

Terms and conditions of use

1. Introduction

- 1.1 These terms and conditions shall govern your use of our website.
- 1.2 By using our website, you accept these terms and conditions in full; accordingly, if you disagree with these terms and conditions or any part of these terms and conditions, you must not use our website.
- 1.3 If you [register with our website, submit any material to our website or use any of our website services], we will ask you to expressly agree to these terms and conditions.
- 1.4 Our website uses cookies; by using our website or agreeing to these terms and conditions, you consent to our use of cookies in accordance with the terms of our [privacy and cookies policy].

4. Licence to use website

- 4.1 You may:
 - (a) view pages from our website in a web browser;
 - (b) download pages from our website for caching in a web browser;
 - (c) print pages from our website;
 - (d) [stream audio and video files from our website]; and
 - (e) [use [our website services] by means of a web browser],subject to the other provisions of these terms and conditions.
- 4.2 Except as expressly permitted by Section 4.1 or the other provisions of these terms and conditions, you must not download any material from our website or save any such material to your computer.
- 4.3 You may only use our website for [your own personal and business purposes], and you must not use our website for any other purposes.
- 4.4 Except as expressly permitted by these terms and conditions, you must not edit or otherwise modify any material on our website.
- 4.5 Unless you own or control the relevant rights in the material, you must not:
 - (a) republish material from our website (including republication on another website);
 - (b) sell, rent or sub-license material from our website;
 - (c) show any material from our website in public;

- (d) exploit material from our website for a commercial purpose; or
- (e) redistribute material from our website.

4.6 Notwithstanding Section 4.5, you may redistribute [our newsletter] in [print and electronic form] to [any person].

4.7 We reserve the right to restrict access to areas of our website, or indeed our whole website, at our discretion; you must not circumvent or bypass, or attempt to circumvent or bypass, any access restriction measures on our website.

5. Acceptable use

5.1 You must not:

- (a) use our website in any way or take any action that causes, or may cause, damage to the website or impairment of the performance, availability or accessibility of the website;
- (b) use our website in any way that is unlawful, illegal, fraudulent or harmful, or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity;
- (c) use our website to copy, store, host, transmit, send, use, publish or distribute any material which consists of (or is linked to) any spyware, computer virus, Trojan horse, worm, keystroke logger, rootkit or other malicious computer software;
- (d) [conduct any systematic or automated data collection activities (including without limitation scraping, data mining, data extraction and data harvesting) on or in relation to our website without our express written consent];
- (e) [access or otherwise interact with our website using any robot, spider or other automated means[, except for the purpose of [search engine indexing]]];
- (f) [violate the directives set out in the robots.txt file for our website]; or
- (g) [use data collected from our website for any direct marketing activity (including without limitation email marketing, SMS marketing, telemarketing and direct mailing)].

[additional list items]

5.2 You must not use data collected from our website to contact individuals, companies or other persons or entities.

5.3 You must ensure that all the information you supply to us through our website, or in relation to our website, is [true, accurate, current, complete and non-misleading].

6. Breaches of these terms and conditions

6.1 Without prejudice to our other rights under these terms and conditions, if you breach these terms and conditions in any way, or if we reasonably suspect that you have breached these terms and conditions in any way, we may:

- (a) send you one or more formal warnings;
- (b) temporarily suspend your access to our website;
- (c) permanently prohibit you from accessing our website;
- (d) [block computers using your IP address from accessing our website];
- (e) [contact any or all of your internet service providers and request that they block your access to our website];
- (f) commence legal action against you, whether for breach of contract or otherwise; and/or

6.2 Where we suspend or prohibit or block your access to our website or a part of our website, you must not take any action to circumvent such suspension or prohibition or blocking[(including without limitation [creating and/or using a different account])].

7. Variation

7.1 We may revise these terms and conditions from time to time.

7.2 [The revised terms and conditions shall apply to the use of our website from the date of publication of the revised terms and conditions on the website, and you hereby waive any right you may otherwise have to be notified of, or to consent to, revisions of these terms and conditions.] OR [We will give you written notice of any revision of these terms and conditions, and the revised terms and conditions will apply to the use of our website from the date that we give you such notice; if you do not agree to the revised terms and conditions, you must stop using our website.]

7.3 If you have given your express agreement to these terms and conditions, we will ask for your express agreement to any revision of these terms and conditions; and if you do not give your express agreement to the revised terms and conditions within such period as we may specify, we will disable or delete your account on the website, and you must stop using the website.

8. Assignment

8.1 You hereby agree that we may assign, transfer, sub-contract or otherwise deal with our rights and/or obligations under these terms and conditions.

8.2 You may not without our prior written consent assign, transfer, sub-contract or otherwise deal with any of your rights and/or obligations under these terms and conditions.

9. Third party rights

- 9.1 A contract under these terms and conditions is for our benefit and your benefit, and is not intended to benefit or be enforceable by any third party.
- 9.2 The exercise of the parties' rights under a contract under these terms and conditions is not subject to the consent of any third party.

21. Our details

21.1 This website is owned and operated by Castle On The Hill Designs.

21.2 We are registered in [England and Wales] under registration number 09448573.

21.4 You can contact us:

- (a) <https://www.castleonthehill.co.com/designs>
- (b) [by email, using castleonthehilldesigns@outlook.com

Free website terms and conditions: drafting notes

This is a free version of our standard website terms and conditions document. It is identical to that document, save that this version includes an SEQ legal credit.

In addition to the provisions that would typically be included in any set of website terms and conditions, this document includes provisions covering user accounts and user-generated content (although the latter are not as detailed as in some of our more sophisticated website terms and conditions documents).

If your website does not feature user accounts or interactive features, you may wish to consider our website disclaimer document instead of these terms and conditions.

Section 1: Introduction

Section 1.2

Optional element.

The completed document should be easily accessible on the website, with a link from every page.

Section 1.3

Optional element. Will all or any website users give their express consent to the terms of this document?

Ideally, from a legal perspective, all users would be asked to expressly agree to the terms of the document. However, in practice, express consent is rarely sought from casual website visitors. On the other hand, it is easy to obtain the express consent of users who register with the website or submit any material to the website, eg by clicking "I accept" on an electronic version of the document. You should retain evidence of the acceptance of the document terms by each such user.

- Under what circumstances will users be asked to give their express consent to the terms of this document?

Section 1.4

Optional element. Are there any age restrictions on the use of the website?

The use of websites by minors can be legally problematic. There are a number of different legal issues. For example, under English law, contracts may be unenforceable against minors. Another issue concerns data protection. The law of data protection imposes additional burdens in relation to the processing of any personal data of a minor and personal data provided by a minor. The effects of the law of indecency may also depend upon whether a website is accessible by minors. Obviously, the inclusion of a requirement in your terms and conditions that minors refrain from using a website is no guarantee that they will do so. Where your

website is directed at, or likely to be used by, minors, we recommend that you seek specialist legal advice.

- What is the minimum age for website users?

Section 1.5

Optional element. Does the website use cookies (including session cookies and third party cookies)?

The inclusion of this statement in your website legal documents will not in itself satisfy the requirements of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended) concerning consent to the use of cookies. Guidance concerning methods of obtaining such consent is included on the Information Commissioner's website (<http://www.ico.gov.uk>).

- What is the title of the document on the website that contains cookie information?

Section 2: Credit

Section: Free documents licensing warning

Optional element. Although you need to retain the credit, you should remove the inline copyright warning from this document before use.

Section 3: Copyright notice

Section 3.1

- What was the year of first publication of the relevant copyright material (or the range of years)?
- Who is the principal owner of copyright in the website?

Section 4: Licence to use website

The scope of the licence to use will vary with each site. Consider carefully exactly what your users should be allowed to do with your website and material on your website.

Section 4.1

- Will audio and/or video files be published on the website?
- Will the website make available any dynamic services to users?
- Describe the website services in question.

Section 4.2

Optional element.

Section 4.3

Optional element.

- For what purposes may the website be used?

Section 4.4

Optional element.

Section 4.6

Optional element. Are users permitted to redistribute any specific content from the website (eg newsletters)?

- What types of content are redistributable?
- In what formats may redistributable content be redistributed?
- To whom may redistributable content be redistributed?

Section 5: Acceptable use

Section 5.1

- Should automated interactions with the website be prohibited?
- Will the website incorporate a robots.txt file?
- Should users be prohibited from using the website for direct marketing activity?

Section 5.2

Optional element. Should the use of data collected from the website to contact people and businesses be prohibited?

Section 5.3

Optional element.

- What standard of veracity etc should user-submitted content meet?

Section 6: Registration and accounts

Section 6.1

Optional element. Do any eligibility criteria apply to account registration?

- What eligibility criteria apply?

Section 6.2

- How do users register with the website?

Section 6.3

Optional element. Will users be permitted to share their accounts?

Section 6.4

Optional element.

Section 6.5

Optional element.

- Are users permitted to use another person's account on the website with the permission of that other person?

Section 7: User login details

Section 7.1

- How will users' login details be generated?
- What account credentials will users have upon account creation?

Section 7.2

Optional element.

Section 7.3

Optional element.

Section 7.4

Optional element.

Section 7.5

Optional element.

Section 8: Cancellation and suspension of account

Section 8.1

- Which of these general rights over user accounts does the website operator have?

Section 8.2

- How can a user cancel his or her account on the website?

Section 9: Your content: licence

Section 9.1

- Define "your content".

Section 9.2

- What type of licence do users grant to the website operator?
- What does the licence allow the website operator to do with user content?

Section 9.4

Optional element. Should the website operator be granted a right to bring proceedings in respect of third party infringements?

Section 9.5

Optional element. Should users be asked to waive their moral rights (such as the right of paternity and the right to object to derogatory treatment) in the content they submit to the website?

Section 9.6

Optional element. Can users edit their own content after it has been posted to the website?

Section 10: Your content: rules

Section 10.2

This very general prohibition against unlawful user content may be supplemented by rules relating to specific kinds of illegality, as well as prohibitions upon lawful but undesirable content.

Section 10.3

Optional element.

- Do you want to expressly prohibit the publication by users of information about how to commit crimes and the promotion of criminal activities?
- Should the depiction of violence be prohibited?
- Should the prohibition on depicting violence be limited to explicit etc violence?
- Should pornographic material be prohibited?
- Should the prohibition on pornographic material be supplemented with a prohibition on lewd, suggestive or sexually explicit material?
- Should untrue, false, inaccurate or misleading content be prohibited?
- Should potentially dangerous advice be prohibited?
- Should spam be prohibited?
- Should offensive etc material be prohibited?
- Should annoying etc material be prohibited?

Section 11: Limited warranties

Section 11.1

Optional element.

Section 11.2

Optional element.

Section 12: Limitations and exclusions of liability

Contractual limitations and exclusions of liability are regulated and controlled by law, and the courts may rule that particular limitations and exclusions of liability in contracts are unenforceable. The courts are particularly likely to intervene where a party is seeking to rely on a limitation or exclusion of liability in its standard terms and conditions, but will also sometimes intervene where a term has been individually negotiated. The courts may be more likely to rule that provisions excluding liability, as opposed to those merely limiting liability, are unenforceable. If there is a risk that any particular limitation or exclusion of liability will be found to be unenforceable by the courts, that provision should be drafted as an independent term, and be numbered separately from the other provisions. It may improve the chances of a limitation or exclusion of liability being found to be enforceable if the party seeking to rely upon it specifically drew it to the attention of the other party before the contract was entered into.

Exclusions and limitations of liability in UK contracts are primarily regulated by the Unfair Contract Terms Act 1977 ("UCTA"). Contracts regulated by UCTA cannot exclude or restrict a party's liability for death or personal injury resulting from negligence (Section 2(1), UCTA). Except insofar as the relevant term satisfies the requirements of reasonableness, such contracts cannot exclude or restrict liability: (i) for negligence (which includes a breach of an express or implied contractual obligation to take reasonable care or exercise reasonable skill) (Section 2(2), UCTA); or (ii) for misrepresentation (Section 3, Misrepresentation Act 1967). In addition, if a contract is regulated by UCTA, and one of the parties is dealing on the other's written standard terms of business, then except insofar as the relevant contractual term satisfies the requirements of reasonableness the other party cannot: (i) exclude or restrict his liability in respect of a breach of contract; or (ii) claim to be entitled to render a contractual performance substantially different from that which was reasonably expected of him; or (iii) claim to be entitled, in respect of the whole or any part of his contractual obligation, to render no contractual performance at all (see Section 3, UCTA). UCTA includes various other restrictions, particularly in the case of contracts for the sale of goods and contracts under which possession or ownership of goods passes. If you wish to try to limit/exclude for liability in respect of reckless, deliberate, personal and/or repudiatory breaches of contract, you should specify this in relation to the relevant provision (for example, using the following wording: "The limitations and exclusions of liability in this Clause [number] will apply whether or not the liability in question arises out of any reckless, deliberate, personal and/or repudiatory conduct or breach of contract"). In many circumstances, however, the courts will find these types of limitations and exclusions to be unenforceable. Somewhat different rules apply to limitations of liability in contracts with consumers, and these provisions should not be used in relation to such contracts. These guidance notes provide a very incomplete and basic overview of a complex subject. Accordingly, you should take legal advice if you may wish to rely upon a limitation or exclusion of liability.

Section 12.1

Do not delete this provision (except upon legal advice). Without this provision, the specific limitations and exclusions of liability in the document are more likely to be unenforceable.

Section 12.3

Optional element. Do you want to attempt to exclude all liability for free services and information?

This sort of exclusion is quite common, but unlikely to be enforceable in court.

Section 12.5

Optional element.

Section 12.6

Optional element.

Section 12.7

Optional element.

"Consequential loss" has a special meaning in English law: it means any loss that, whilst not arising naturally from the breach, was specifically in the contemplation of the parties when the contract was made.

Section 12.8

Optional element. If the website operator is a limited liability entity (eg a limited company), do you want to expressly exclude liability on the part of officers and employees?

Section 13: Breaches of these terms and conditions

Section 13.1

- Will account suspension or deletion be a possibility here?

Section 13.2

Optional element.

- Do you wish to specify types of action that are prohibited here?
- Detail the types of action which are prohibited by this provision.

Section 14: Variation

Changes to legal documents published on a website will not generally be retrospectively effective, and variations without notice to and/or consent from relevant users may be ineffective.

Section 14.2

- Will website users be notified of changes to the document?

Section 14.3

Optional element. Will registered users be required to consent to variations?

Section 17: Third party rights

Optional element.

This provision is designed to exclude any rights a third party may have under the Contracts (Rights of Third Parties) Act 1999.

Section 18: Entire agreement

Section 18.1

- What other documents govern the use of the website?

Section 19: Law and jurisdiction

The questions of which law governs a document and where disputes relating to the document may be litigated are two distinct questions.

Section 19.1

This document has been drafted to comply with English law, and the governing law provision should not be changed without obtaining expert advice from a lawyer qualified in the appropriate jurisdiction. In some circumstances the courts will apply provisions of their local law, such as local competition law or consumer protection law, irrespective of a choice of law clause.

- Which law should govern the document?

Section 19.2

In some circumstances your jurisdiction clause may be overridden by the courts.

- Should the jurisdiction granted be exclusive or non-exclusive? Choose "non-exclusive" jurisdiction if you may want to enforce the terms and conditions against users outside England and Wales. Otherwise, choose "exclusive jurisdiction".
- The courts of which country or jurisdiction should adjudicate disputes under the document?

Section 20: Statutory and regulatory disclosures

Do the Electronic Commerce (EC Directive) Regulations 2002 apply to the website or is the website operator registered for VAT?

This section can be deleted where website operator is not registered for VAT and the Electronic Commerce (EC Directive) Regulations 2002 do not apply. Generally, those Regulations will apply unless a website is entirely non-commercial, i.e. where a website does not offer any goods or services and does not involve any remuneration (which includes remuneration for carrying AdSense or other advertising).

Section 20.1

Optional element. Is the website operator registered in a trade or similar register that is available to the public?

The Electronic Commerce (EC Directive) Regulations 2002 provide that if you are "registered in a trade or similar register available to the public", you must provide "details of the register in which the service provider is entered and his registration number, or equivalent means of identification in that register".

- What is the name of the trade register?
- At what URL can the trade register be found?
- What is the website operator's registration number?

Section 20.2

Optional element. Is the website operator subject to an authorisation scheme (eg under financial services legislation)?

The Electronic Commerce (EC Directive) Regulations 2002 provide that "where the provision of the service is subject to an authorisation scheme" you must provide "the particulars of the relevant supervisory authority".

- What is the name of the authorisation scheme to which the website operator is subject?
- What authority supervises the authorisation scheme?

Section 20.3

Optional element. Is the service provider a member of a regulated profession (eg solicitors)?

The Electronic Commerce (EC Directive) Regulations 2002 provide that if "the service provider exercises a regulated profession", it must provide "(i) the details of any professional body or similar institution with which the service provider is registered; (ii) his professional title and the member State where that title has been granted; (iii) a reference to the professional rules applicable to the service provider in the member State of establishment and the means to access them".

- What is the website operator's professional title?
- Which professional body regulates the website operator?
- In which jurisdiction was the professional title granted?
- What is the name of the document containing the rules governing the profession?
- At what URL can the rules be found?

Section 20.4

Optional element. Does the website operator subscribe to any codes of conduct?

The Electronic Commerce (EC Directive) Regulations 2002 provide that "a service provider shall indicate which relevant codes of conduct he subscribes to and give information on how those codes can be consulted electronically".

- Identify the codes of conduct in question.
- Where can the codes be viewed?

Section 20.5

Optional element. Is the website operator registered for VAT?

- What is the website operator's VAT number?

Section 21: Our details

Optional element.

UK companies must provide their corporate names, their registration numbers, their place of registration and their registered office address on their websites (although not necessarily in this document).

Sole traders and partnerships that carry on a business in the UK under a "business name" (i.e. a name which is not the name of the trader/names of the partners or certain other specified classes of name) must also make certain website disclosures: (i) in the case of a sole trader, the individual's name; (ii) in the case of a partnership, the name of each member of the partnership; and (iii) in either case, in relation to each person named, an address in the UK at which service of any document relating in any way to the business will be effective. All websites covered by the Electronic Commerce (EC Directive) Regulations 2002 must provide a geographic address (not a PO Box number) and an email address. All website operators covered by the Provision of Services Regulations 2009 must also provide a telephone number.

Section 21.1

- What is the name of the company, partnership, individual or other legal person or entity that owns and operates the website?

Section 21.2

Optional element. Is the relevant person a company?

- In what jurisdiction is the company registered?
- What is the company's registration number or equivalent?
- Where is the company's registered address?

Section 21.3

Optional element.

- Where is the relevant person's head office or principal place of business?

Section 21.4

Optional element.

- By what means may the relevant person be contacted?
- Where is the relevant person's postal address published?
- Either specify a telephone number or give details of where the relevant number may be found.
- Either specify an email address or give details of where the relevant email address may be found.