

BAKER TERMS AND CONDITIONS

Last updated: 15 February 2016

These terms and conditions (**Terms**) (together with our Privacy Policy and Cookie Policy) set out the legal basis on which Mums Bake Cakes Ltd (**we, us**) will provide the Services (as defined below) to you.

Please read these Terms carefully and make sure that you understand them before confirming your acceptance

We advise you to print a copy of these Terms or save them to your computer for future reference.

We reserve the right to amend these Terms from time to time, as set out in clause 33.1. You acknowledge that it is your responsibility to check the Website (as defined below) on a regular basis to make and keep yourself aware and notified of any changes to the Terms.

1. Definitions and Interpretation

1.1 In these Terms, the following words shall have the following meaning:

- (a) **Annual Fee:** the annual fee payable by you in order to receive the Services as notified by us in advance and amended from time to time. We reserve the right to increase the amount of Commission payable during any Extended Term (but we will notify you of any increase in advance).
- (b) **Attempted Delivery Card:** means a card in the style and format that we determine that notifies the Customer that you have attempted to deliver their Order and contains details about how they can contact us to rearrange delivery.
- (c) **Balance:** has the meaning given in clause 20.1.
- (d) **Cakes:** homemade cakes and other baking produce (including but not limited to muffins, cupcakes and cookies) produced by you (or your employees, if applicable).
- (e) **Commencement Date:** the date that the Contract commences as set out in clause 3.2.
- (f) **Commission:** 14% for the Initial Term for Bakers who sign up in 2016 and such other amount as notified by us in advance for Bakers who sign up in any subsequent years. We reserve the right to increase the amount of Commission payable during any Extended Term (but we will notify you of any increase in advance).

- (g) **Confidential Information:** any information that would be regarded by a reasonable person as being confidential including any information relating to our business, affairs, customers, clients, suppliers, plans, operations, processes, know-how, designs, trade secrets or software and any information concerning Customers and Recipients (including but not limited to names, addresses and contact telephone numbers).
- (h) **Contract:** the contract between you and us for the provision of the Services in accordance with these Terms.
- (i) **Content:** information, data, photographs and any other content (including but not limited to information relating to the ingredients in a Cake) provided by you in any form or medium that you upload to the Website, or we upload to the Website on your behalf, or you ask us to upload to the Website.
- (j) **Customers:** a person, firm or company who enters into, or is invited to enter into, a contract of sale for Cakes with you through the Website.
- (k) **Customer Terms:** the terms and conditions relating to customers as detailed on the Website (as varied from time to time).
- (l) **Delivery Card:** means a card in the style and format that we determine that notifies the Recipient of the ingredients and allergens in a Cake (amongst other matters).
- (m) **Delivery Date:** the delivery date for the Cake specified by the Customer as detailed in the Order.
- (n) **Extended Term:** has the meaning given in clause 4.1.
- (o) **Initial Term:** has the meaning given in clause 4.1.
- (p) **Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- (q) **Order:** an order from a Customer for your Cakes that is submitted via the Website and forwarded from us to you.
- (r) **Portal:** the portal on the Website that enables you to upload and amend information about you and your Cakes on your Shop Front.

- (s) **Recipient:** the person who the Customer has asked you to deliver the Cakes to.
- (t) **Refund Policy:** means the refund policy as detailed on the Website (as varied from time to time).
- (u) **Registration Form:** the registration form that must be completed by you as part of the registration process in order to receive the Services.
- (v) **Services:** (i) access to and use of the Website (including the Portal) in order to sell Cakes to Customers online; (ii) processing by us of all payments connected to such sales; and (iii) such other services as are described in these Terms.
- (w) **Shop Front:** the page on the Website that displays and promotes your Cakes.
- (x) **Website:** mumsbakecakes.co.uk or such other website address as we may determine from time to time.

1.2 The headings to clauses are inserted for convenience only and shall not affect the interpretation of these Terms.

1.3 Words expressed in the singular shall include the plural and vice versa. Words referring to a particular gender include every gender.

1.4 References to a person include an individual, company, corporation, firm or partnership.

1.5 References to any statute or statutory provision shall include:

- (a) any subordinate legislation made under it;
- (b) any provision which it has modified or re-enacted (whether with or without modification); and
- (c) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).

1.6 All references in these Terms to clauses are to the clauses in these Terms unless otherwise stated.

1.7 References to the words "include", "includes", "including", "in particular" or any similar words do not limit the words proceeding or following.

1.8 When we refer, in these Terms, to "in writing", this will include e-mail.

2. Information about us

- 2.1 We operate the Website mumsbakecakes.co.uk. We are Mums Bake Cakes Ltd, a company registered in England and Wales under company number 09890451 and with our registered office at 16 Hollingworth Court, Turkey Mill, Ashford Road, Maidstone, Kent, England, ME14 5PP. Our VAT number is 232344145.
- 2.2 For priority contact e-mail us at mums@mumsbakecakes.co.uk or contact us by telephoning our customer service team at 0330 0557057. If you wish to give us formal notice of any matter in accordance with these Terms, you can email us at mums@mumsbakecakes.co.uk.

3. Basis of the contract between you and us

- 3.1 By submitting the Registration Form and paying the Annual Fee you are making an offer to purchase the Services from us in accordance with these Terms.
- 3.2 Your Registration Form will only be deemed to be accepted when we confirm our acceptance via email, at which point and on which date the Contract will come into existence (**Commencement Date**).
- 3.3 It is entirely at our discretion whether to accept a Registration Form. If your Registration Form is not accepted, the Annual Fee will be refunded to you.

4. Duration of the Contract

- 4.1 The Contract shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with clauses 5 to 7 (inclusive) below for a period of 1 year (**Initial Term**), when it shall automatically terminate without notice unless both parties agree in writing before the end of the Initial Term that the term of the Contract shall be extended for a further period of 1 year (**Extended Term**) (we will contact you towards the end of the Initial Term to confirm whether you wish to extend the Contract). Unless it is further extended under this clause or terminated earlier in accordance with clauses 5 to 7 (inclusive below), the Contract shall terminate automatically without notice at the end of any Extended Term.
- 4.2 Please note that we reserve the right to increase the Annual Fee and the Commission payable by you for any Extended Term but we will always notify you of any increase in advance.

5. How we may terminate the Contract

5.1 We may immediately suspend the provision of the Services, or terminate the Contract without liability, by notifying you in writing if:

- (a) you do not, within a reasonable time of us asking, provide us with any information that we reasonably require in order to provide the Services; and/or
- (b) you break the Contract in a material way and you do not correct or fix the situation within 7 days of us asking you to do so in writing; and/or
- (c) you repeatedly breach any of the Terms in such a manner that in our opinion your conduct is inconsistent with you having the intention or ability to give effect to these Terms; and/or
- (d) you do not make any payment to us when it is due and you still do not make payment within 7 working days of us reminding you that it is due; and/or
- (e) in our opinion, you are unsuitable to receive the Services; and/or
- (f) in our opinion you consistently refuse to accept and/or fulfil Orders; and/or
- (g) in our opinion you are consistently receiving poor feedback from Customers pursuant to clause 19; and/or
- (h) we are concerned about the quality of your Cakes or your conduct; and/or
- (i) you fail to maintain a policy of insurance in accordance with clause 27 and/or you fail to provide us with a copy of the policy on request; and/or
- (j) you are the subject of a bankruptcy order, or become insolvent.

6. How you may terminate the Contract

6.1 You may cancel the Contract for convenience at anytime by emailing mums@mumsbakecakes.co.uk. Unless otherwise provided for in these Terms, you will not be entitled to any refund of any fees (including the Annual Fee) on cancellation.

7. The consequences of termination

7.1 If the Contract ends for any reason:

- (a) your right to receive the Services shall end immediately and your user name and password will be disabled;
- (b) all Content will be removed from the Website;

- (c) any Commission due to us will remain payable;
- (d) any Balance due to you will remain payable; and
- (e) any other rights, remedies, obligations or liabilities that have accrued up to the date of termination shall not be affected.

8. Our Services

- 8.1 Following commencement of the Initial Term, we will provide the Services to you.
- 8.2 The Services will include providing you with a username and password so that you may create your Shop Front. You must treat your username and password as confidential and not disclose it to any third party.
- 8.3 If you know or suspect that anyone other than you knows your user name and password, you must promptly notify us by contacting us at mums@mumsbakecakes.co.uk or 0330 0557057.
- 8.4 We will use reasonable endeavours to ensure that Content you submit to us is uploaded within 2 working days (Monday to Friday excluding bank holidays) of receipt. We reserve the right to refuse to upload Content if in our opinion it is unsuitable or inappropriate. You shall at all times remain responsible for Content.
- 8.5 We reserve the right to amend the Services at any time. Any amendment to the Services will be subject to these Terms.

9. Appointment as agent

- 9.1 In order for us to provide the Services, you appoint us as your agent, to:
- (a) conclude the sale of Cakes between you and Customers via the Website; and
 - (b) accept, refund and process all payments related to the sale of Cakes via the Website.
- 9.2 We accept the appointment referred to under clause 9.1 on these Terms.
- 9.3 For the avoidance of doubt:
- (a) any contract to sell and buy Cakes (**Contract of Sale**) on the Website is made between you and the Customer and we will not be a party to any such Contract of Sale;
 - (b) we do not own the Cakes you sell on the Website; and

- (c) we will not at any time come into the possession of the Cakes you sell on the Website.

10. Your relationship with the Customer

- 10.1 The Contract of Sale between you and the Customer will come into effect when the Customer submits an Order via the Website and we, as agent on your behalf, sends the Customer an order confirmation via email in accordance with clause 12.4(b).
- 10.2 You acknowledge and agree that the terms and conditions relating to the Contract of Sale shall comprise of the Customer Terms, the email confirmation and the description that you have given for the Cake that is subject to the Order.
- 10.3 You acknowledge and agree to be bound by the Customer Terms in respect of each Order.

11. Processing Orders

- 11.1 We will notify you by email when an Order is submitted to you. You will also be notified that you have received an Order when you log into the Portal. It is your responsibility to check the Portal regularly for Orders and you acknowledge and accept that you cannot rely on email notifications from us.
- 11.2 Following receipt of an Order, you must check the Order carefully via the Portal.
- 11.3 You must use your best endeavours to fulfil all Orders.
- 11.4 You will receive a minimum of 2 days' working notice (Monday to Friday excluding bank holidays) to fulfil an Order (for the avoidance of doubt, this means for example that if a Customer wants a Cake to be delivered on a Friday the Order must be submitted on Tuesday, giving you 2 clear days to bake). Customers may ask for quicker delivery but this will be treated as a special request and we will contact you to confirm if you are able to fulfil the Order before it is accepted on your behalf.
- 11.5 When an Order is submitted to you by a Customer, a Contract of Sale will come into existence and we shall send the Customer an order confirmation email confirming that their Order has been received and is being processed. For the avoidance of doubt, you irrevocably instruct us to accept all Orders on your behalf provided that you are given a minimum of 2 days' notice in accordance with clause 11.4

- 11.6 If you are unable to fulfil an Order, you must email mums@mumsbakecakes.co.uk as soon as possible explaining the reason for rejection and call 0330 0557057 so that we can notify the Customer.
- 11.7 If you do not notify us within 12 hours of an Order being sent to you that you are unable to fulfil the Order, we will assume that you are able to fulfil the Order.

12. Our Obligations

- 12.1 We will provide the Services with reasonable care and skill and use reasonable endeavours to restore any faults as soon as reasonably practicable.
- 12.2 We do not guarantee that the Website, or any content on it, or the Services will always be available or be uninterrupted.

13. Your Obligations

- 13.1 You shall:
- (a) check the Portal frequently to ensure that you are alerted to all new Orders;
 - (b) notify us when a Cake has been delivered by checking out on the Portal (to ensure payment is made to you in accordance with these Terms);
 - (c) use your best endeavours to fulfil all Orders in accordance with these Terms;
 - (d) be registered with your local council environmental health service for the duration of the Contract;
 - (e) co-operate with us in all matters relating to the Services;
 - (f) be solely responsible for procuring and maintaining your internet and network connections;
 - (g) ensure that the Content is accurate, complete and kept up to date in accordance with clause 15;
 - (h) ensure that all Cakes conform with all descriptions and specifications in the Order and on your Shop Front;
 - (i) ensure that all Cakes will be provided to Customers in accordance with all applicable legislation from time to time; and

- (j) ensure that information supplied electronically to us under or connection with the Contract is free from viruses.

13.2 Other than your name (including your company name and logo if applicable) you may not post any contact details on your Shop Front or anywhere else on the Website and you must not do anything which encourages, or might encourage, a Customer to contact you directly in order to place an Order otherwise than through the Website.

14. Compliance with laws

14.1 You shall comply with all applicable laws and regulations in respect of the activities that you undertake under or in connection with the Contract. This includes, but is in no way limited to, complying with:

- (a) regulation (EC) 852/2004 on the hygiene of foodstuffs; and
- (b) the Food Safety and Hygiene (England) Regulations 2013.

14.2 You must indemnify and hold us harmless against any and all liabilities, costs, expenses, fines, damages and losses that we incur in connection with a breach by you of your obligation under clause 14.1 above.

15. Content

15.1 You warrant and agree that all Content that you upload to the Website, or we upload on your behalf, shall be:

- (a) complete;
- (b) accurate;
- (c) not misleading in any way;
- (d) not in breach of any third party's Intellectual Property Rights;
- (e) kept up to date; and
- (f) not offensive, indecent, obscene, pornographic, menacing, abusive or defamatory.

15.2 All photographs that you upload to your Shop Front shall be taken by you or you shall have the permission of the photographer to use such photographs on the Website.

15.3 We may contact you from time to time to request your permission to use Content for marketing and promotional purposes. You are under no obligation to consent to such use.

15.4 You will indemnify and hold us harmless against any liabilities we incur as a result of a breach by you of your obligations under this clause 15.

16. Information we require from you

16.1 In order for us to provide the Services, we require, and you agree to provide us with, the following complete and accurate information about you:

- (a) your full name;
- (b) your address;
- (c) your email address;
- (d) your telephone number;
- (e) the distance from your address that you are prepared to hand deliver Cakes free of charge;
- (f) confirmation you have registered with your local council environmental health service;
- (g) any other information that we reasonably require; and
- (h) your bank details for payment purposes.

16.2 If you are a company, you must also provide us with your company name and number.

16.3 You will notify us immediately of any changes to the information referred to at clause 16.1.

17. Information we require about your Cakes

17.1 Before any Cake is offered for sale on the Website you must provide us with the following complete and accurate information about your Cakes:

- (a) a list of all the ingredients in the Cake;
- (b) the size and suggested servings for large Cakes;
- (c) for smaller Cakes, the number available in each batch; and
- (d) any other information that we reasonably require.

17.2 You must upload immediately via the Portal any changes to the information referred to at clause 17.1.

17.3 From time to time Customers may communicate with us directly with queries about your Cakes (this may include, for example, the Customer requesting further

information in relation to allergens). You agree to co-operate with us in answering any such queries promptly and provide us with complete and accurate information. We accept no responsibility for the inaccuracy of any information that you provide to us.

18. Customer feedback

- 18.1 You acknowledge and accept that Customers and/or Recipients will be able to provide feedback and ratings on you and your Cakes via the Website and that such feedback and ratings may be publicly viewable.
- 18.2 We are not responsible for checking or editing feedback or ratings on the Website. You consent to the publication of, and authorise us to publish, all feedback and ratings relating to you and your Cakes.
- 18.3 You may request that we remove feedback and/or ratings but such feedback and/or ratings will only be removed by us if in our opinion it is inaccurate, misleading, offensive, unlawful or otherwise inappropriate.
- 18.4 We reserve the right to terminate the Contract if you receive consistently poor feedback and/or ratings.

19. Our fees

- 19.1 The Annual Fee is payable upfront to us via BACs when you submit your Registration Form. Unless otherwise stated in these Terms, the Annual Fee is non-refundable.
- 19.2 Once we have received the Annual Fee, we will issue a username and password to you to enable you to access the Portal and amend your Shop Front.
- 19.3 In addition to the Annual Fee, we shall be entitled to the Commission on all gross payments due to you under any Order.

20. How payment is made to you

- 20.1 Payment for all Cakes will be made directly by Customers to us as your payment agent via the payment system used on our Website. Once payment has been received by us, we will deduct our Commission and the remaining balance (**Balance**) will be transferred to you in accordance with clause 20.2 below.
- 20.2 We shall pay the Balance for each Order to you:

- (a) on the 14th day of the month for Orders delivered and checked out via the Portal between 10.01 pm on the 24th of the preceding month and 10pm on the 10th of the current month; or
- (b) on the 28th of the month for Orders delivered and checked out via the Portal between 10.01pm on the 10th and 10pm on the 24th of that month.

20.3 The Balance shall be paid to the bank account nominated by you on the Registration Form (unless you notify us in writing otherwise).

20.4 We may at any time set off any sums you owe to us against any sums we owe to you.

21. Pricing

21.1 The price you charge for Cakes must be fully inclusive of all your delivery costs and any taxes and additional charges.

21.2 Subject to clause 21.1, you have complete discretion over your prices.

21.3 Although cakes are currently VAT exempt you are fully responsible for ensuring that you comply with current VAT regulations, should this change.

22. Deliveries

22.1 You are responsible for packaging and delivering all Cakes to Customers.

22.2 You are responsible for notifying us via the Portal when a delivery has been completed.

22.3 You shall properly pack and secure all Cakes to ensure that they reach their destination in an undamaged condition. All packaging must be hygienic.

22.4 You will make all deliveries in accordance with the delivery instructions provided by the Customer, as detailed in the Order.

22.5 If you are unable to meet a Delivery Date for any reason, you must notify us immediately so that we can contact the Customer.

22.6 If you attempt delivery but the Recipient is not at home, you will leave an Attempted Delivery Card inviting the Recipient to contact either you or us to re-arrange delivery or collection (if suitable) at a mutually convenient time.

- 22.7 You must not deliver any Cakes if they have passed their shelf-life.
- 22.8 All Cakes must be delivered with a Delivery Card in the style and format that we determine. The Delivery Card must contain:
- (a) a complete and accurate list of all the ingredients in the Cake;
 - (b) any storage instructions for the Cake;
 - (c) a statement confirming that the Cake must be eaten within a specific number of days (as appropriate) of delivery; and
 - (d) any other information that we reasonably determine should be included.

23. Customer Refunds

- 23.1 We will process all refund requests as agent on your behalf in accordance with this clause 23.
- 23.2 Customers will be able to request a refund if they are unhappy with an Order by contacting us as your payment agent. On receipt of a refund request, we will notify you and you will have 7 days from the date of such notification to confirm whether the refund is authorised. If:
- (a) we do not hear from you within 7 days of such notice being sent, the refund will be deemed to be authorised and we will process the refund on your behalf from funds held by us on your behalf;
 - (b) you authorise the refund, we will process the refund on your behalf from funds held by us on your behalf; and
 - (c) if you do not authorise the refund, you must provide us with an explanation as to why the refund is not authorised and we will notify the Customer on your behalf.
- 23.3 All refunds must be authorised or rejected by you in accordance with the Refund Policy. Where, in our opinion, you have not acted in accordance with the Refund Policy, we shall be entitled to refund the Customer from funds held by us on your behalf.
- 23.4 We have the right to set off any refunds to a Customer against any payments due to you in the present or future.

24. Confidentiality

- 24.1 You acknowledge that we will provide you with Confidential Information relating to Customers and Recipients to enable you to fulfil Orders. You agree that you will

only use such Confidential Information for the purpose of fulfilling Orders and you will not disclose to any person any Confidential Information concerning Customers, except as permitted by this clause 24.

24.2 You further agree that you will not at any time disclose to any person any Confidential Information concerning us, our business or the Services, except as permitted by this clause 24.

24.3 You may disclose Confidential Information to the minimum extent required by any order of any court of competent jurisdiction or any competent judicial governmental or regulatory body.

24.4 The obligations contained in clauses 24.1 and 24.2 will not apply to Confidential Information if you can show that the Confidential Information:

- (a) was already lawfully known to the recipient before the disclosure took place;
- (b) is generally available to the public (other than as a result of it being disclosed in breach of this clause 24); or
- (c) has been received by the recipient from a third party source that is not connected to you and that such source was not under an obligation of confidence.

24.5 The obligations of confidentiality under this clause 24 shall remain in effect after the termination or expiry of the Contract, howsoever arising.

25. Data Protection

25.1 You shall process data that we provide you relating to Customers and Recipients only to the extent as is necessary for you to fulfil an Order. You shall not use or process data relating to Customers or Recipients for any other purpose (including but not limited to for any marketing purposes).

25.2 You will indemnify and hold us harmless against any loss we suffer as a result of any breach by you of your obligation under clause 25.1.

26. Exclusion and limitation of liability

26.1 Nothing in these Terms excludes or limits our liability for death or personal injury arising from our negligence, our liability for fraudulent misrepresentation, or any other liability which cannot be excluded or limited under applicable law.

26.2 We shall not be liable for any loss arising from the baking or delivery of your Cakes or the consumption of your Cakes by the Customer, the Recipient or any other third party, or any failure by you to fulfil an Order or deliver Cakes in accordance with an Order. You will indemnify and hold us harmless against any liability for such loss.

26.3 Subject to clause 26.1, we shall not be liable to the you, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract, or for any liability incurred by you to a Customer or a Recipient to any other person, arising from the provision of the Service or otherwise, for:

- (a) loss of profit;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of or damage to goodwill;
- (f) loss of use or corruption of software, data or information; and
- (g) any indirect or consequential loss.

26.4 Subject to clauses 26.1 to 26.3, our total liability to you, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, arising under or in connection with the Contract, or for any liability incurred by you to a Customer, Recipient or to any other person, arising from the provision of the Services or otherwise, shall be limited to the total Commission received by us in the 6 months preceding the date that the liability arose.

26.5 Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Services. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law.

27. Insurance

27.1 During the term of the Contract you must at all times maintain in force, with a reputable insurance company, public and product liability insurance in an amount not less than £1,000,000 and shall, on our request, send a copy of both the insurance certificate giving details of cover and the receipt for the current year's premium to mums@mumsbakecakes.co.uk.

27.2 We have negotiated a favourable insurance rate with Independent Insurance Services and if you like you can contact them on 01303 221 188 quoting MBC to discuss but you will need to satisfy yourself as to whether or not they meet your requirements.

28. Intellectual Property

28.1 All Intellectual Property Rights in the Services (including the Website but excluding the Content) is owned or licenced by us. We grant you a non-exclusive, non-transferable and revocable licence to receive the Services for the duration of the Contract in accordance with these Terms.

28.2 All Intellectual Property Rights in the name, logo and branding of Mums Bake Cake are owned by us and you may only use the name, logo and/or branding of Mums Bake Cake in accordance with these Terms.

28.3 All Intellectual Property Rights created by Mums Bake Cakes in the course of the performance of the Contract or in connection with the provision of the Services shall remain our property.

28.4 If any of the Content is covered by Intellectual Property Rights (such as photographs), you:

- (a) warrant to us that you:
 - (i) own all Intellectual Property Rights in the Content; or
 - (ii) you possess a valid licence to use the Content on the Website; and
 - (iii) the making of the Content available on the Website by us will not infringe any Intellectual Property Rights owned by any third party and there will be no claim against us by any third party arising in relation to the use of the Content; and
- (b) grant us a non-exclusive, transferable worldwide licence to use any Content in connection with the provision of the Services. This licence shall end when the Contract terminates.

28.5 You shall indemnify and hold us harmless against any and all damages, liabilities, costs, expenses and/ or losses arising out of or relating to any breach of clause 28.4 above in relation to any claim or action that the use by us of the Content infringes a third party's rights (**Infringement Claim**).

28.6 We shall be entitled to take sole conduct of any Infringement Claim and may settle or compromise such claim or action at our sole discretion. You shall co-

operate with us and give us such assistance as we may require in relation to any Infringement Claim.

29. Use of our Website

- 29.1 Your use of our Website (including accessing and using the Services) is governed by our Privacy Policy and Cookie Policy. Please take the time to read these policies, as they include important terms which apply to you.

30. How we use your personal information

We only use your personal information in accordance with our Privacy Policy. Please take the time to read our Privacy Policy, as it includes important terms which apply to you.

31. If you are a consumer

- 31.1 If you are a consumer, you may only purchase the Services from our Website if you are at least 18 years old.
- 31.2 If you are a consumer, you have a legal right to change your mind within 14 days of buying the Services online. This 14 day period will start to run from the day after we email you to confirm acceptance of your Registration Form. If you have asked us to start providing the Services during the cooling-off period and you change your mind after we have started providing you with the Services, you must pay us for the Services provided up until the time you tell us that you have changed your mind (including a proportionate amount of the Annual Fee).

32. If you are a business customer

- 32.1 If you are not a consumer, you confirm that you have authority to bind any business on whose behalf you are purchasing the Services.
- 32.2 These Terms, any document expressly referred to in them and our Privacy Policy and Cookie Policy constitute the entire agreement between you and us and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter.
- 32.3 You acknowledge that in entering into this Contract you do not rely on any statement, representation, assurance or warranty (whether made innocently or

negligently) that is not set out in these Terms or any document expressly referred to in them or our Privacy Policy and Cookie Policy.

32.4 You and we agree that neither of us shall have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

33. Our right to vary these Terms

33.1 We may amend these Terms from time to time. Please look at the top of this page to see when these Terms were last updated.

34. Events outside our control

34.1 Neither party will be liable or responsible for any failure to perform, or delay in performance of, any of obligations under the Contract that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in clause 34.2.

34.2 An **Event Outside Our Control** means any act or event beyond either parties' reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.

34.3 If an Event Outside Our Control takes place that affects either of our performance of our obligations under the Contract:

- (a) the affected party will contact the other party as soon as reasonably possible to notify that party; and
- (b) the affected party's obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control.

35. Other important terms

35.1 We may transfer our rights and obligations under a Contract to another organisation, but this will not affect your rights or our obligations under these Terms.

35.2 You may only transfer your rights or your obligations under these Terms to another person if we agree in writing.

- 35.3 This Contract is between you and us. No other person shall have any rights to enforce any of its terms.
- 35.4 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 35.5 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 35.6 If you are a consumer, please note that these Terms are governed by English law. This means a Contract for the purchase of Cakes through our Website and any dispute or claim arising out of or in connection with it will be governed by English law. You and we both agree that the courts of England and Wales will have non-exclusive jurisdiction. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are a resident of Scotland, you may also bring proceedings in Scotland.
- 35.7 If you are a business, a Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 35.8 If you are a business, we both irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with a Contract or its subject matter or formation (including non-contractual disputes or claims).