



Amateur Golf Challenge Pty Ltd A.C.N. 167 852 299 (“*the Company*”)

## AGC Terms and Conditions

### Important Information

To enter an AGC Competition you must be over 18 years of age, have a GA Handicap, be a member of a GOLF Link Affiliated Club and have a GOLF Link Number.

When you first enter an AGC Competition you become an AGC Competitor and your entry is accepted by the Company as your legally binding agreement to observe and comply with these terms and conditions (Terms). This agreement is your Contract with the Company.

Words appearing in italics and how this document is to be interpreted are as defined and provided for in these Terms and Conditions (Terms).

### 1. Definitions and Interpretation

1.1 In these *Terms*:

- **AGC** stands for “Amateur Golf Challenge” and means the challenge for amateur golfers to play better than or beat their golf handicap in any 18 hole *Competition* held in Australia on any one day. It is also an acronym of the *Company’s* name and used as and for the name of the *Company’s Website*, mobile applications and business brand
- **AGC Competition** means the one only daily competition conducted by the *Company* in which *AGC Competitors* compete in the AGC if they also play in a *Competition* on that day. If *AGC Competitors* play in more than one *Competition* on any one day they may enter the daily *AGC Competition* but must use in the AGC Competition for that day their result in the first *Competition* they play that day.

- **AGC Competitor** means a person who has attained and is over 18 years of age and is a Competitor who enters an *AGC Competition*.

- **AGC Competitor's Prize Account** means the running account kept by *the Company* on the *AGC Website* which records the value of prizes won and redeemed from time to time by *AGC Competitors*.

- **AGC Services** means the services provided by the *Company* via the *AGC Website*.

- **AGC Website** means the *Company's* website and mobile application.

- **Committee** means a "Committee" as defined in the *Rules of Golf*.

- **Competition** means a golf stroke play competition in which each competitor plays as an individual and which is:

- o held in Australia
- o played over 18 holes,
- o conducted by a *Committee* of a *GOLF Link Affiliated Club*,
- o played in accordance with the *Rules of Golf*,

and the results of which are recorded on *GOLF link* and count towards the computation of *GA Handicaps*. "Stroke play" has the meaning described in the *Rules of Golf* (see Rule 3) and includes competitions played in bogey, stableford and par formats (see Rule 32).

- **Competitor** means a person who has attained or is over 18 years of age who is an "*amateur golfer*" as defined in the *Rules of Golf* and who holds a *GA Handicap* which is recorded under his or her name and *GOLF Link Number* by *GOLF Link*.

- **Conditions of Play (or "COPs")** means the conditions of play which apply to all *AGC Competitions*.

- **Consideration** means the entry fee paid by each *AGC Competitor* for each *AGC Competition* he / she enters and the agreement by *the Company* to provide prizes to *AGC Competitors* who play better than their handicap in those *AGC Competitions*.

- **Contract** means the contract made between each *AGC Competitor* and the *Company* on the terms and conditions set out in the *Contract Documentation*.
- **Contract Documentation** means all written materials which comprise the *Contract* including without limitation the *Terms*, the *COPs* and other materials published by the *Company* on the *AGC Website* (including the *Company's policies and guidelines*) and the details of each *Competitor* when he or she enters an *AGC Competition* on the *AGC Website* and thereby becomes an *AGC Competitor*.
- **GA** means *Golf Australia Limited (A.C.N. 118 151 894)*.
- **GA Handicap** means the golf handicaps which are computed in accordance with the *GA Handicapping System* and recorded on *GOLF Link*.
- **GLP** means *Golf Link Partners Pty Limited (ABN 95 081 497 154)*.
- **GOLF Link** means the Australian national computerised handicap service operated and provided by *GA* and *GLP* via a public service website called *GOLF Link* which records and publishes *GA Handicaps*.
- **GOLF Link Affiliated Club** means a golf club which participates in *GOLF Link*.
- **GOLF Link Number** means the unique number allocated to each member of a *GOLF Link Affiliated Club*.
- **“Play better than their / your handicap” and “beat their / your handicap”** means in respect of an *AGC Competitor* who has played in an *AGC Competition* a result that is recorded on his / her *GOLF Link* handicap history as having a *“Handicapping Score”* of 37 points or more.
- **Rules of Golf** means the *Rules of Golf* and the *Rules of Amateur Status* as approved and published by R&A Rules Limited in the edition current at the time of each *AGC Competition*.
- **Terms** means the terms and conditions set out and contained in this document.

1.2 Unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes a corporation and any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a person includes its successors and permitted assigns;
- (g) any reference to two or more persons includes each of them jointly and severally;
- (h) references to time are to Sydney time;
- (i) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day;
- (j) a reference to a body, other than a party to this agreement (including an institute, association or authority), whether statutory or not:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

## **2. Contract**

2.1 Each *AGC Competitor* and *the Company* enter into the *Contract* from the date and time that the *AGC Competitor* enters the *AGC Competition*.

2.2 Each *AGC Competitor* warrants to *the Company* that he / she has attained or is over 18 years of age and is qualified and entitled to play in *Competitions*.

2.3 The *Consideration* is the consideration for which the *Contract* is made. 2.4 In the event of any conflict between the *Terms* and any provision of other

*Contract Documentation*, the *Terms* prevail.

2.5 The *Company* may add to, amend, replace or vary the *Terms*, the *COPs* and any other *Contract Documentation* from time to time. Any such changes will be notified to *AGC Competitors* and take place from the time that the *Company* specifies in its notification. Ongoing subsequent or continued use by any *AGC Competitor* of the *AGC Services* after the date of any such changes is deemed acceptance by that *AGC Competitor* of the changes.

2.6 *AGC Competitors* acknowledge, agree and accept that their *AGC* entry fees are not refundable and that under no circumstances will any entry fees paid by them be recoverable from the *Company*. Notwithstanding this *AGC Competitors* must inform the *Company* as soon as they become aware of any errors in calculations with respect to any transaction and the *Company* may refund or give credit for entry fees if it considers there has been a transaction error or such a course is justified for other reasons.

2.7 *AGC Competitors* undertake to use the *Company's Website* and services for legitimate purposes only and not to engage in any activity which has the purpose or effect of causing damage to or in any way hindering the *Company's* business operations or generating or increasing any liability of the *Company*, including without limitation any tax, levy or duty.

### **3. Integrity**

3.1 *The Company* relies on the integrity of all *AGC Competitors* to play and return their scorecards in accordance with the *Rules of Golf*.

3.2 *The Company* and *AGC Competitors* also rely on *AGC Competitors* results as recorded on *GOLF Link*.

3.3 Each *AGC Competitor* must and by entering *AGC Competitions* promises to ensure he / she plays, scores and returns their scorecards in accordance with the *Rules of Golf* and does not manipulate any *Competition* or *AGC Competition* in a manner which has the purpose or effect of adversely affecting the integrity of that *Competition* or *AGC Competition* or their results to be recorded in their handicap history as recorded and published on *GOLF Link*.

3.4 *AGC Competitors* who act as a marker of another *Competitors* scorecard must and promises to do so in accordance with the *Rules of Golf* and not to manipulate any *Competition* or *AGC Competition* in a manner which has the purpose or effect of

adversely affecting the integrity of that *Competition* or *AGC Competition* or the results of the *Competitor* to be recorded in that *Competitor's* handicap history as recorded and published on *GOLF Link*.

#### **4. Term**

4.1 *The Contract* continues unless and until terminated by the *Company*.

4.2 *The Company* may terminate its *Contract* with any *AGC Competitor* if at any time the *Company* considers the *Contract* is being or has been breached by that *AGC Competitor*.

#### **5. Governing Law and Jurisdiction**

5.1 The Contract is governed by and construed in accordance with the laws of New South Wales ("NSW").

5.2 Each party irrevocably and unconditionally submits to the jurisdiction of the courts of NSW and any courts which have jurisdiction to hear appeals from the courts of NSW and waives any right to object to any proceedings being brought in those courts.

#### **6. Licence to use AGC Website**

6.1 *The Company* grants those wishing to become *AGC Competitors* limited licence to use the *AGC Website* to enter *AGC*.

6.2 *The Company* grants *AGC Competitors* limited licence to use the *AGC Website* to access their *AGC Competitor's Prize Account* and to redeem their prizes.

6.3 *AGC Competitors* acknowledge agree and accept:

6.3.1 their use of the *AGC Website* confers no rights on them whatsoever to the content or related intellectual property rights subsisting in the *AGC Website*;

6.3.2 they must not and must not attempt to:

(a) monitor, use or copy the pages of the *AGC Website* or any content of the *AGC Website*;

(b) hack, make unauthorised alterations or introduce any kind of

malicious code to the *AGC Website* by any means;

(c) reverse engineer or decompile (whether in whole or in part) any software available through the *AGC Website*; or

(d) make copies, modify, reproduce, transmit, alter or distribute all or any part of the *AGC Website* or any material or information contained on it or in any data feeds;

(e) disguise or interfere in any way with the IP address of the computer used to access the *AGC Website* or otherwise take steps to prevent *the Company* from correctly identifying the actual IP address of the computer used or being used whilst accessing the *AGC Website*.

6.3.3 that to use the *AGC Website* correctly, they must ensure their browser is set to accept "cookies" and that their browser must support JavaScript.

## **7. Assignment**

7.1 *AGC Competitors* may only assign their rights under the *Contract* including to their prizes and *AGC Competitor's Prize Account* with the prior written consent of *the Company*.

7.2 *The Company* may assign any or all of its rights or obligations under the *Contract* to any third party at any time without notice to *AGC Competitors*.

## **8. Continuation**

8.1 Any provision of the *Contract* that by its nature is intended to survive termination of the *Contract* will survive such termination.

## **9. Invalidity, Unenforceability and Severance**

9.1 Any provision of the *Contract* is invalid or unenforceable:

- (a) it is to be read down or severed to the extent of the invalidity or unenforceability;
- and

(b) that fact does not affect the validity or enforceability of the remaining provisions which will continue in force.

## **10 Entire Agreement and Further Assurances**

10.1 *The Contract Documentation* embodies the entire understanding and constitutes the entire and only agreement between each *AGC Competitor* and the *Company* with regards to its subject matter.

10.2 Each *AGC Competitor* confirms that he / she has not been induced to enter into the Contract in reliance upon any warranty (including in particular any warranty as to merchantability, fitness for purpose or uninterrupted functionality), representation, statement, assurance, covenant, agreement, undertaking, indemnity or commitment of any nature whatsoever other than as are expressly set out in the *Contract Documentation* and to the extent that he / she has been he / she unconditionally and irrevocably waives to the full extent permitted by law any claims, rights or remedies which he / she might otherwise have had in relation thereto.

10.3 Each party must promptly do everything necessary, including executing and delivering all further documents required by law or reasonably requested by the other party to implement the *Contract*.

## **11. No Waiver**

11.1 No failure or delay by *the Company* to exercise any of its rights under the *Contract* shall operate as a waiver thereof and no single or partial exercise of any such right shall prevent any other or further exercise of that or any other right. Further, any such failure will not give rise to any claim or right of action by any *AGC Competitor* or any other person.

## **12. Notices**

12.1 *AGC Competitors* may give notices to the *Company* electronically via the “Contact us” section of the *AGC Website* or by hand or prepaid post addressed to the *Company’s* registered office or by email to an address specified by an officer of *the Company*.

12.2 *The Company* may give notices to all *AGC Competitors* electronically via the *AGC Website* if they are generic notices or by hand or prepaid post addressed to the *AGC Competitor* or by email to the *AGC Competitor’s* last email address as notified to *the*

*Company* (usually via the *AGC Website*).

12.3 All notices must be:

- (a) in legible writing and in English;
- (b) correctly addressed; and
- (c) signed by the party giving the notice or making the communication.

12.4 Notices sent by prepaid post must be sent by airmail if to or from a place outside Australia.

12.5 Without limiting any other means by which a party may be able to prove that a notice has been received by the other party a notice will be considered to have been received:

- (a) if sent by hand, at 9.00 am (recipient's local time) on the next business day at the address of the recipient;
- (b) if sent by prepaid post, three business days (if posted within Australia to an address in Australia) or ten business days (if posted from one country to another) after the date of posting;
- (c) if sent via the AGC Website, when posted on that website; and
- (d) if sent by email, on receipt by the sender of an acknowledgement or message receipt from the recipient.

### **13 Minimum Age**

13.1 The Company does not accept responsibility for under-age entrants and may cancel any AGC Competitor's Prize Account it believes belongs to a person who is under-age

13.2 The Company may also refuse to issue prizes to any person who has been accepted as an AGC Competitor if it believes that person is under-age.

## **14 AGC Competitors AGC Website Responsibilities**

14.1 AGC Competitors are responsible for all entries they make on the *AGC Website*.

14.2 Any transaction made via the *AGC Website* which first requires an *AGC Competitor's* login with their discrete password will be regarded by *the Company* as being valid and may not be changed, cancelled, modified or paused after 7.00 am AEST next after it has been made.

14.3 *AGC Competitors* are responsible for understanding the contents of the *AGC Website* and the operation of the services offered on it.

14.4 *The Company* reserves the right to change the format of the AGC Services at any time, including by enhancing them.

## **15 Personal Information and Privacy**

15.1 *The Company* will collect, store and disclose *AGC Competitors* personal information in accordance with the requirements of the Privacy Act 1988 (Cth) as detailed in the *Privacy Policy* which is published on the *AGC Website* and comprises part of the *Contract Documentation*.

15.2 *AGC Competitors* warrant and represent to *the Company* that any personal information supplied by them to *the Company* is true, correct and complete and will remain so.

15.3 *AGC Competitors* must upon request by *the Company*, establish the truth, correctness and completeness of their personal information to the satisfaction of the Company.

15.4 The Company will take reasonable steps to:

(a) make sure that the personal information it collects, uses or discloses is accurate, complete and up to date;

(b) protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure; and

(c) destroy or permanently de-identify personal information if it is no longer needed for any purpose for which the information may be used or disclosed under the Privacy Act 1988 (Cth).

15.5 *AGC Competitors* acknowledge and agree that all personal information held by *the Company* may be used or disclosed by *the Company* as set out below and as permitted by the Privacy Act 1988 (Cth). Without limitation, *AGC Competitor's* personal information may be collected, stored, used or disclosed:

(a) to enable *the Company* to perform its obligations to them under the *Contract*;

(b) to enable *the Company* to ensure that *AGC Competitors* perform their obligations under the *Contract*;

(c) to a credit reporting agency;

(d) to maintain a credit information file about them;

(e) to carry out *the Company's* own credit assessment on them;

(f) for planning, research, promotion and marketing of *the Company* products and services;

(g) to organisations associated with the provision of *the Company's* services, such as associated data centres, including for marketing and analysis purposes;

(h) to a potential purchaser of, or investor in, any business conducted by the *Company*;

(i) where *the Company* is required to do so by law or where the disclosure is reasonably necessary to enforce the law;

(j) to assist any other government agencies with enquiries made under state or federal legislation, for example *Child Support Agencies*;

(k) to comply with *the Company's* disclosure obligations to sporting bodies in accordance with any contractual obligations *the Company* has or may have to sporting bodies;

(l) to comply with all obligations that *the Company* has under laws and regulations;

(m) to protect *the Company's* rights or property or those of any other website, user of the *AGC Website* or any member of the public.

15.6 *AGC Competitors* may request access to any of their personal information that *the Company* holds by notice to *the Company*.

15.7 If an *AGC Competitor* does not, or refuses to, provide *the Company* with any information (including personal information) that *the Company* reasonably requires, *the Company* may at its discretion, suspend or close any account held with *the Company* by that *AGC Competitor*.

15.8 Each *AGC Competitor* acknowledges agrees and accepts that he / she may only hold one *AGC Competitor's Prize Account*.

## **16 Operation of AGC Services**

16.1 The Company may determine when AGC Competitions are open and / or closed for entering and vary the "Results Cut off Time" and the "Entry Fee Cut off Time" as defined in the COPs at any time.

16.3 If the Company considers it is in the interests of maintaining integrity and fairness it may in respect of any AGC Competition suspend entries to it, void certain entries to it and / or void it in its entirety.

## **17. Cancellation, Termination, Suspension and Breach**

17.1 The Company may restrict AGC Competitors access to AGC Services, suspend or terminate any account they hold with the Company, withdraw their entries or void or cancel any of their outstanding entries or terminate the Contract if:

(a) there is a technological failure;

(b) *the Company* suspects that the *AGC Competitor* is engaging in illegal or fraudulent activity;

(c) *the Company* suspects that the *AGC Competitor* has (or may have) breached any part or provision of the *Contract Documentation*;

(d) *the Company* suspects the *AGC Competitor* is acting in a manner that is detrimental to the conduct of its business or which may result in legal liability for the *AGC Competitor*, *the Company*, or third parties.

17.2 In relation to any cancelled or void entries, *the Company* reserves the right to Demand payment for and recover from the *AGC Competitor* the relevant outstanding amount relating to these entries.

## **18 Entries and Acceptance**

18.1 Entries for *AGC Competitions* must be made as provided for in the *COPs*.

18.2 The provisions of the *COPs* apply in respect of entries.

18.3 Once made and accepted an entry into an *AGC Competition* may not be altered or cancelled except in accordance with the *Contract*.

18.4 Maximum and minimum values of prizes which may be won in *AGC Competitions* are subject to change and may be changed by *the Company* at any time. Any such changes will be notified by *the Company* to *AGC Competitors* via the *AGC Website*.

## **19 Dishonoured Payments**

19.1 If a credit or debit card payment by an *AGC Competitor* is dishonoured at any stage after authorisation is received from the relevant financial institution, all winnings which have accrued and remain in that *AGC Competitors AGC Competitors Prize Account* or which are otherwise due to be credited to that account shall be suspended until such time as the dishonoured payment is honoured.

19.2 If the payment remains dishonoured:

(a) all prize winnings which have accrued and remain in the relevant *AGC Competitors AGC Competitors Prize Account* or which are otherwise due to be credited to that account that relate to the dishonoured payment will not be redeemable and shall be forfeited to the *Company*; and

(b) the AGC Competitor must pay to the Company any prize winnings gained from the dishonoured payment(s). Should the AGC Competitor not comply with this duty the Company will seek to recover these from him / her and any sums recovered will belong to the Company.

## **20 Rounding**

20.1 All prize winnings will be rounded down to the nearest dollar.

20.2 The rounding will take place after the prize winning amount has been calculated.

## **21 Payments**

21.1 Braintree Pty Ltd, owned by PayPal Inc has been engaged by *the Company* to manage and collect of credit and debit card payments of entry fees and other moneys (if any) payable by credit or debit card for *AGC Services*. For further information, please refer to [www.braintree.com.au](http://www.braintree.com.au).

21.2 *AGC Competitors* acknowledge that *the Company* does and will not possess or retain any useable information relating to *AGC Competitors* credit or debit cards.

## **22 Matters beyond reasonable control**

22.1 *The Company* will not be liable for any loss or damage that any person including *AGC Competitors* who uses the *AGC Website* or *AGC Services* may suffer or incur because of any act of God; power cut; trade or labour dispute; act, failure or omission of any government or authority; obstruction or failure of telecommunication or internet services; or any other delay, interruption or failure outside of the control of *the Company*. In any such an event *the Company* reserves the right to cancel or suspend the *AGC Services* without incurring any liability.

22.2 *The Company* is also not liable for the failure of any equipment or software howsoever caused, wherever located or administered, and whether under *the Company's* direct control or not, that may prevent the operation of the *AGC Services*, impede the acceptance of entries, or prevent any such person from being able to contact *the Company* or access the *AGC Website*.

## **23 AGC Competitors Indemnity**

23.1 Each AGC Competitor agrees to indemnify and hold the Company and its associates, affiliates, officers, directors, agents and employees harmless from any liabilities, claims, losses or demands made by any third party arising out of any breach of the Contract Documentation or out of their violation of any law or the rights of any third party.

## **24 Limitation of liability**

24.1 To the extent permitted by law the *Company* excludes all representations and warranties as to the satisfactory quality and/or fitness for its intended purpose and/or accuracy and completeness of the *AGC Services*.

24.2 *The Company* will not be liable to any *AGC Competitor* for any loss that they may incur as a result of their use of the *AGC Services* including any use or misuse of their discrete *AGC Website* password whether fraudulent or otherwise.

24.3 *The Company* will have no liability for any goods which *AGC Competitors* acquire with gift vouchers won by them as prizes.

24.4 Under no circumstances will *the Company's* liability under or in connection with the *Contract*, whether arising for breach of contract, negligence or other tort, in equity or otherwise exceed the amount of the relevant entry fee paid by the *AGC Competitor* for the *AGC Competition* in respect of which the claim is made.

24.5 Under no circumstances will *the Company* be liable for any indirect, special or consequential damages, loss of profits (direct or indirect) or loss of the benefit of any entry into any *AGC Competition*, whether such loss arises from breach of contract, negligence or other tort, equitable duty (including for the avoidance of doubt in relation to any entry fee or *AGC Competition* voided by *the Company* or otherwise even if *the Company* had been advised of or known (or should have known) of the possibility of such damages or loss.

24.6 Nothing in *the Contract* excludes the *Company's* liability with respect to death and personal injury resulting from the negligence of *the Company*, its employees, agents or subcontractors.

24.7 Except for any liability that cannot be excluded by law, *the Company* (including its officers, employees and agents) is not liable and does not accept responsibility for any

loss or damage suffered or incurred by any *AGC Competitor* arising out of:

- (a) entries that are not received or which are received and are subsequently corrupted or rejected by the *AGC Website* server, whether or not after receipt by *the Company*;
- (b) any lost, misdirected or corrupt emails to or from the *AGC Website*;
- (c) the *AGC Website* not being continuously available for use;
- (d) any failure of the *AGC Website* or incorrect or corrupt data supplied to an *AGC Competitor*;
- (e) any theft, unauthorised access or third party interference;
- (f) any variation in the value of any prize; or
- (g) any tax liability incurred by any *AGC Competitor*.

## **25 Right of set off**

25.1 The Company may at any time, without notice, set off any liability owed to it by any *AGC Competitor* including (without limitation) in relation to any account kept by *the Company* in that *AGC Competitor's* name or which *the Company* believes to be under his / her control, against any funds held in another account kept by *the Company* in the same or another name which *the Company* believes to be under that *AGC Competitor's* control.

## **26 Intellectual property**

26.1 *The Company* is the owner of:

- (a) all copyright and related rights in and to the *AGC Website* including without limitation rights in databases and any data and related content on the *AGC Website* except for certain third party rights;
- (b) all trade marks whether registered or unregistered and related rights in respect of *the Company* logo;

(c) the domain name www.playagc.com ("URL"); and

(d) the *Contract Documentation* including (without limitation) the *COPs*.

27.1 Any person who makes any unauthorised use of any of these rights may result in prosecution or, or other legal action including for breach of contract or in tort being taken against, that person.

27.2 *AGC Competitors* acknowledge agree and accept that any data licensed to *the Company* by third parties which is used on the *AGC Website* is provided for use on the *AGC Website* only and may not be used for any commercial purposes without the consent of such third parties.

## **28 Goods and services tax (GST)**

28.1 The consideration for any supply under or in connection with the Contract includes GST and the party receiving the supply must bear any GST liability for it.

28.2 This means:

(a) if and to the extent that entry fees are a taxable supply they include GST which the Company must bear;

(b) if and to the extent that acquiring prizes including in the form of vouchers are a taxable supply they include GST which the Company must bear;

(c) if and to the extent that redeeming prizes including in the form of vouchers are a taxable supply they include GST which must be borne by the *AGC Competitor* who receives them; and

(d) when claiming on or spending prizes won including vouchers the GST on any goods or services acquired with them must be borne by the *AGC Competitor* who receives and claims and spends them.

## **29 Dispute Resolution**

29.1 *The Company* will attempt to resolve any disputes or complaints that *AGC Competitors* may have in regard to *AGC Services*. If any *AGC Competitor* wishes to raise any issue with *the Company*, they should email *the Company* using the support at playagc.com email address.