to which the Website may be linked. Such links, therefore, do not imply any endorsement by Zokay of such websites or resources or the content, products, or services available from such websites or resources. You acknowledge sole responsibility for and assume all risk arising from your use of any such websites or resources.

#### **Claims of Defamation**

**UK Defamation Act 2013:** in accordance with England's Defamation Act complaints regarding alleged defamatory content on our Websites ("**Problematic Content**"), as received by Zokay shall either: (i) be forwarded to the author who then has 5 days in which to respond in writing. Failure by the author to respond within this time line shall result in the removal of the Problematic Content within a further 48 hour period, or (ii) Zokay may, in its unfettered discretion decide to remove the Problematic Content within 48 hours of the complaint with or without recourse to the author. In the event that an author does not consent to the removal of the Problematic Content, Zokay is obliged to inform the complainant of such response and its content within 48 hours of receiving the same from the author. Refusal or failure of an author to provide: (i) its name and address to Zokay, or (ii) any response, or (iii) it appears to

Zokay that the Problematic Content is obviously false, or (iv) if Zokay is unable to communicate with the author, shall result in Zokay removing the Problematic Content within the 48 hours deadline.

Please address any claims of alleged defamatory content to [legal@zokay.com](mailto:legal@zokay.com) inserting 'Defamation Content' in the header of the email and include sufficient particularly (details) as to (i) your claim and (ii) where we can find the alleged defamatory content. Please also include your name and address in the email.

#### **DMCA Notice**

##### **Reporting Claims of Copyright Infringement**

Zokay Entertainment ("Zokay") takes claims of copyright infringement seriously. We will respond to notices of alleged copyright infringement that comply with applicable law. If you believe any materials accessible on or from any Zokay website, SNS application or game, or service (collectively "Website(s)") infringes your copyright, you may request the removal of those materials from the Website by submitting written notification to our Copyright Agent (designated below).

In accordance with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) ("DMCA"), the written notice ("DMCA Notice") must include the following:

- Your physical or electronic signature;
- Identification of the copyrighted work you believe to have been infringed, or if the claim involves multiple works on the Website, a representative list of such works;
- Identification of the material you believe to be infringing in a sufficiently precise manner to allow us to locate that material;
- Adequate information by which we can contact you (including your name, postal address, telephone number and e-mail address);
- A statement that you have a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent or the law;
- A statement that the information in the written notice is accurate; and
- A statement, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

**If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective.**

**Please be aware that if you knowingly materially misrepresent that material or activity on the Website is infringing your copyright, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.**

FAO: Legal Counsel  
Zokay Entertainment  
120 The Strand  
Gzira, Malta, Europe, 1017

Please email: [legal@Zokay.com](mailto:legal@Zokay.com) with the words "DMCA Counter – Notice" in the subject line.

##### **Counter-Notification Procedures**

If you believe that material you posted on the Website was removed or access to it was disabled by mistake or misidentification, you may file a counter-notification with us (a "Counter-Notice") by submitting written notification to our copyright agent (identified below). Pursuant to the DMCA, the Counter-Notice must include substantially the following:

- Your physical or electronic signature;
- An identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access disabled;
- Adequate information by which we can contact you (including your name, postal address, telephone number and, if available, e-mail address);
- A statement under penalty of perjury by you that you have a good faith belief that the material identified above was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
- A statement that you will consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located (or if you reside outside the United States for any judicial district in which the Website may be found) and that you will accept service from the person (or an agent of that person) who provided the Website with the complaint at issue.

Completed Counter-Notices should be sent to the address set out above.

The DMCA allows us to restore the removed content if the party filing the original DMCA Notice does not file a court action against you within ten business days of receiving the copy of your Counter-Notice.

**Please be aware that if you knowingly materially misrepresent that material or activity on the Website was removed or disabled by mistake or misidentification, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.**

#### **Repeat Infringers**

It is our policy in appropriate circumstances to disable and/or terminate the accounts of users who are repeat infringers.

Our designated Copyright Agent to receive DMCA Notices & Counter Notices is:

FAO: Legal Counsel

Zokay Entertainment

c/o 120 The Strand

Gzira, Malta, Europe, 1017

Please email: [legal@Zokay.com](mailto:legal@Zokay.com) with the words "DMCA Counter – Notice" in the subject line.

#### **Updates to the Website; Maintenance**

Zokay conducts maintenance work on its system from time to time. You acknowledge and agree that Zokay may update the Website with or without notifying you. Zokay may require that you accept updates to the Website and you may also need to update third party software from time to time in order to receive the Website. A portion, or sometimes all, of the features of the Website may not be available during maintenance periods.

#### **DISCLAIMER OF WARRANTIES**

THE WEBSITE, WEBSITE CONTENT AND ANY SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY. TO THE FULLEST EXTENT PERMITTED BY LAW, ZOKAY AND ZOKAY'S AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND LICENSORS (COLLECTIVELY, "**ZOKAY PARTIES**") EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH YOUR USE OF THE WEBSITE, WEBSITE CONTENT AND/OR ANY SERVICES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AS WELL AS ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, CUSTOM OR USAGE OF TRADE.

THE ZOKAY PARTIES MAKE NO WARRANTY THAT THE WEBSITE, WEBSITE CONTENT AND/OR ANY SERVICES WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS; NOR IS ANY WARRANTY PROVIDED REGARDING THE QUALITY, ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF THE WEBSITE, WEBSITE CONTENT AND ANY SERVICES. YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE WEBSITE AND/OR ANY SERVICES AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE WEBSITE, WEBSITE CONTENT AND/OR ANY SERVICES.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

#### **LIMITATION OF LIABILITY**

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our Website for any reconstruction of any lost data.

ZOKAY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE SERVICES OR ITEMS OBTAINED THROUGH THE SERVICE OR TO YOUR DOWNLOADING OF ANY WEBSITE CONTENT POSTED ON THE WEBSITE, OR ON ANY SERVICE LINKED TO IT.

YOU ACKNOWLEDGE AND AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE ENTIRE RISK ARISING OUT OF YOUR ACCESS TO AND USE OF THE WEBSITE, WEBSITE CONTENT AND/OR ANY SERVICES REMAINS WITH YOU. NEITHER THE ZOKAY PARTIES NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE WEBSITE, WEBSITE CONTENT AND/OR ANY SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA, LOSS OF A CHANCE, LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE, THE COST OF SUBSTITUTE PRODUCTS OR SERVICES, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE WEBSITE, WEBSITE CONTENT AND ANY SERVICES, OR FROM ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF THE SERVICES OR OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SERVICES, WHETHER BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE ZOKAY PARTIES HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE; EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

NOTWITHSTANDING THE FOREGOING, IN NO EVENT WILL THE ZOKAY PARTIES' AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE WEBSITE, WEBSITE CONTENT AND/OR ANY SERVICES EXCEED TWO HUNDRED UNITED STATES DOLLARS (\$200).

THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN ZOKAY AND YOU. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

IN NO EVENT, SHALL ZOKAY BE LIABLE FOR ANY MALFUNCTIONS OF THE WEBSITE, WEBSITE CONTENT AND/OR ANY SERVICES, BUGS OR VIRUSES, RESULTING IN LOST DATA OR ANY OTHER DAMAGE TO YOUR COMPUTER EQUIPMENT OR SOFTWARE. FURTHER, ZOKAY IS NOT REQUIRED TO PROVIDE REDUNDANT OR BACKUP NETWORK AND/OR SYSTEMS.

NOTHING IN THESE TERMS AND CONDITIONS WILL OPERATE SO AS TO EXCLUDE ANY LIABILITY ZOKAY MAY HAVE IN RESPECT OF FRAUD OR DEATH OR PERSONAL INJURY CAUSED BY ZOKAY'S NEGLIGENCE.

### **Indemnity**

You agree to indemnify, save, and hold Zokay Parties harmless from any claims, losses, damages, liabilities, including legal fees, costs and expenses, arising out of or in connection with:

- Your use or misuse of the Website, Website Content, services or User Contributions;
- Any violation by you of these Terms;
- Any breach of the representations, warranties, and covenants made by you herein; and/or
- Your violation of Zokay's and/or any third party rights, including without limit any intellectual property right and in particular rights relating to copyright, privacy or publicity rights.

Zokay reserves the right, at your expense, to assume the exclusive defence and control of any matter for which you are required to indemnify the Zokay Parties and you agree to cooperate with Zokay's defence of these claims. The Zokay Parties will use reasonable efforts to notify you of any such claim, action, or proceeding upon becoming aware of it. **You agree that the provisions in this Indemnity section will survive any termination, howsoever arising, of your Account or of your access to the Website.**

If you are a California resident, you waive California Civil Code §1542, which states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favour at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor."

If you are a resident of any other jurisdiction that requires a similar waiver for the foregoing release to be enforceable, you hereby waive any applicable statutes of that jurisdiction.

### **Miscellaneous**

#### **Limitation On Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OR THE IN RESPECT OF THE WEBSITE, WEBSITE CONTENT AND/OR ANY SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM SHALL BE PERMANENTLY BARRED.



**Entire Agreement**

These Terms constitute the entire and exclusive understanding and agreement between Zokay and you regarding the Website. These Terms supersede and replace any and all prior oral or written understandings or agreements between Zokay and you regarding the Website, or Website Content.

**Assignment**

You may not assign these Terms or any rights arising hereunder, by operation of law or otherwise, without Zokay's prior written consent; any attempt by you to assign these Terms or any rights arising hereunder, without such consent, will be void. Zokay may assign or transfer these Terms, at its sole discretion, without restriction. Notwithstanding the foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.

**Notices**

Any and all notices or service of legal proceedings (collectively "Notices") must be in writing and given: (a) by Zokay to you - either (i) via email, or (ii) by posting to the Website, or (b) by you to Zokay - if sent to Zokay's Legal Department, 2<sup>nd</sup> Floor, Yamraj Building, Road Town, Tortola, BVI.

All Notices shall only take effect upon posting to the Website or if sent via mail upon receipt by Zokay.

**California Consumer Notice**

Under California Civil Code Section 1789.3, California users are entitled to the following consumer rights notice: This Website is provided by Mediarex Enterprises Ltd, d/b/a Zokay Entertainment, c/o 120 The Strand, Gzira, Malta, Europe, 1017. If you have a question or complaint regarding the Website, please contact Customer Website at [gpi@zokay.com](mailto:gpi@zokay.com). You may also contact us by writing to Zokay, Attn: Legal Dept., c/o 120 The Strand, Gzira, Malta, Europe, 1017. California residents may reach the Complaint Assistance Unit of the Division of Consumer Website of the California Department of Consumer Affairs by post at 1625 North Market Blvd., Sacramento, CA 95834 or by telephone at (916) 445-1254 or (800) 952-5210.

**Survival**

The obligations and terms set out herein, which by their nature should survive, including, but not limited to any and all obligations relating to Intellectual Property and Ownership, Limitation of Liability, Disclaimer of Warranties, Indemnity, User Contributions, Feedback, User Conduct & Usage, Intellectual Property, Governing Law and Jurisdiction, Limitation on Time to File Claims, Assignment, Waiver and Severability will remain in full force and effect after termination or expiration, howsoever arising, of these Terms.

**Equitable Relief**

Without prejudice to any other rights or remedies that the Zokay may have, you acknowledge and agree that damages alone would not be an adequate remedy for any breach of the provisions of these Terms by you. Accordingly, Zokay shall be entitled, without proof of special damages, or requirement to post bond or guarantee, to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of these Terms.

**Waiver; Severability**

The failure of Zokay to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Zokay. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise. If for any reason a court of competent jurisdiction finds any provision of these Terms invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect.

**Governing Law and Jurisdiction**

These Terms and any action related thereto will be governed by the laws of England & Wales without regard to any conflict of law's provisions. You agree that the courts situated in England shall have exclusive jurisdiction and venue of any action with respect to the subject matter or, or any matter connected to or arising from these Terms.

However, Zokay retains the right to bring any suit, action or proceeding against you for breach of these Terms in your country of residence or any other relevant country.

The Website and all related services are brought to you by Mediarex Enterprises Ltd, 2<sup>nd</sup> Floor, Yamraj Building, Road Town, Tortola, BVI, d/b/a Zokay Entertainment.

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