

WEBSITE TERMS AND CONDITIONS

1. DEFINITIONS

In this Contract, the following definitions shall apply:

Client: the person or business named as the Client in any application for CS Membership and anyone authorised to access the CS Membership by that person or business in accordance with clause 3.1;

Client Content: such content uploaded by the Client;

Contract: means these terms and conditions of use as updated from time to time under clause 9.4;

Customer: anyone who accesses the site to hire a service from a Client.

Customer Contracts: means a contract for the supply of Services between the Client and a Customer;

Intellectual Property Rights: means rights such as copyright, trade marks, domain names, design rights, database rights, patents and all other intellectual property rights of any kind whether or not they are registered or unregistered (anywhere in the world).

CS: means Cake Stars which is the trading name of S.E.A. Developments (U.K) Limited

Website: this website includes the following websites: www.cakestars.com and www.cakestars.co.uk, and all associated web pages;

Website Materials: any text, graphics, images, audio, software, data compilation, page layout, underlying code and software and any other form of information capable of being stored in a computer that appears on or forms part of the Website

2. ABOUT THESE TERMS

- 2.1 This Contract details the rights and obligations of CS and the Client in relation to the Client's use of the CS Membership and Website. The Client should read this Contract carefully before subscribing to the CS Membership or accessing the Website.
- 2.2 By accessing or using the CS Membership or the Website, the Client agrees to be bound by this Contract and the documents referred to in them. If the Client does not agree with or accept any of the terms of this Contract, the Client should stop using the CS Membership and the Website immediately.
- 2.3 If the Client has any questions about the CS Membership, please contact CS by e-mail only at info@cakestars.com (Monday to Friday, 9:30 to 16:00)
- 2.4 A Client's use of the CS Membership means that the Client must also comply with CS's privacy policy and cookie policy where applicable.
- 2.5 The Client acknowledges that in entering into this Contract it is not relying on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract or any document expressly referred to in them.
- 2.6 CS and the Client each agree that neither shall have any claim against the other for innocent or negligent misrepresentation based on any statement in this Contract.

3. USING THE CS MEMBERSHIP

- 3.1 Access to the CS Membership is personal to the Client and the Client undertakes not to share its password and other account details with anyone except as agreed in writing with CS.
- 3.2 The Client agrees that it is solely responsible for:
 - 3.2.1 all costs and expenses incurred by it in relation to your use of the CS Membership; and
 - 3.2.2 keeping all passwords and other account details confidential and ensuring that any other person given those passwords and account details keeps them confidential.
- 3.3 CS ensures its compliance with the GDPR and sets out its policy with respect to GDPR in its Privacy Policy which can be found on the Website at <https://cakestars.com/privacy-policy> The Client is responsible for compliance with the GDPR with respect to all information it provides as part of the CS Membership and the information it displays on the Website. OMOM
- 3.4 CS may prevent or suspend a Client's access to the CS Membership or Client's Content if a Client does not comply with any part of this Contract, any terms or policies to which they refer or any applicable law.
- 3.5 CS may suspend or terminate operation of the CS Membership or amend or remove any of the Client's Content at any time as it sees fit.
- 3.6 As a condition of the Client's use of the CS Membership, the Client agrees:
 - 3.6.1 not to use the CS Membership for any purpose that is unlawful under any applicable law or prohibited by this Contract;
 - 3.6.2 not to use the CS Membership to commit any act of fraud;
 - 3.6.3 not to use the CS Membership to distribute viruses or malware or other similar harmful software code;
 - 3.6.4 not to use the CS Membership for purposes of promoting unsolicited advertising or sending spam;
 - 3.6.5 not to use the CS Membership to simulate communications from CS or another service or entity in order to collect identity information, authentication credentials, or other information ('phishing');
 - 3.6.6 not to use the CS Membership in any manner that disrupts the operation of OM's business or the website or business of any other entity;
 - 3.6.7 not to use the CS Membership in any manner that harms minors;
 - 3.6.8 not to promote any unlawful activity;
 - 3.6.9 not to represent or suggest that we endorse any other business, product or service unless we have separately agreed to do so in writing;
 - 3.6.10 not to use the CS Membership to gain unauthorised access to or use of computers, data, systems, accounts or networks;
 - 3.6.11 not to attempt to circumvent password or user authentication methods;
 - 3.6.12 not adjust to try to circumvent or delete any notices contained on the website (including any intellectual property notices) and in particular in any

digital rights or other security technology embedded or contained within the website;

- 3.6.13 not to make, transmit or store electronic copies of Website Material or another Client's Content protected by copyright without the permission of the owner; and
 - 3.6.14 not to use the CS Membership to submit any content to the Website that contains material that is offensive, obscene, pornographic, false or defamatory
 - 3.6.15 to comply with the provisions relating to our intellectual property rights and software contained in this Contract.
- 3.7 If a Customer decides to engage a Client to provide its services, the Client shall enter into a Customer Contract to provide such services and CS shall not be party to such Customer Contract.
- 3.8 CS shall not be liable for any breach of a Customer Contract by either the Client or the Customer or redeeming any payment from a Customer on behalf of the Client.
- 3.9 The Client shall maintain all such authorisations and other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with this Contract and the Customer Contract.

4. OWNERSHIP, USE AND INTELLECTUAL PROPERTY RIGHTS

- 4.1 The Website Materials, and all Intellectual Property Rights in them are owned by CS, its licensors or both (as applicable). CS and its licensors reserve all rights in any intellectual property in connection with website material.
- 4.2 Nothing in this contract grants the Client any legal rights in the Website Materials other than as necessary to enable the Client to access the CS Membership during the Term.
- 4.3 The Client warrants that the Client Content, and all Intellectual Property Rights in them are owned by the Client, its licensors or both (as applicable).
- 4.4 The Client and CS agree that they will:
 - 4.4.1 not use any Intellectual Property owned by the other party (or its licensors) otherwise than for the purposes set out in this Contract or agreed to in writing in advance between the parties;
 - 4.4.2 not take or authorise any action whereby the Intellectual Property Rights will or might be jeopardised or invalidated; and
 - 4.4.3 immediately inform the other party of any actual or threatened infringement of the other parties Intellectual Property Rights of which it becomes aware.

5. SOFTWARE

- 5.1 Software may be made available by CS for the Client to download in order to help the Website work better. The Client may only use such software if it agrees to be bound by the terms and conditions that apply to such software (e.g. the 'end user licence agreement' or 'EULA'). The Client will be made aware of any terms and conditions that apply to the software prior to downloading it. If the Client does not accept such terms and conditions, the Client will not be allowed to download the software. The Client should read any terms and conditions carefully.

5.2 Using the software in an unlawful way (such as reproducing or redistributing it in a way that breaches this Contract and any others that apply to it) is expressly prohibited and may result in civil and criminal penalties.

6. ACCURACY OF INFORMATION

6.1 While CS try to make sure that the Website and CS Membership is available for the Client's use, CS do not promise that the CS Membership and the Website will be available at all times nor does CS promise the uninterrupted use by the Client of the CS Membership and the Website.

6.2 The Client represents and warrants that:

6.2.1 it owns or otherwise controls all the rights to the Client Content;

6.2.2 the Client Content is accurate; and

6.2.3 use of the Client Content it supplies does not violate any provisions of this Contract.

7. TERM AND TERMINATION

7.1 This Contract shall terminate on the last day of the Term selected by the Client.

7.2 The Subscriber may terminate this contract at any time during the Term by giving CS not less than Four week's notice in writing.

7.3 CS shall be entitled to terminate this Contract immediately and at any time if the Client:

7.3.1 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if CS reasonably believes that to be the case;

7.3.2 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;

7.3.3 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;

7.3.4 has a resolution passed for its winding up;

7.3.5 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;

7.3.6 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;

7.3.7 has a freezing order made against it;

7.3.8 is subject to any recovery or attempted recovery of items supplied to it by a Contractor retaining title to those items;

7.3.9 is subject to any events or circumstances analogous to those in clauses 7.3.1 to 7.3.8 in any jurisdiction;

7.3.10 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 8.3.1 to 8.2 including giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for

repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process; and

- 7.4 CS shall be entitled to terminate this Contract with 14 days notice in writing to the Client if CS receives 3 complaints from a Customer about the Client.
- 7.5 Either party may at any time by notice in writing to the other party terminate this Contract as from the date of service of such notice whenever any of the following events occurs:
- 7.5.1 there is a breach by the other party of any provision hereof which expressly entitles the non-breaching party to terminate this Contract; or
- 7.5.2 the other party commits a material breach of any of its obligations hereunder which is not capable of remedy or, if capable of remedy, is not remedied within a reasonable time (agreed between the parties at the time), after receipt of written notice from the non-breaching party of its intention to terminate.
- 7.6 CS may write to the Client to terminate this contract at any time should CS decide that it is going to stop providing CS Membership. CS will let the Client know at least 14 days in advance.
- 7.7 Termination of this Contract, as provided by this clause 9, shall not prejudice or affect any right of action or remedy which shall have accrued or which may thereafter accrue to CS or the Client.

8. EFFECTS OF CANCELLATION

- 8.1 Subject to clause 8.2, in the event of termination of this Contract:
- 8.1.1 the Client will return or destroy any Website Content held by it within 14 days.
- 8.1.2 CS shall remove any Client Content from the Website within 14 days.
- 8.2 The obligations of the parties set out in this Contract and any other provisions expressed to survive termination of this Contract shall survive termination or expiry of this Contract howsoever arising.

9. LIMITATION ON OUR LIABILITY

9.1 Liability not excluded

Notwithstanding any other provision of this Contract, the liability of the parties shall not be limited in any way in respect of the following:

- 9.1.1 death or personal injury caused by negligence;
- 9.1.2 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- 9.1.3 fraud or fraudulent misrepresentation;
- 9.1.4 any other losses which cannot be excluded or limited by applicable law;

9.2 Limitation on Liability

Subject to clause 9.1 and clause 9.4, the entire liability of either party to the other under this Contract in respect of all other losses arising under or in connection with this Contract, whether in tort (including negligence), contract, breach of statutory duty, or otherwise, shall in no circumstances exceed the Subscription fee.

9.3 Exclusion of Liability

9.3.1 Subject to clause 9.1 and clause 9.4, neither party shall in any circumstances whatsoever be liable to the other, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for and of the following (whether direct or indirect):

- (a) any loss of profits or business or revenue or goodwill or savings, discount or rebate (whether actual or anticipated);
- (b) loss or corruption of data or Software insofar as it is inherently incapable of being re-constituted and returned to a fully operational state;
- (c) any harm to reputation or loss of opportunity or use

9.3.2 Subject to clause 9.1 and clause 9.4, neither party shall in any circumstances whatsoever be liable to the other, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for consequential, indirect or special losses.

9.4 Indemnity

Subject always to CS's proper observance of its obligations under this Contract, the Client shall fully indemnify CS against all claims, demands, actions, costs, expenses (including but not limited to full legal costs and disbursements on a solicitor and client basis), losses and damages suffered by CS and arising from or incurred by reason of any claim by any third party of infringement or alleged infringement by CS resulting from CS's use of any copyrights, patents, trademarks, service marks, design rights (whether registered or unregistered) and all other similar proprietary intellectual property supplied by the Client to CS. This indemnity shall include, but not be limited to, the costs and expenses incurred by CS in the defence of such alleged infringement.

10. EVENTS BEYOND OUR CONTROL

10.1 CS shall have no liability to the Client for any breach of this Contract caused by any event or circumstance beyond CS's reasonable control including, but not limited to, strikes, lock-outs or other industrial disputes; breakdown of systems or network access; or flood, fire, explosion or accident.

10.2 If something happens which:

10.2.1 is outside of CS's control; and

10.2.2 affects the Client being able to access the CS Membership or the Website;

CS will let the Client have a revised time for when the Client can expect to be able to access the CS Membership or the Website;

11. RIGHTS OF THIRD PARTIES

No one other than a party to this Contract has any right to enforce any of the terms of this Contract.

12. VARIATION

CS reserve the right to vary this Contract from time to time. Updated terms will be displayed on the CS Membership and by continuing to use and access the CS Membership following such changes, the Client agrees to be bound by any variation

made by CS. It is the Client's responsibility to check for variations frS time to time to verify such variations.

13. DISPUTES

- 13.1 CS will try to resolve any disputes with the Client quickly and efficiently.
- 13.2 If the Client is unhappy with CS please contact CS as soon as possible.
- 13.3 If the parties cannot resolve a dispute using CS's complaint handling procedure, CS will let the Client know that it cannot settle the dispute with the Client.
- 13.4 If the Client wants to take court proceedings, the relevant courts of the England and Wales will have exclusive jurisdiction in relation to this Contract.
- 13.5 Relevant English law will apply to this Contract.