

## TERMS AND CONDITIONS

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY TOGETHER WITH EACH OF THE DOCUMENTS REFERENCED IN SECTION 1.2 BELOW (THESE TERMS AND CONDITIONS TOGETHER WITH EACH OF THE DOCUMENTS REFERENCED IN SECTION 1.2 BELOW ARE COLLECTIVELY REFERRED TO HEREIN AS THE “**AGREEMENTS**”). BY SIGNING THESE TERMS AND CONDITIONS, YOU ACKNOWLEDGE THAT YOU HAVE READ AND ACCEPT THE AGREEMENTS WITHOUT MODIFICATION. IF YOU DO NOT ACCEPT THE AGREEMENTS WITHOUT MODIFICATION, DO NOT SIGN THESE TERMS AND CONDITIONS AND DO NOT ACCESS OR USE THE MGM APP (AS DEFINED BELOW). THE AGREEMENTS ARE SUBJECT TO CHANGE AT ANY TIME IN ACCORDANCE WITH SECTION 18 BELOW. ANY DISPUTES CONCERNING THE AGREEMENTS ARE SUBJECT TO BINDING ARBITRATION IN ACCORDANCE WITH SECTION 16 BELOW. IF YOU HAVE ANY QUESTIONS ABOUT THE AGREEMENTS, PLEASE SEEK INDEPENDENT LEGAL COUNSEL BEFORE SIGNING THESE TERMS AND CONDITIONS OR ACCESSING OR USING THE MGM APP.

The Agreements apply to the combined playMGM on-premises mobile gaming app and Nevada in-state mobile sports book app (together the “**MGM App**”) provided by THE MIRAGE CASINO-HOTEL, 3400 Las Vegas Boulevard South, Las Vegas, Nevada 89109 (“**MGM**,” “**we**,” “**our**” or “**us**”) and is a legally binding contract between us and anyone who accesses or uses the MGM App (“**you**” or “**your**”). As used in the Agreements, the word “**including**” means including, without limitation.

### 1. APPLICABILITY OF AGREEMENTS

**1.1.** The MGM App is offered subject to your acceptance without modification of the Agreements. After you sign these Terms and Conditions, the Agreements will constitute a legally binding contract between you and us. By downloading, installing, accessing, or using the MGM App, you agree to be bound by all of the terms and conditions of the Agreements as such Agreements may be amended by us from time-to-time in our sole and complete discretion in accordance with Section 18 hereof. Please check the Agreements periodically for any amendments. Your continued access or use of the MGM App following any amendments to the Agreements constitutes your acceptance of the Agreements as amended.

**1.2.** The Agreements include the following documents, which you should read carefully because they are part of a legally binding contract between you and MGM: (a) these Terms and Conditions; (b) our Privacy Policy; (c) The Mirage Race and Sports Book House Rules including Race Book House Rules, Pari-Mutuel House Rules, Pari-Mutuel Race Wagering Accounts, Non Pari-Mutuel House Rules, Greyhound Payoff Limits, Sports Book House Rules, and Off The Board Payoffs; (d) Mobile Wagering Accounts (Race & Sports Book) Rules and Regulations; (e) Live Action In-Play House Rules; (f) M life Program Rules; and (g) any other documents provided to you when you register for an Account (as defined in Section 3.1 below).

### 2. AGE AND LOCATION RESTRICTIONS

**2.1.** You must be 21 years of age or older and otherwise legally able to use the MGM App under all applicable laws, rules, regulations, orders, decrees, and ordinances (“**Laws**”). You are solely responsible for complying with applicable Laws.

**2.2.** In order to use the on-premises mobile gaming feature of the MGM App, you must be physically located on one of the following designated properties owned or operated by MGM Resorts International or its affiliates in Nevada at the time of use: Aria, Bellagio, Circus Circus Las Vegas, Excalibur, Luxor, Mandalay Bay, MGM Grand, The Mirage, Park MGM, or New York-New York. In order to use the Nevada in-state sports wagering feature of the MGM App, you must be physically located in the State of Nevada at the time of use. We may, at any time before or after you begin using the MGM App, require

you to verify your identity, age, or physical location in person at a MGM property or through other means, and we may terminate your access to the MGM App if you fail to do so.

**2.3. YOU AGREE TO HAVE YOUR LOCATION TRACKED.** When using the MGM App on a mobile device, your precise physical location may be tracked by us and/or our third party service providers through the device to determine if you are complying with the location restrictions in this Section 2 (“**Location Services**”). In order to use the MGM App, you may be required to provide your mobile phone number, enable location tracking on your device, and opt-in and/or respond to communications from us. You consent to receive at your mobile phone number an initial SMS text message with a PIN to access your Account (and, if later requested by you, one or more additional PINs) from us and/or our third party providers using an automatic dialing system. Message and data rates may apply. You agree to promptly notify us if your mobile phone number changes. We are not responsible for incomplete, lost, late, or misdirected messages or the failure of the Location Services (and any associated inability to engage in the MGM App). We cannot guarantee that your device will be able to successfully use the Location Services. If we or our third party providers are unable to precisely track your location for any reason, you may be prevented from accessing or using the MGM App. We are not liable for your inability to access or use the MGM App.

### **3. ACCOUNT/REGISTRATION AND SOURCE OF FUNDS**

**3.1.** In order to use the MGM App, you must be an M life loyalty member and register in-person for an account at one of the following locations: Aria, Bellagio, Circus Circus Las Vegas, Excalibur, Luxor, Mandalay Bay, MGM Grand, The Mirage, Park MGM, and New York-New York. You can open an account by presenting current, government-issued photo identification, providing your social security number (or if you are a non-US resident, your passport number), signing these Terms and Conditions and completing other documents that we provide to you at the time of registration (an “**Account**”). You may have only one Account. We reserve the right to refuse to accept your Account application and/or to cancel any Account transaction if we determine you have opened or accessed multiple Accounts.

**3.2.** You are required to submit accurate and complete Account information and to update such information as required from time-to-time. If we suspect that your information is untrue, inaccurate, out-of-date, or incomplete, we may suspend or terminate your access to the MGM App and request additional information. We reserve the right to suspend, terminate or modify your Account at any time, in our sole and complete discretion, without prior notice or liability.

Subject to the Agreements (including without limitation Section 8 of these Terms and Conditions) and subject to all applicable federal, state, and local laws and regulations, if we terminate your Account, we will return the balance of your Account to you by check sent to your postal mailing address within five (5) business days of the date your Account is terminated.

**3.3.** You may deposit funds into your Account by any of the following methods: (a) an in-person cash deposit made at the race and sports book at one of the registration locations identified in Section 3.1 hereof; (b) a MGM-branded reloadable prepaid debit card, which has been verified as being issued to you and is non-transferable; (c) winnings from use of the MGM App.; and (d) through a business entity wagering account as permitted by SB 443 passed by the 2015 Nevada legislature and the regulations pursuant thereto. We do not accept other debit cards, personal checks, cashier’s checks, wire transfers, money orders, credit cards, or electronic transfers of money. Payment of winning wagers will be made when results are confirmed and posted. Winning wagers will be applied directly to your Account.

**3.4.** Your Account balance at any given time is the amount of funds held in your Account (if any), plus any winnings and minus any losses accrued from using the MGM App, less any rakes, entry or other fees, if applicable, and less any amounts previously withdrawn by you or amounts forfeited or reclaimed by us due to any known or suspected fraud or due to deposits or other transactions rejected or cancelled by the

issuer of your prepaid debit card or any relevant third-party (whether as a result of insufficient funds, charge-backs or otherwise), or any funds that are otherwise deductible or forfeited under the Agreements. Wagers will not be accepted if they exceed the balance of your Account.

**3.5.** By accepting the Agreements, you acknowledge that winnings from your use of the MGM App may be subject to Internal Revenue Service (“IRS”) reporting and withholding laws, and you permit your acceptance of the Agreements to serve as an electronic signature and to suffice as your acceptance and signature on any necessary tax documents associated with your use of the MGM App.

**3.6.** The name on your Account must match the name which appears on the current government-issued photo identification you used to open your Account. The name and address on your Account registration must also match the name and address on the M life loyalty account which we associate with your Account and the personal payment card(s) or personal account(s) used to deposit funds into your Account. We reserve the right to request satisfactory proof of identity (including copies of a valid passport/identity card and any payment cards used) and satisfactory proof of address (including a recent utility bill or bank statement) to be presented by you in person at a MGM Resorts International property located in the State of Nevada or by such other means as we may specify. You consent to have your age, identity and source of funds verified by us. You acknowledge that verifications associated with Internet or mobile gaming may have a negative impact on your credit report. Failure to supply any requested documentation may result in refusal to open an Account, or, if previously opened, suspension of your Account.

**3.7.** You must keep your Account password secret and confidential and not allow anyone else to use your Account. You are solely responsible for the security of your Account password and all activities that occur under your Account name and password. All winnings that are won on your Account that meet reporting thresholds under applicable laws will be reported to the IRS in the name of the Account holder. You must notify us immediately of any unauthorized use of your Account or any other breach of security that is known or suspected by you. You must also notify us immediately if you no longer have access to, or control of, the mobile device associated with your Account. In no event will we be liable for any loss you suffer as a result of any unauthorized use or misuse of your Account. If you lose or forget your Account password, please contact us or use the password reset facility in the MGM App. You may be asked to provide information that we will use to confirm your identity in the event you submit a request for a lost or forgotten Account password.

**3.8.** The information you provide in connection with your Account, including the Location Services, will be collected, used and shared in accordance with our Privacy Policy.

**3.9.** The following persons (each an “**Unauthorized Person**”) are not permitted to establish an Account or directly or indirectly use the MGM App other than as required in the course of their employment with MGM: (a) any individuals who have been banned from gaming activities at any MGM Resorts International subsidiary or affiliate, or who have been prohibited from gaming pursuant to any applicable Laws, including individuals who have been “self-limited” or listed on any self-exclusion, disassociated persons, or similar list in any state; (b) employees of MGM Resorts International, and employees of their subsidiary and affiliated companies who have administrative or privileged access to the MGM App; (c) “prohibited persons” that are government officials or residents of certain embargoed countries and/or whose names are included on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List or successor or similar lists; and (d) persons who are under the age of 21. You may not attempt to create an Account if you are an Unauthorized Person or assist other Unauthorized Persons to use the MGM App.

## **4. YOUR USE OF THE MGM APP**

**4.1.** We reserve the right to suspend, modify, remove or add to the MGM App in our sole and complete discretion with immediate effect and without notice or liability.

**4.2.** We reserve the right, in our sole and complete discretion, for any reason or no reason to (a) refuse to accept all or part of any wager, (b) declare the wagering system closed for receiving any or all wagers, or (c) refuse, suspend, or terminate your use of the MGM App, or any games on or available through the MGM App.

**4.3.** No communications or information published in the MGM App is intended to constitute legal or tax advice and we accept no liability for any reliance on such communications or information. Your use of the MGM App (including, for the avoidance of doubt, any intellectual property or services we may license from third parties which are part of the MGM App) is strictly for your personal entertainment on a single device at any given time. You may not use the MGM App or any intellectual property associated therewith for any commercial purpose including offering or promoting any products or services. You may not use the MGM App in violation of any applicable Laws or in any manner that impinges on the rights of others. You may not use the MGM App for activities we deem improper including any of the following: (a) logging onto the MGM App with false or fraudulent information; (b) using the MGM App in any manner that is fraudulent, unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, invasive of another's privacy, or libelous; (c) infringing any third party's intellectual property, rights of publicity or privacy, or other proprietary rights; (d) creating or transmitting viruses, worms, Trojan horses, time bombs, corrupted files, spam, or any other software or programs designed to interrupt, interfere, intercept, expropriate, destroy or limit the functionality of the MGM App or any other computer software or hardware; (e) removing any copyright, trademark or other proprietary rights notices contained in or on the MGM App; (f) attempting, through any means, to gain access to any unauthorized areas of the MGM App or information about other users of the MGM App or any of our customers for unauthorized purposes; (g) using any robot, scraper, spider, or any other automatic device or manual process to monitor or copy any content transmitted via the MGM App; (h) taking any action that creates liability for us or causes us to lose any of the services of our business partners, vendors or suppliers; and (i) taking any action that would cause us to violate any applicable Laws or that violates the Agreements.

**4.4.** You may not install or run the MGM App on any device which is rooted, jailbroken or whose operating system software, hardware (including, but not limited to, interface, display, geolocation and networking components) or firmware has been tampered with in any way. You may not install or attempt to install and run the MGM App inside any simulator or emulated software environment. You may not run or attempt to use the MGM App on any device which is connected to the internet through a proxy server, VPN or any other networking arrangement which may mask or attempt to mask the true location of the device. You may not run the MGM App on any device which has in any way been enhanced, augmented or tampered with in such a way as to enable a person who is not physically located with the device from controlling it.

**4.5.** By using the in-state sports book app you consent to us making a voice, print, electronic or other approved record of the entire transaction. Such a wagering communication will be recorded when you confirm the wagering information. We will not accept any wager or transaction if such recording system is inoperable. The records will be made available to the Nevada Gaming Control Board upon its request.

**4.6.** If you do not place any wagers through the MGM App for 365 consecutive days, your Account may be suspended and classified as dormant. A dormant Account may be closed in accordance with Section 8.7 hereof.

## 5. COPYRIGHT AND TRADEMARKS

The term playMGM and any other marks used by us are the trademarks, service marks and/or trade names of MGM, MGM Resorts International, and/or our or their subsidiaries, affiliates, and/or our or their licensors. All other material used by us, including the software, images, pictures, graphics, photographs, animations, “look and feel”, videos, music, audio, text (and any intellectual property rights in and to any of the same) is owned by us and/or our licensors and is protected by copyright and/or other intellectual property rights. You obtain no rights in such copyright material or trade or service marks and must not reproduce, republish, distribute, display, perform, transmit, sell or otherwise use them without our express written permission.

## 6. FRAUDULENT ACTIVITIES AND SECURITY REVIEW

**6.1.** We have a zero tolerance policy towards inappropriate play, fraudulent activity and use of the MGM App to violate or attempt to violate any federal, state or local law. If, in our sole determination, (a) you are found to have cheated, attempted to defraud, or violated or attempted to violate any federal, state or local Laws, us, or any user of the MGM App in any way (including game, device, and MGM App software manipulation); (b) we suspect you of fraudulent payment (including use of stolen debit, credit or prepaid cards) or any other fraudulent activity (including any charge-back or other reversal of a payment) or prohibited transaction (including money laundering); or (c) your deposits are not honored by the issuer of your prepaid debit card or any relevant third-party, we reserve the right to suspend and/or close your Account and recover bad debts using any lawful method available to us including debiting the amount owed by you from your Account and instructing third party collections agencies to collect the debt. You acknowledge that these actions may have a detrimental impact on your credit rating and may require us to share your personal information (including your identity) with appropriate agencies and to report any criminal or suspicious activities to the appropriate authorities.

**6.2.** We reserve the right to void and withhold any or all winnings made by any person or group of persons and to void and withhold any M life points gained by any person or group of persons where we have reasonable grounds to believe, in our sole discretion, that said person or group of persons is acting or has acted in liaison in an attempt to defraud or damage us or the MGM App in any way.

**6.3.** We reserve the right to conduct a security review at any time to validate or verify your identity, age, registration data, integrity of your mobile device(s) and use of the MGM App on such device(s), compliance with the Agreements, and compliance with applicable Laws. In the event of such a security review, you agree to provide us with the information and documentation we request and authorize us and our agents to use and disclose to any third party that we deem necessary the information and documentation that you provide to us including ordering a credit report or otherwise verifying your information against third party databases.

## 7. LIMITED LICENSE

**7.1.** We hereby grant you a limited, personal, non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable right to install and use the software we make available for the MGM App (the “**Software**”) in accordance with the Agreements. The Software is valuable intellectual property of MGM and/or its licensors. You obtain no rights to the Software except to use it in accordance with the Agreements. You must not: (a) copy, redistribute, publish, reverse engineer, decompile, disassemble, modify, translate or make any attempt to access the source code to create derivative works of the source code, or otherwise; (b) sell, assign, sublicense, transfer, distribute, lease or grant a security interest in the Software; (c) make the Software available to any third party through a computer network or otherwise; (d) export the Software to any country (whether by physical or electronic means); (e) reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes any portion of the MGM App or the Software; or (f) use the Software in a manner prohibited by applicable Laws or the terms of the Agreements (together the “**Prohibited Activities**”).

**7.2.** You will be solely liable for any damages, costs or expenses arising out of or in connection with the commission of any Prohibited Activities. You shall notify us immediately upon becoming aware of the commission by any person of any of the Prohibited Activities and shall provide us with reasonable assistance with any investigations we may conduct as a result.

## **8. FORFEITURE & ACCOUNT CLOSURE**

We reserve the right, in our sole discretion, and in relation to your Account and any other accounts you may have with us, to terminate the Agreements, withhold your Account balance, suspend your Account, and recover from your Account the amount of any affected pay-outs, bonuses and winnings if:

**8.1.** You are in material breach of the Agreements;

**8.2.** We become aware that you have used or attempted to use the MGM App for the purposes of fraud, collusion (including in relation to charge-backs) or unlawful or improper activity;

**8.3.** We become aware that you have played at any other online gaming site or services and are suspected of fraud, collusion (including in relation to charge-backs) or unlawful or improper activity;

**8.4.** You have “charged-back” or denied any of the purchases or deposits that you made to your Account;

**8.5.** You file for bankruptcy or similar proceedings;

**8.6.** We are instructed to do so by a law enforcement agency or regulatory body; or

**8.7.** Your Account is classified as dormant in accordance with Section 4.6 hereof.

## **9. TERMINATION**

**9.1.** You may close your Account for any reason by withdrawing the entire balance from your Account and notifying us pursuant to Section 15 hereof. You may withdraw any available funds from your Account either (a) in person at the cage at one of the registration locations identified in Section 3.1 hereof, or (b) by requesting that such funds be transferred to a MGM-branded reloadable prepaid card, which has been verified as being issued to you and is non-transferable. You will continue to be responsible for all activity on your Account until your Account has been closed.

**9.2.** If you want us to close your Account for responsible gaming reasons, please notify us pursuant to Section 15 hereof.

**9.3.** Without limiting any of our other rights under the Agreements, we are entitled to terminate the Agreements immediately upon providing notice (or attempted notice) to you at the email address you have provided to us. If we terminate the Agreements pursuant to Section 8 hereof, any payouts, bonuses, and winnings in your Account are non-refundable and deemed forfeited.

**9.4.** The following sections of these Terms and Conditions (and any provisions which, by their nature or express terms should survive) shall survive termination of the Agreements by either party: 3.8, 4.5, 5, 6, 7.2, 9, 10, 11, 12, 13, 14, and 16.

## **10. REPRESENTATIONS AND WARRANTIES**

By accessing the MGM App and the Software, or using, or attempting to use, the MGM App or the Software, you represent and warrant to us that: (a) you are 21 years of age or older; (b) you will be located within the confines of a designated MGM property in Nevada when accessing the on-premises mobile gaming feature of the MGM App; (c) you will be located within the State of Nevada when accessing the Nevada in-state sports wagering feature of the MGM App; and (d) all details provided by you to us to setup your Account or otherwise participate in the MGM App are true, current, correct and complete.

## **11. DISCLAIMER AND EXCLUSIONS**

THE MGM APP IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. ACCESS TO AND USE OF THE MGM APP AND THE SOFTWARE IS AT YOUR SOLE OPTION, DISCRETION, AND RISK. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND RELATING TO THE MGM APP AND THE SOFTWARE, WHETHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, QUIET ENJOYMENT, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WE DO NOT WARRANT THAT THE MGM APP AND THE SOFTWARE WILL BE SECURE, ERROR-FREE, OR INVULNERABLE TO VIRUSES, WORMS, OR OTHER HARMFUL SOFTWARE OR HARDWARE. YOU HEREBY ACKNOWLEDGE THAT THE MGM APP AND SOFTWARE MAY BE INTERRUPTED OR UNAVAILABLE DUE TO ANY NUMBER OF FACTORS INCLUDING PERIODIC SYSTEM MAINTENANCE, ACTS OF GOD, UNAUTHORIZED ACCESS, VIRUSES, DENIAL OF SERVICE OR OTHER ATTACKS, TECHNICAL FAILURES, AND TELECOMMUNICATIONS INFRASTRUCTURE DISRUPTIONS OR FAILURES. WE EXPRESSLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY REGARDING USE AND/OR AVAILABILITY, ACCESSIBILITY, SECURITY, OR PERFORMANCE CAUSED BY THESE AND ANY OTHER FACTORS. WE ARE NOT REQUIRED TO PROVIDE REDUNDANT OR BACKUP NETWORKS OR SYSTEMS. ANY MALFUNCTION OF THE MGM APP OR SOFTWARE VOIDS ALL PAYS.

## **12. LIMITATION OF LIABILITY**

**12.1.** NEITHER WE NOR OUR PARENT COMPANIES, SUBSIDIARIES, OR AFFILIATES (INCLUDING ANY OF OUR OR THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS OR REPRESENTATIVES, OR OUR OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS) (COLLECTIVELY, “**MGM PARTIES**”) ARE LIABLE TO YOU OR ANY THIRD PARTY IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR ANY DIRECT OR INDIRECT LOSS OR DAMAGE ARISING FROM OR CONNECTED WITH YOUR USE, ATTEMPTED USE OR INABILITY TO USE OR ANY THIRD PARTY’S USE, ATTEMPTED USE OR INABILITY TO USE THE MGM APP OR THE SOFTWARE INCLUDING INCIDENTAL, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF OR FAILURE TO RECEIVE ANTICIPATED WINNINGS), LOSS OF REVENUE, LOSS OF BUSINESS OPPORTUNITY, LOSS OF GOODWILL, REPUTATIONAL DAMAGE, BUSINESS INTERRUPTION, OR ANY OTHER PECUNIARY OR CONSEQUENTIAL LOSS (EVEN WHERE WE HAVE BEEN NOTIFIED BY YOU OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE).

**12.2.** THE MGM PARTIES WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY ACTS OR OMISSIONS MADE BY YOUR INTERNET SERVICE PROVIDER, FINANCIAL INSTITUTION OR OTHER THIRD PARTY ON WHOM YOU RELY TO GAIN ACCESS TO OR USE THE MGM APP, THE SOFTWARE OR PROCEEDS THEREOF.

**12.3.** NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH OR FROM THE MGM APP OR THE SOFTWARE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE AGREEMENTS.

**12.4.** THE MGM PARTIES WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY MODIFICATION TO, SUSPENSION OF OR DISCONTINUANCE OF THE MGM APP OR THE SOFTWARE.

**12.5.** SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. THEREFORE, THE EXCLUSIONS SET FORTH ABOVE MAY NOT APPLY TO YOU. IN ANY EVENT, YOU AGREE THAT OUR TOTAL LIABILITY FOR DAMAGES, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED ONE HUNDRED DOLLARS (\$100.00). THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT. THE FOREGOING LIMITATIONS IN THIS SECTION 12 WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

### **13. INDEMNIFICATION**

You agree to indemnify, defend, hold harmless and release the MGM Parties from and against any claim, demand, damage, cost or expense, including reasonable attorneys' fees, made by any third party due to or arising out of your (a) access to, use of, attempted access to or use of or inability to access or use the MGM App or the Software, (b) violation of the Agreements, or (c) infringement of any intellectual property or other right of any other person or entity.

### **14. THIRD PARTY WEBSITES**

Any links on the MGM App to third party websites or resources should not be interpreted as endorsement or approval by us of the organizations sponsoring these sites or their products or services. We make no representations or warranties, express or implied, with respect to the information provided on any third-party website or resource which may be accessed by a link from the MGM App, including any representations or warranties as to accuracy or completeness. You 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 in connection with your use or reliance on any such content, information, goods, or services available on or through any such site or resource.

### **15. NOTICES/COMPLAINTS**

**15.1.** If you have any complaints, claims, or disputes regarding any use or outcome from using the MGM App or any other activity, you must submit your complaint to us in writing as soon as is reasonably practicable following the date of the original transaction to which the claim or dispute refers. Complaints may be submitted by email to [NVsupport@playMGM.com](mailto:NVsupport@playMGM.com). You may also submit notices to us by postal mail in writing to: Race and Sports Book, THE MIRAGE CASINO-HOTEL, 3400 Las Vegas Blvd. South, Las Vegas, NV 89109. If you are not satisfied with our response you may contact: the Enforcement Division of the Nevada State Gaming Control Board at (702) 486-2000 to request that it attempt to resolve the dispute.

**15.2.** Any notice we give to you will be sent to the email address that you provide when you register your Account. It is your responsibility to keep your email address connected to your Account current and to regularly check your email account for emails from us.

## **16. ARBITRATION AND GOVERNING LAW**

Any dispute, claim, or controversy arising out of or relating to the Agreements, including the determination of the scope or applicability of the Agreements to arbitrate (“**MGM App Dispute**”), but excluding any dispute, claim or controversy relating to an individual’s alleged winnings, alleged losses or the award or distribution of cash, prizes, benefits, tickets or any other item or items in a game, tournament, contest, drawing, promotion or similar activity or event, or the manner in which a game, tournament, contest, drawing, promotion or similar activity or event is conducted, shall be determined by arbitration in Clark County, Nevada before a single neutral arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Any appeal shall be heard and decided by a panel of three neutral arbitrators. All arbitrators shall be retired judges or justices of any Nevada state or federal court, and shall in their substantive rulings (as opposed to procedural or discovery-related rulings that are otherwise governed by the JAMS Comprehensive Arbitration Rules and Procedures), apply the Laws of the State of Nevada without giving effect to any choice or conflict of law provision or rules that would cause the application of the Laws of any jurisdiction other than the State of Nevada. The award of the arbitrator(s) shall be binding and final on all parties. Judgment on the award rendered may be entered in any court having jurisdiction. The prevailing party shall be entitled to reasonable attorneys’ fees and expenses. The arbitrators may not award any incidental, indirect, special, or consequential damages, including, but not limited to, damages for lost profits. If any part of the Agreements is found to be invalid, illegal or unenforceable in any respect, it will not affect the validity of the remainder of the Agreements, which shall remain valid and enforceable according to their terms. No waiver of any breach or default of the Agreements shall be deemed to be a waiver of any preceding or subsequent breach or default. Exclusive jurisdiction over any MGM App Dispute shall be resolved in accordance with Nevada Revised Statutes 463.361 through 463.366, inclusive.

## **17. ASSIGNMENT**

We reserve the right, in our sole discretion and without your consent, to transfer, assign, sublicense or pledge the MGM App, the Software and/or the Agreements, in whole or in part, to any person or entity without notice. You may not assign, sublicense or otherwise transfer in any manner whatsoever any of your rights or obligations under the Agreements.

## **18. ENTIRE AGREEMENT, MODIFICATION AND AMENDMENTS**

The Agreements represent the complete and final agreement between you and us regarding the subject matter hereof and supersede any and all prior agreements between you and us relating to the MGM App. You understand and agree to be bound by the Agreements as they may be amended from time to time. We may amend the Agreements at any time, in our sole and complete discretion, either by (a) sending you an email notifying you of the amendments, and/or (b) publishing the amended Agreements on the MGM App or any place through which you access the MGM App or the Software. Any amendment to the Agreements will take effect on the sooner of (x) the day you are notified by email, or (y) the day of first publication on the MGM App or any place through which you access the MGM App or Software. If any amendment is unacceptable to you, your only recourse is to terminate use of the MGM App. Your continued access or use of the MGM App following notification of any amendment(s) will be deemed binding acceptance of the Agreements as amended. It is your sole responsibility to review the Agreements and any amendments each time you use the MGM App.

If you have any questions, please contact [NVsupport@playMGM.com](mailto:NVsupport@playMGM.com).

May 17, 2016

