

## NOVUS ESCAPE ROOM – MIDDLETOWN, DELAWARE

BEFORE YOU USE THE WEBSITE OR CLICK ON THE “CONFIRM” BUTTON, PLEASE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY. BY USING OR CLICKING ON THE “CONFIRM” BUTTON, YOU SIGNIFY YOUR AGREEMENT TO THESE TERMS AND CONDITIONS AND YOU SHALL BE BOUND BY THE SAME.

### **TERMS & CONDITIONS**

This agreement (“Agreement”) is an agreement between you (“you” or “your”) and ARPATEL INC DBA Novus Escape Room. (“Novus”) for the use of middletown.novusescaperoom.com and or other websites operated and managed by Novus (“Website”). This Agreement shall also govern the provision of any or all of the services made available to you through the Website (“Website Services”), including without limitation, the services provided by Novus for you to make bookings for any one or more of the available games or services offered by Novus on Novus’s premises (“Booking Services”).

#### **1. GENERAL**

1.1 Your use of the Website and Website Services or any part thereof shall be conditional upon your acceptance of the terms and conditions contained in this Agreement. If you do not agree to any of these terms and conditions, you shall not use the Website.

1.2 You shall be at least eighteen (18) years old and be fully able and competent to enter into this Agreement with Novus.

1.3 This Agreement shall be read together with:

(a) all applicable law, regulations, guidelines, policies, orders, codes and/or other requirements as may be imposed by all relevant governmental or regulatory bodies and authorities from time to time (collectively the "Applicable Law"); and

(b) all guidelines and policies published on the Website by Novus, including without limitation the privacy notice.

1.4 In this Agreement, unless the context otherwise requires:

(a) words denoting the singular include the plural and vice-versa;

(b) words denoting natural persons may include bodies corporate and unincorporated;

(c) references to any legislation or to any provision of legislation shall include any modification or re-enactment of that legislation or any legislative provision substituted for, and all regulations and statutory instruments issued under such legislation or provision;

(d) headings of this Agreement are inserted for convenience only and shall not affect the construction or interpretation of this Agreement;

## NOVUS ESCAPE ROOM – MIDDLETOWN, DELAWARE

(e) no rule of construction or interpretation applies to the disadvantage or detriment of the party having control or being responsible for the preparation of this Agreement; and

(f) any words following the terms including, include or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

### **2. DEVICE**

2.1 You shall be responsible for obtaining and maintaining all telephone, computer hardware, equipment, including mobile telephones or handheld devices and internet connection needed for access to and use of the Website and Website Services and all charges related thereto.

### **3. GRANT OF LICENSE**

3.1 In consideration of you agreeing to abide by this Agreement, Novus grants you a non-transferable, non-exclusive license to use the Website and/or Website Services. The right to access and use the Website and Website Services, including the use of all details, content, dimensions, data, photographs, text, descriptions, specifications, audio, video clips, graphics, images, materials, documentation and/or other information (“Information”) made available to you through the Website and/or Website Services is personal and the use of the same shall not be commercialized in any manner whatsoever.

### **4. WEBSITE SERVICES**

4.1 If you wish to have full access to the Website Services, you shall follow the procedure set out in the Website and provide Novus with all the necessary Information. You shall be responsible for ensuring that all Information made available to Novus is accurate, original, authentic, complete, reliable, current, error-free and will not infringe the intellectual property rights of any third party.

4.2 You may be asked to provide additional verification or Information and Novus shall be entitled to refuse to provide you any of the Website Services in the event you do not agree or fail to provide the requested Information.

4.3 In the event that the contract for the provision of any of the Website Services is deemed to have been formed (usually when you have received a confirmation email from Novus in relation to the provision of Website Services), you may not modify or cancel such contract except with Novus’s agreement in writing and on the condition that you shall indemnify Novus in full against all loss, costs, damages, charges and expenses (including loss of profit) incurred by Novus as a result of such modification or cancellation.

## **5. BOOKING SERVICES**

5.1 Booking Services shall be subject to all the booking rules and policies published on the Website (“Booking Rules”). You shall read all the Booking Rules prior to engaging Novus for the Booking Services. By clicking on the “CONFIRM” button, you acknowledge your agreement to the Booking Rules and shall be bound by the same.

## **6. LICENCE RESTRICTIONS**

6.1 The Website, Website Services, and/or all Information contained on, in or made available through the Website and/or Website Services shall be collectively referred to as the “Novus Property and Services”. Except as expressly set out in this Agreement, you shall not and shall not attempt, whether by yourself or by allowing any third party, to:

- (a) cut, copy, distribute, recreate, disseminate, post, and/or publish Novus Property and Services or any part thereof except where such act is incidental to the normal use of Novus Property and Services, or where it is necessary for the purpose of this Agreement or other back-up and/or operational security reasons;
- (b) rent, lease, sub-license, loan, translate, merge, adapt, vary or modify Novus Property and Services or any part thereof;
- (c) make alterations or modifications to the whole or any part of Novus Property and Services, or permit Novus Property and Services or any part thereof to be combined with, or become incorporated in, any other programs;
- (d) disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of Novus Property and Services; and
- (e) provide or otherwise make available the Website in whole or in part (including object and source code), in any form to any person without prior written consent from Novus.

6.2 The foregoing provisions are for the benefit of Novus and Novus’s related corporations, contractors, successors and assigns and each shall have the right to assert and enforce such provisions directly or on Novus’s behalf.

## **7. USER CONDUCT**

7.1 In using and/or accessing Novus Property and Services, you shall:

- (a) comply with all Applicable Law, including without limitation technology control or export laws and regulations that apply to the technology used or supported by the Website and/or any Website Services; and
- (b) comply with all guidelines, rules, regulations, policies, instructions and procedures in connection with the Website and Website Services as imposed or may be imposed from time to time by Novus at Novus’s absolute discretion.

## NOVUS ESCAPE ROOM – MIDDLETOWN, DELAWARE

7.2 Except as expressly set out in this Agreement, you shall not and shall not attempt to, whether by yourself or by allowing any third party to:

- (a) use Novus Property and Services or any part thereof for any purposes other than for your personal use;
- (b) use Novus Property and Services in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this Agreement, or act fraudulently or maliciously, include without limitation by hacking or inserting or transmitting malicious code, viruses, or harmful data into the Website or any operating system;
- (c) misuse or abuse Novus Property and Services in anyway or otherwise compromise the integrity of Novus's software or systems;
- (d) send, advertise or publish any unsolicited advertising or promotional content through or on the Website or Website Services without Novus's written approval;
- (e) use Novus Property and Services in a way that could damage, disable, overburden, impair or compromise Novus's systems or security or interfere with other users' use and enjoyment of Novus Property and Services;
- (f) collect or harvest any Information from Novus Property and Services or Novus's systems or attempt to decipher any transmissions to or from the servers running any of the Website Services; and
- (g) transmit or post or cause to be transmitted through or posted on the Website any Information which violates or infringes the rights of others, which is unlawful, technologically harmful, threatening, abusive, defamatory, vulgar, obscene, profane or otherwise objectionable, which encourages conduct that would constitute a criminal offence, give rise to civil liability or otherwise violate any law.

7.3 If any part of Novus Property and Services is copied in accordance with this Agreement, you shall keep all copies of Novus Property and Services secured and to maintain accurate and up-to-date records of the number and locations of all such copies and to include Novus's copyright notice on all entire and partial copies you make of Novus Property and Services on any medium.

7.4 The foregoing provisions are for the benefit of Novus and Novus's related corporations, contractors, successors and assigns and each shall have the right to assert and enforce such provisions directly or on Novus's behalf.

## **8. LINKS**

8.1 The Website may contain links to other independent third party sites. Such links are provided for your convenience only and such third party sites are not under Novus's control. The inclusion of the same on the Website shall not be taken as endorsement of any such sites by Novus in any manner whatsoever and Novus shall not be responsible or liable for any loss or damage you suffer, whether directly or indirectly, as a result of your use of such third party sites.

## **9. CONSUMER PROTECTION**

9.1 Notwithstanding anything contained herein, if Consumer Protection Act 1999 (“Act”) applies and if you are dealing as a consumer under the Act (consumer shall have the meaning prescribed to it by the Act, “Consumer”):

- (a) Novus gives you such implied warranties under the Act that cannot be excluded by the Act;
- (b) this Agreement is only intended to exclude or limit the remedies and rights you may have to the maximum extent permitted by the Act; and
- (c) nothing in this Agreement is intended to exclude or limit Novus’s liability to you for any loss or damage arising from (i) Novus’s negligence; or (ii) Novus’s breach of any express or implied terms of this Agreement without adequate justification.

## **10. DISCLAIMER**

10.1 To the maximum extent permitted by all Applicable Law, all Novus Property and Services are provided on an "as is" and “as available” basis, with all faults and without warranty of any kind, and Novus hereby disclaims all warranties and conditions, either express, implied or statutory, with respect to such Novus Property and Services.

10.2 Information in connection with the Website and Website Services which is made available to you by Novus may be furnished to Novus by third parties. While Novus shall use all reasonable endeavors to ensure that such Information is communicated to you in its original form supplied to Novus by the third parties, Novus does not warrant that the said Information is accurate, complete, reliable, current, or error-free.

10.3 In relation to the use of the Website and/or Website Services, while Novus will use reasonable endeavors to maintain the Website and/or Website Services, Novus does not warrant that:

- (a) the functions contained in the Website and/or Website Services will meet your requirements,
- (b) the operation of the Website and/or Website Services will be uninterrupted, virus-free or error-free, and
- (c) any defects in the Website and/or Website Services will be corrected.

10.4 You understand that advice or recommendations are a matter of opinion and may not represent the true application, quality or feature of a particular service, as such you accept that any advice or recommendation given by Novus, Novus’s employees, personnel, representatives and/or agents is followed or acted upon entirely at your own risk.

10.5 For the avoidance of doubt this clause shall be subject to the provisions of the Act in the event that the Act is applicable.

## **11. INTELLECTUAL PROPERTY RIGHTS**

11.1 You acknowledge and agree that Novus, Novus's suppliers, contractors, partners and/or licensors (if any), own and shall retain all rights, titles and interests in, to and under:

(a) patents, registered designs, designs, copyrights and all other rights in connection with any intellectual or industrial properties including without limitation know-how, inventions, and trade secrets (and all copies and derivative works thereof, by whomever produced); and

(b) all of its respective names, service marks and logos, trade names and any other trademarks (collectively be referred to as the "Intellectual Property Rights").

Nothing in this Agreement shall transfer or assign any such Intellectual Property Rights to you.

11.2 You shall not use Novus Property and Services and any other properties in which any of the Intellectual property Rights subsist except only to extent necessary for the purpose of and to the extent permitted by this Agreement.

11.3 Notwithstanding anything contained in this Agreement, you shall not engage in any conduct which will infringe Novus's Intellectual Property Rights or those of any third party in relation to your use of Novus Property and Services or any party thereof.

11.4 The foregoing provisions of this Clause are for the benefit of Novus and Novus's third party content providers and licensors and each shall have the right to assert and enforce such provisions directly or on Novus's behalf.

## **12. CONFIDENTIAL INFORMATION**

12.1 "Confidential Information" means all information of any kind, whether in machine readable or visually readable form, oral or otherwise and whether or not labelled as "Confidential", including but not limited to the information that is by its nature confidential and proprietary to the disclosing party and/or its affiliates, that are made available by or on behalf of the disclosing party to the receiving party for the purposes relating to or in connection with this Agreement. "Confidential Information" shall not include information that:

(a) is already known to the receiving party or in its possession before the disclosure hereunder free of any obligation to keep it confidential;

(b) is independently developed by the receiving party,

(c) is or becomes generally available to the public other than as a result of a breach of this Agreement by the receiving party or its Representatives (hereinafter defined);

(d) is received by the receiving party from a third party without similar obligations of confidence and without breach of this Agreement; provided, however, that such source is

## NOVUS ESCAPE ROOM – MIDDLETOWN, DELAWARE

not to the knowledge of the receiving party bound by a confidentiality agreement or other legal or fiduciary obligation of secrecy to the disclosing party; or

(e) is disclosed to a third party by the disclosing party without imposing similar restrictions on that third party's rights of disclosure.

12.2 The receiving party shall not disclose the Confidential Information or any part thereof to any person except:

(a) to its personnel, advisors (including legal, financial and accounting advisors), service providers, contractors and/or agents (collectively, "Representatives"), who: (i) have a definite need to know such Confidential Information; (ii) have been duly apprised of the requirements of this Clause; and (iv) are or will be bound to keep such information confidential as required in this Agreement;

(b) to any governmental or regulatory bodies as required by the operation of any Applicable Law. In the event that any Confidential Information is required to be disclosed pursuant to this sub clause, the receiving party shall (i) give prompt written notice to the disclosing party; (ii) at the request of the disclosing party, use reasonable efforts to obtain confidential treatment for such Confidential Information it is required to disclose; and (iii) fully cooperate with the disclosing party in seeking appropriate remedy, including challenging, redacting or minimizing the disclosure; or

(c) to such person approved by the disclosing party in writing.

12.3 All Confidential Information shall be used only for the purpose of this Agreement.

### **13. PERSONAL DATA**

13.1 All Personal Data collected from you will be processed in accordance with the Privacy Notice.

### **14. LIMITATION OF LIABILITY**

14.1 To the maximum extent permitted by law and subject to the provisions on the Act:

(a) Novus shall not be liable for any damages of any kind arising from your use of Novus Property and Services, including without limitation direct, indirect, incidental, punitive and consequential damages unless otherwise specified in writing. In no event shall Novus be liable for loss of profit or goodwill, loss of production or revenue or any type of special indirect or consequential loss whatsoever whether or not such losses were reasonably foreseeable or Novus had been advised of the possibility of you incurring the same; and

(b) In any event, Novus's maximum and cumulative total liability (including any liability for acts and omissions of its employees, representatives, personnel, agents and/or sub-contractors) in respect of any and all claims for defective performance, breach of contract, compensation, indemnity, tort, misrepresentation, negligence at law or equity

## NOVUS ESCAPE ROOM – MIDDLETOWN, DELAWARE

and any other damages or losses however arising under this Agreement shall not exceed fifty US dollars (\$ 50).

### **15. FORCE MAJEURE**

15.1 Either party shall not be liable to the other party or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of its obligations under this Agreement, if the delay or failure was due to any cause beyond the party's reasonable control, including but not limited to:

- (a) fire, act of God, storm, explosion, earthquake, flood, tempest, accident or other natural disaster;
- (b) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- (c) acts, restrictions, regulations, bye laws, prohibitions, import or export regulations, embargoes or measures of any kind imposed by any governmental, parliamentary or local authority;
- (d) strikes, lock outs or other industrial actions or trade disputes;
- (e) difficulties in obtaining raw materials, labor, fuel, parts or machinery; or
- (f) telecommunication, transportation, power supply, network or system disturbances or failures, or breakdown in machinery resulting in the impossibility of the use of any of the aforementioned.

### **16. INDEMNITY**

16.1 You agree to defend, indemnify and hold Novus, Novus's related corporations, contractors, successors, assigns, and third parties, and each of Novus's and their respective directors, officers, employees and agents harmless from and against all loss, damages, claims, fines, penalties or expenses, including attorneys' fees, arising from your use of the Website and/or Website Services, your negligence and/or your breach of this Agreement. This indemnity shall be granted whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.

### **17. TERMINATION**

17.1 Novus may immediately terminate this Agreement by notice without prejudice to any other rights Novus may have under this Agreement or at law in writing if:

- (a) you are found to be in breach of any clause of this Agreement; or
- (b) you shall pass a resolution for winding up or becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration (including without limitation bankruptcy proceeding) or if a receiving order is made against you or you make any arrangement or composition with your creditors.



## NOVUS ESCAPE ROOM – MIDDLETOWN, DELAWARE

17.2 Notwithstanding the foregoing, Novus reserves the right to suspend or cease your access to the Website and/or Website Services (“Suspension”), with or without notice, and shall have no liability or responsibility to you in any manner whatsoever if Novus is of reasonable opinion that your use of the Website and/or Website Services will cause disturbances to other users of the Website or otherwise cause any disturbances to Novus in providing Website Services or other services to other third parties.

17.3 Upon termination of this Agreement and during the Suspension,

- (a) all rights granted to you under this Agreement shall cease;
- (b) all bookings made by you will be cancelled or terminated without any liability on Novus;
- (c) you must immediately cease all activities authorized by this Agreement; and
- (d) when requested, you shall return to Novus or destroy all Confidential Information.

## 18. VARIATION OF THE TERMS

18.1 No revision, amendment or variation of this Agreement shall be effective and binding unless it is in writing. Notwithstanding the above, Novus reserves the right to amend this Agreement at any time, including but not limited to adding, deleting, amending, or modifying this Agreement or any part thereof. Such addition, deletion, amendment, or modification shall be effective immediately upon notice thereof, which may be given by means of, including without limitation, posting on the Website, or by electronic or conventional mail, or by any other means by which you obtain notice thereof. Any use of the Website by you after the issuance of such notice shall be deemed to constitute acceptance of this Agreement with such addition, deletion, amendment, or modification.

## 19. CHANGES TO THE WEBSITE

19.1 Novus shall have the right at any time to change or discontinue any aspect or feature of the Website and/or Website Services, including, but not limited to, content, design, hours of availability, and methods to access and use the Website.

## 20. COMMUNICATIONS

20.1 “Business Day” shall mean a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the United States.

20.2 Except as otherwise agreed or provided in this Agreement, all notices and other communications to be sent to the other party (“Recipient”) pursuant to this Agreement shall be in writing and in English language and shall be valid and sufficient if dispatched or sent to the address, e-mail address or facsimile notified by the Recipient or submitted or made available by the Recipient to the other party through the Website. Such notice shall be deemed to have been served (a) if delivered personally, the next business day after it has been delivered; (b) if sent by registered mail or courier, five (5) days after dispatch; (c) if sent by facsimile, upon receiving the

## NOVUS ESCAPE ROOM – MIDDLETOWN, DELAWARE

confirmation report stating successful transmission of the facsimile if sent before 5p.m. on a Business Day and if sent after 5p.m., the next Business Day; or (d) if sent by e-mail, upon successful delivery of the e-mail and recorded as a sent mail if sent before 5p.m. on a Business Day and if sent after 5p.m., the next Business Day.

20.3 Notwithstanding anything to the contrary in this clause, notification by way of e-mail shall not be applicable to or valid with respect to any legal notices, claims, demands, suits and/or proceedings.

### **21. ENTIRE AGREEMENT**

21.1 This Agreement (together with any documents referred to herein) constitutes the whole agreement between the parties relating to the subject matter hereof and supersedes any prior agreements, understandings or arrangements between them, whether oral or in writing relating to the subject matter hereof and no representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the parties prior to this Agreement except as set out in this Agreement.

### **22. ASSIGNMENT, NOVATION, DELEGATION AND SUBCONTRACTING**

22.1 Your rights, title, benefits, obligations and duties under this Agreement shall not be transferred, assigned, novated and/or sub-contracted to any other party without Novus's prior written consent.

### **23. NO WAIVER**

23.1 No failure or delay by Novus in exercising any right under this Agreement shall operate as a waiver of such right or extend to or affect any other or subsequent event or impair any rights or remedies in respect of it or in any way modify or diminish Novus's rights under this Agreement.

23.2 No single or partial exercise of any rights or remedies by Novus shall affect Novus's other rights or remedies under this Agreement.

23.3 A provision of right or remedy under this Agreement may not be waived except in writing signed by Novus. A waiver by Novus of any breach shall not constitute a continuing waiver in respect of any subsequent or continuing breach.

### **24. SURVIVAL**

24.1 The covenants, conditions and provisions of this Agreement which are capable of having effect after the expiration or termination of this Agreement shall remain in full force and effect following the expiration or termination of this Agreement unless otherwise agreed in writing.

### **25. SUCCESSORS AND ASSIGNS**

25.1 This Agreement shall be binding upon the parties and their permitted legal assigns and successors in title.

**26. SEVERABILITY**

26.1 If any term, condition, stipulation, provision, covenant and/or undertaking of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term, condition, stipulation, provision, covenant and/or undertaking shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term, condition, stipulation, provision, covenant and/or undertaking shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term, condition, stipulation, provision, covenant and/or undertaking.

**27. NO AGENCY/PARTNERSHIP**

27.1 Nothing in this Agreement shall create, or be deemed to create, a joint venture, partnership or relationship of principal and agent between the parties. No party shall have any authority to act, make representations or bind or contract on behalf of the other party.

**28. GOVERNING LAW**

28. This Agreement shall be governed by and construed in accordance with the laws of the United States.