

TERMS OF USE

Effective January 1st 2019

The purpose of these Terms of Use is to provide a legal framework for the terms and conditions of provision of the Application and services by HEMBLEM and to define the conditions of access and use of the services by the User.

These Terms of Use are available on the Application under the heading Terms of Use.

ARTICLE 1: LEGAL INFORMATIONS

The Application is published by the Company HEMBLEM SASU, with a capital of 1000 euros, registered with the RCS of Paris under the number 813 839 164 whose registered head office is located 24 rue de Surène 75008 Paris.

The Director of Publication is Edouard Hausseguy, HEMBLEM's CEO.

The host of the Application HEMBLEM is the company Amazon Web Service.

ARTICLE 2: DEFINITIONS

Terms used in this Agreement have the definitions given below.

- Terms of Use: means the present agreement between Hemblem and anyone who use the Application to work with us. To use the Platform, you must have agreed to the present Terms of Use.
- The Agreement: means that any User of the Platform agrees to the current Terms of Use.
- Influencers: content creators.
- Platform: is the service developed and provided by Hemblem, dedicated to allow Influencers, among other things to choose a Client like restaurant, hotel, gallery or any else to use its goods or services.
- Application (or App): way to use the Platform.
- User of the Platform: anyone who uses the platform (Influencer or their Manager) to choose a Client to use its goods or services.
- Client: company which is Hemblem's client for community management and who wants to welcome Influencers.
- Assignments: creation and distribution of content created by the Influencers.
- Account ID: identification and password to access to your account.
- Registration Information: information about yourself asked to establish your account.
- Content: means all content, data or other information provided through the Platform.

- Technology: means The Platform, and the databases, software, hardware and other technologies used by or on behalf of Hemblem to operate the Platform, and the structure, organization, and underlying data, information and software code thereof.
- IPR : means all intellectual property rights, proprietary rights, rights of publicity, rights of privacy, and any and all other legal rights protecting data, information or intangible property throughout the world, including, without limitation, any and all copyrights, trademarks, service marks, trade secrets, patent rights, moral rights, sui generis rights in databases, and contract rights.

ARTICLE 3: ACCEPTANCE

These Terms of Use are agreed between HEMBLEM SASU and any User of the Platform.

Before accessing or using the Platform, you are required to read it carefully and agree to these Terms of Use which includes the terms and conditions below and Hemblem then-current Privacy Policy. By clicking the box, you accept these terms, you agree that you've read and agree with them. You are responsible for compliance with this Agreement. This Agreement is the complete and exclusive agreement between Hemblem and you regarding your access to and use of the Platform and Content.

This Agreement supersedes any prior agreement or proposal, oral or written, and any other communications between Hemblem and you relating to your use of the Platform and Content. If you don't agree or don't meet the qualifications included in this agreement, Hemblem is not willing to provide you with access or use the Platform or Content.

Hemblem reserves the right, at any time, to modify the Platform, Content or this Agreement, by making those modifications available on the Platform or by providing notice to you as specified in this Agreement. Modifications will be effective immediately upon posting on the Platform or such other notice. You may cease using the Platform at any time if you do not agree to any modification. However, you will be deemed to have agreed to such modification through your continued use of the Platform following such notice.

This Agreement is entered into the moment you first download or install the Application, access or use the Platform or Content, or indicate your acceptance by clicking a box that states you accept this Agreement and will continue until terminated as set forth herein. As long as you use the app, you are submitted to the Agreement.

ARTICLE 4: ACCOUNT

You will be required to establish an account on the Platform to access an Application and certain portions of the Platform.

Each Account ID is personal in nature and is for your personal use and each Account ID may be used only by you alone.

You may not distribute or transfer your account or Account ID or provide a third party with the right to access your account or Account ID.

You are solely responsible for all use of the Platform or Content through your account.

You will ensure the security and confidentiality of your Account ID and will notify Hemblem immediately if any Account ID is lost, stolen or otherwise compromised.

You are fully responsible for all liabilities and damages incurred through the use of your account or under any Account ID (whether lawful or unlawful) and that any transactions completed through any account or under any Account ID will be deemed to have been lawfully completed by you.

You agree that all Registration Information you provide will be true and complete; and that you will maintain and promptly update your Registration Information to keep it accurate and current.

ARTICLE 5: OBLIGATIONS OF THE INFLUENCER

5-1 Each Influencer who uses the App and the service offered by a Customer must comply with the publication obligations and conditions defined by each Customer (each establishment).

In the case where the Influencer has several experiences, including in the same institution, he/she should post one or more publications per experience, depending on the obligations of each institution.

Influencers have 24 hours after their experience to make publications or post content arising from their obligation to the institution attended as defined above.

5-2 The service provider always ensures that the Content you create on behalf of the Client is in compliance with what is intended. However, you acknowledge that the provider is not responsible for the Content that you publish on social networks as part of your publications on the service received.

Obligation to respect good conduct and morals.

Without this list of principles being exhaustive, in the context of its publications, the Influencer must not:

- publish pornographic, obscene, offensive or inappropriate content for a family audience,
- publish defamatory, abusive, violent, racist, xenophobic or revisionist statements,
- publish content that is false, misleading or promotes illegal, illegal, fraudulent or deceptive activities;
- publish content that damages the image or reputation of third parties;
- publish content that may damage the integrity of any computer system, including those of third parties;
- publish content that may damage the Customer's brand or reputation. Thus, publications intended to denigrate or harm the advertiser's brand are not allowed;
- more generally, to publish content that may infringe the rights of third parties in any way whatsoever.

In the event that the Influencer does not comply with the above-mentioned code of conduct, the Influencer will no longer be authorized to use the App and his account will be deleted as soon as possible.

5-3 If the Influencer is prevented from honoring the appointments taken in a facility via the Application, the Influencer must cancel within the following time limits:

- at least 48 hours in advance for services in hotels, beauty salons, spas, etc...
- at least 2 hours before the reservation time for restaurants
- no cancellations are possible for escape game type services

If the Influencer fails to comply with these cancellation deadlines for the services reserved via the Application, its account on the Application may be suspended for one month if this failure occurs twice, and definitively in the case of three cancellations outside of the aforementioned deadlines. These account suspensions may not generate any compensation of any kind.

If the Influencer as a result of such suspension evokes Hemblem in unpleasant terms or denigrates Hemblem, Hemblem shall be free to take any action to stop such behavior and receive damages.

ARTICLE 6: ACCESS TO THE APPLICATION

The Application is accessible in any place to any User with Internet access. All costs incurred by the User to access the service (hardware, software, Internet connection, etc.) are at his expense.

The Application HEMBLEM allows the User to access to the following services:

- A. **To the Platform:** Subject to your compliance with this Agreement, Hembem will permit you to access and use the Platform, solely for lawful purposes and only in accordance with the terms of this Agreement and any other agreement you have entered into with Hembem.
- B. **To the Application:** Subject to your compliance with this Agreement, Hembem will permit you to download and install the Application and operate those Application solely for the purpose of using and accessing the Platform. You may install the Application on a computer or mobile electronic device or smart phone owned or controlled by you and used only for your own personal purposes in accordance with this Agreement and any applicable documentation accompanying the Application or otherwise provided to you by Hembem. Except as expressly set forth in the previous sentence, you are granted no licenses or other rights in or to any Application or any IPR (as defined above) therein or related thereto. You agree not to use, modify, reproduce, perform, display, create derivative works from, republish, post, transmit, participate in the transfer or sale of, distribute, or in any way exploit or utilize any Application other than as expressly permitted in this Agreement or any other agreement You are required to agree to before being given access to any Application.
- C. **To Hembem's Clients:** The Platform enables you to choose a Client to use its goods or services.

ARTICLE 7: PLATFORM TECHNOLOGY

Technology (as defined above) constitute valuable trade secrets of Hembem.

You will not, and will not permit any third party to:

- Access or attempt to access the Technology except as expressly provided in this Agreement;
- Use the Technology in any unlawful manner or in any other manner that could damage, disable, or overburden or impair the Technology;
- Use automated scripts to collect information from or otherwise interact with the Technology;
- Alter, modify, reproduce, or create derivative works of the Technology;
- Distribute, sell, resell, lend, loan, lease, license, sublicense or transfer any of Your rights to access or use the Technology or otherwise make the Technology available to any third party;
- Reverse engineer, disassemble, decompile, or otherwise attempt to derive the method of operation of the Technology;
- Attempt to circumvent or overcome any technological protection measures intended to restrict access to any portion of the Technology;
- Monitor the availability, performance or functionality of the Technology;
- Interfere with the operation or hosting of the Technology.

ARTICLE 8: INTELLECTUAL PROPERTY

The brands, logos, signs and all the contents of the site (texts, images, sound...) are protected by the Intellectual Property Code and more particularly by copyright.

The User must request the prior authorization of the site for any reproduction, publication or copy of the various contents. He undertakes to use the contents of the site in a strictly private context, any use for commercial and advertising purposes is strictly prohibited.

Any total or partial representation of this site by any means whatsoever, without the express authorization of the website operator, would constitute an infringement punishable by articles L111-1 and following, L513-4 and following, L 713-2 and following of the Intellectual Property Code.

Hembem retains all right, title and interest, including, without limitation, all IPR (as defined above), in and to the Technology and any additions, improvements, updates and modifications thereto.

You receive no ownership interest in or to the Technology and you are not granted any right or license to use the Technology itself, apart from your right to access the Platform and Content under this Agreement.

The Hembem name, logo and all product and service names associated with the Platform and Content are trademarks of Hembem and its licensors and providers and you are granted no right or license to you to use them.

Claims of Infringement.

Hemblem respects your copyrights and other IPR and those of other third parties. If you believe in good faith that your copyrighted work has been reproduced on the Platform without your authorization in a way that constitutes copyright infringement, you may notify our designated copyright agent by mail to: HEMBLEM SASU amelie@hemblem.com

Please provide the following information to HEMBLEM's Copyright Infringement Agent:

- The identity of the infringed work, and of the allegedly infringing work;
- Your name, address, daytime phone number, and email address, if available;
- A statement that you have a good-faith belief that the use of the copyrighted work is not authorized by the owner, his or her agent, or the law;
- A statement that the information in the notification is accurate and, under penalty of perjury, that you are authorized to act on behalf of the owner;
- Your electronic or physical signature.

ARTICLE 9: DATA COLLECTION AND PRIVACY POLICY

GPRD legislative act: regulation (EU) 2016/679 of the European Parliament and the Council of April 27th 2016 on the protection of natural persons with regard to the processing of personal data.

To create you account on the Platform, you will be required to enter your: name, first name, e-mail, instagram account and postal address.

As the collection of personal data can only concern persons aged at least 15 years, persons under 15 (fifteen) years of age may only give their consent to the collection of their personal data (and consequently complete the App's contact form) if they are authorised by the holder of parental responsibility concerning them.

You expressly consent to the use and disclosure of personally identifiable and other data and information as described in the Privacy Policy. Notwithstanding anything in the Privacy Policy, Hemblem will have the right to collect, extract, compile, synthesize, and analyze non-personally identifiable data or information (data or information that does not identify an entity or natural person as the source thereof) resulting from your access to and use of the Platform or Content. To the extent any such data or information is collected or generated by Hemblem, the data and information will be solely owned by Hemblem and may be used by Hemblem for any lawful business purpose without a duty of accounting to you, provided that the data and information is used only in an aggregated form, without directly identifying you or any other entity or natural person as the source thereof.

Retention period

We do not retain your personal data for longer than necessary, unless we have a statutory obligation to retain your personal data for a longer period. Our basic principle is that we retain your personal data only for as long as that is necessary in order to deliver our services to you. We will subsequently remove your personal data in so far as possible. If, for instance, you have provided your e-mail address so that we can keep you informed of our services, we will retain your data for that purpose. We will also retain your personal data as long as your account and/or profile is active. If you no longer want us to use your information to provide you services, you may close your account and/or profile.

Exercising the right of access

In accordance with law n°78-17 of 6 January 1978 amended by the law of 6 August 2004, Hemblem informs the User that it is subject to the processing of personal data for the purposes mentioned above. As such, the User has the right to access and rectify this data by contacting Hemblem, 24 rue de Surène 75008 Paris or by sending an email to contact@hemblem.com

ARTICLE 10: COOKIES

Hemblem is responsible for the optimal performance of its App. To ensure that the App functions properly, Hemblem uses technology that involves processing personal data, such as cookies. A cookie is a small text file that is stored on the visitor's device (electronic appliance) when the site is first visited. Cookies are intended to collect information about a person, the website or statistics. Some cookies are also intended to improve user experiences of the website.

Types of cookies

We make a distinction between functional and non-functional cookies. Functional cookies are always used. These are necessary for the efficient operation of the website and process personal data only for the purpose for which these data are completed.

Non-functional cookies include analytics and tracking cookies. These cookies are not necessary for the functioning of the App. We do not use any of them.

ARTICLE 11: TERMINATION

This Agreement may be terminated by either party at any time, in that party's sole discretion.

Upon termination or expiration of this Agreement for any reason:

- All rights and subscriptions granted to you under this Agreement will terminate;
- You will immediately cease all use of and access to the Platform and all Content;
- You will immediately delete any Applications downloaded or installed prior to termination;
- Hemblem may delete your Account and any of Your Assignments held by Hemblem at any time.

Without limiting Hemblem's right to terminate this Agreement, Hemblem may also suspend your access to your Account and the Platform or Content (including your Assignments), with or without notice to you, upon any actual, threatened, or suspected breach of this Agreement or applicable law or upon any other conduct deemed by Hemblem to be inappropriate or detrimental to the Platform, Hemblem, or any other Client or Influencer.

ARTICLE 12: WARRANTIES AND DISCLAIMER

Each party hereby represents and warrants that:

- It has the legal right and authority to enter into this Agreement;
- This Agreement forms a binding legal obligation on behalf of such party;
- It has the legal right and authority to perform its obligations under this Agreement and to grant the rights and licenses described in this Agreement.

Except as expressly set forth in this section, the Platform, the Content and the Technology are provided « as is » and « as available » and Hemblem and its providers expressly disclaim and you disclaim any reliance on, any and all warranties and representations of any kind with regard to subject matter of this agreement, whether express, implied or statutory, including, without limitation, any warranties of fitness for a particular purpose, merchantability, title or non-infringement.

No oral or written information or advice given by Hemblem, its employees, providers or agents will increase the scope of, or create any new warranties in addition to the warranties expressly set forth in this section.

You hereby agree to indemnify, defend, and hold harmless Hemblem and its officers, directors, shareholders, affiliates, employees, agents, contractors, assigns, licensees, and successors in interest from any and all claims, losses, liabilities, damages, fees, expenses and costs (including attorneys' fees, court costs, damage awards, and settlement amounts) that result from any claim or allegation against any Indemnified Party arising from your access to or use of the Platform, Content or Technology, and any breach by you of this Agreement. Hemblem will provide you with notice of any such claim or allegation, and Hemblem will have the right to participate in the defense of any such claim at its expense.

ARTICLE 13: LIMITATION OF LIABILITY

The sources of the information provided on the Hemblem Application are deemed reliable, but the Hemblem does not guarantee that it is free of defects, errors or omissions. Despite regular updates, the Application cannot be held responsible for any changes in administrative and legal provisions that occur after publication. Similarly, the site is not responsible for the use and interpretation of the information contained on this Application.

Hemblem cannot be held responsible for any viruses that may infect the Internet user's phone or any phone or computer equipment as a result of using, accessing or downloading from this site. Hemblem cannot be held liable in the event of force majeure or the unforeseeable and insurmountable event of a third party.

Hemblem will not be liable for any indirect, incidental, special, exemplary or consequential damages, however caused, under any theory of liability, whether in contract, strict liability or tort (including negligence or otherwise), arising in connection with or out of the use of the Platform Content or services, even if Hemblem has been advised of the possibility of such damages.

ARTICLE 14: APPLICABLE LAW AND ADDITIONAL TERMS

The interpretation of the rights and obligations of the parties under this Agreement, including, to the extent applicable, any negotiations, arbitrations or other proceedings hereunder, will be governed in all respects exclusively by the laws of France. Each party will bring any action or proceeding arising from or relating to this Agreement exclusively in Tribunal de Commerce de Paris, France and you irrevocably submit to the personal jurisdiction and venue of any such courts in any such action or proceeding brought in such courts by Hemblem.

Unless otherwise amended as provided herein, or as otherwise provided herein, this Agreement will exclusively govern Your access to and use of the Platform and Content, and is the complete and exclusive understanding and agreement between the parties, and supersedes any oral or written proposal, agreement or other communication between the parties, regarding Your access to and use of the Platform and Content. Except as expressly set forth in this Agreement, this Agreement may be amended or modified only by a writing signed by both parties. All waivers under this Agreement must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. If any provision of this Agreement is held to be unenforceable, that provision will be removed to the extent necessary to comply with the law, replaced by a provision that most closely approximates the original intent and economic effect of the original to the extent consistent with the law, and the remaining provisions will remain in full force. The prevailing party in any lawsuit or proceeding arising from or related to this Agreement will be entitled to receive its costs, expert witness fees and reasonable attorneys' fees, including costs and fees on appeal. Neither this Agreement nor any rights or obligations of you hereunder may be assigned or transferred by you (in whole or in part and including by sale, merger, consolidation, or other operation of law) without the prior written approval of Hemblem. Any assignment in violation of the foregoing will be null and void. Hemblem may assign this Agreement to any party that assumes Hemblem's obligations hereunder. The parties hereto are independent parties, not agents, employees or employers of the other or joint venturers, and neither acquires hereunder any right or ability to bind or enter into any obligation on behalf of the other. The Platform or Content may contain links to third-party sites that are not under the control of Hemblem's. Hemblem is not responsible for any content on any linked site and you access any third-party site from the Platform or Content at Your own risk. Hemblem may reference you as a user of the Platform and use your name and logo, as applicable, in listings of users of the Platform appearing on the Platform and for other marketing and promotional purposes relating to the Platform.