

Cookaborough - Terms of Use (Customers)

Introduction

Cookaborough Pty Ltd (“Cookaborough”, “we” or “us”) is a Melbourne-based company started by two local families that operates a technology platform designed to connect home cooks and *You*, the *Customer*, to provide *You* with access to wholesome, affordable home cooked meals made and provided by *Cooks* in your neighbourhood.

How it works

We provide the *Platform* to enable *You*, as a *Customer*, to purchase *Meals* from *Cooks* registered with *Us*.

Each *Cook* determines what *Meals* they make available to *Customers* and advertise *Menus* through the *Platform*, and the terms at which those *Meals* will be offered. The *Cook* will specify the relevant terms of a particular *Menu* and *Offer* including:

- the *Meals* available for purchase;
- the *Meal Price* of each *Meal* forming the *Menu*;
- the latest time and date by which a *Customer* can order from the *Menu*;
- if the *Offer* is available for *Delivery* or *Pick-Up*;
- whether *Meals* on the *Menu* are offered as *Hot Meals* or *Cold Meals*;
- the relevant allergen information for each *Meal* on the *Menu*;
- when a *Meal* will be ready for collection (if it is to be *Picked-Up*) and the location at which the *Meal* will be available collection by the *You*; and
- the relevant *Delivery Fee* and *Delivery Area* if the *Meal* is to be *Delivered*.

When *You* order a *Meal* on the *Platform*, *You* are accepting the particular *Offer* from the *Cook* and enter into a legally binding agreement for that *Meal* with the relevant *Cook* (not with *Us*).

You will be able to communicate directly with the *Cook* via the contact information available on the *Platform* in relation to the *Meal* or a *Menu*. *You* are able to make specific requests relating to the *Meal* via the *Platform* whilst the *Menu* is available for order and at the time of accepting the relevant *Offer*. Any such requests are requests only and the *Cook* is not bound by them, but will use reasonable endeavours to accommodate the request, provided that the request is reasonable.

Pick-Up and Delivery

If it is agreed between *You* and a *Cook* that the *Meal* will be collected by Yourself (including by someone on your behalf), it is *Your* responsibility to attend the address for *Pick-Up* as specified by the *Cook*, at the required time, to *Pick-Up* the *Meal*. If you are late by more than 15 minutes, then the *Cook* may dispose of the *Meal* and *You* may forego the *Meal Price* that *You* paid, at the discretion of the *Cook*.

When *Picking-Up* a *Meal*, *You* agree to not damage the *Cook's* property, act courteously, respect the *Cook's* neighbours, and do not cause any adverse noise. When *You* collect a *Meal*, *You* are responsible

for *Your* own safety, including but not limited to, to any injury or damage to Yourself or any property, such as tripping over or spilling food.

If it is agreed between *You* and a *Cook* that the *Meal* will be delivered by the *Cook* (or a *Delivery Person*), then the terms of the *Offer* will specify the timeframe in which you can expect the *Meal* and that if *You* are not present at the address nominated for *Delivery* when *Delivery* is attempted during the *Delivery* timeframe, you authorise the *Cook* (or *Delivery Person*) to leave the meal unattended at the *Customer's* risk.

If the *Cook* does not make the relevant *Meal* available for *Pick-Up* or make *Delivery* as specified by the *Offer*, you may be entitled to a refund of the *Meal Price* paid.

Cookaborough is not liable to *You* for any failure in the performance of any of the *Pick-Up* or *Delivery* functions. To the extent permitted by law, *Cookaborough* accepts no responsibility for any claim with respect to the *Delivery* of a *Meal*, including where the *Meal* is not delivered, lost or the *Delivery* is delayed or where there is a failure by a *Customer* or *Collector* to *Pick-Up* a *Meal* at the agreed time.

Payment

The *Meal Prices* will be listed on the *Menu* when advertised on the *Platform*. Unless otherwise stated on the *Platform*, prices include *GST*. *You* will be required to pay the applicable *Meal Price* (and any applicable *Delivery Fee*) at the time required by the *Platform*.

Acknowledgements

With respect to any *Offer*, *You* acknowledge and agree that *Cookaborough* does not prepare or take responsibility for any products or *Meals* prepared and packaged by the *Cooks*, and also takes no responsibility for the quality or freshness of the *Meals*. The ingredients for a *Meal* are the typical ingredients for the dish, but the individual *Cook* may use a different recipe and other ingredients not typically used. If *You* (or any other intended diner) have a potentially life threatening or serious food allergy (e.g. nuts or other allergenic ingredients) or strong dislike of any ingredient, then it is *Your* responsibility to advise the *Cook* at the time of placing the order for a *Meal/s* on the *Platform* with details of all unacceptable ingredients to determine whether the *Cook* is able to cater for *Your* needs. *Cookaborough* does not guarantee that any *Meals* sold by *Cooks* are free of allergens.

Where nutritional details are stated, those nutritional details are an estimate of typical figures only. Whilst *Cookaborough* uses its best endeavours to accurately estimate typical figures, actual figures may vary for the *Meal* that *You* ordered depending on the ingredients and method of preparation used by the *Cook*, the portion size and any personalisation of the *Meal* requested by *You*. Portion size is variable and depends on the *Cook* and any photograph/s is indicative only and is not a guarantee or representation of the quantity supplied or of the appearance of the *Meal*.

Conduct

In order to use the *Platform*, you are required to behave courteously and professionally in all communications and dealings with any *Cook* even if the *Cook* does not. If a *Cook* acts inappropriately (including by engaging in violent, threatening or offensive behaviour) then *You* should first contact *Your* local police station and subsequently notify *Us*, preferably with a copy of the relevant police report. *We* may, but are not obliged to, revoke or suspend the registration of any such *Cook* but are not liable in any way for the conduct of the *Cook*.

All *Content* that *You* post on the *Platform* or provide to *Us* or any *Cook*, in connection with any *Meal*, *Menu*, *Offer*, the *Platform* or any *Services* must be accurate and not misleading and must not include any *Unacceptable Content*. *We* have no obligation to monitor, vet or correct any *Content* you post or provide but have the right to do so for any reason. *You* hereby grant *Us* (and warrant that *You* have the right and authority to grant *Us*) a non-exclusive, irrevocable, perpetual, transferable licence to copy, use, modify, sublicense, adapt and otherwise exploit in any way, and for any purpose, all *Content* that *You* post on the *Platform* or otherwise provide to *Us*, including any photos or videos, and any feedback *You* provide regarding *Us* or any *Cook*. *You* agree that *We* are not obliged to publish any such *Content* and may delete or edit it as *We* see fit.

Personal Information

You consent to *Us* providing *Your* personal information to others as described in *Our Privacy Policy* and *Our* other practices described in the *Privacy Policy*.

From time to time, *Cookaborough* may use your personal information to contact *You* to promote 'at home meals', the benefits of having a local cook and spotlight different *Cooks*, meals, events, promotions and offers

When you place an *Order* on the *Platform* your personal information (including your name, address, phone number, email and other personal data) will be added to *Cookaborough's* customer database and will also be added to the relevant *Cook's* customer database. If you wish to unsubscribe from either or both databases via the *Platform*. Please note that unsubscribing from *Cookaborough's* database will not result in your un-subscription from the *Cooks* database and vice versa.

You also consent to *Us* maintaining and publishing (including on the *Platform*) ratings, statistics, comments and photos about *You*, based on input by *Cooks* and data from *Your* transactions via the *Platform*. *You* agree that *Our* system for doing that may be automated and that *We* are not obliged to control or vet the input from *Cooks*. To the extent permitted by law, *We* exclude any and all liability to *You* (on any basis, including negligence) in relation to any such rating, statistic, comment or photo that *We* publish. If *You* are dissatisfied with any comment or photo provided by a *Cook* then *You* may request that *We* delete or amend it and *We* will consider that request in good faith.

From time to time, it may be necessary for us to request information from *You*, including where any complaint or dispute arises. If at any time *We* request any information about *You*, or in relation to any *Meal*, then *You* must provide it to the best of *Your* ability as soon as practical.

Copyright, trademarks and Licence rights

All *Cookaborough IP* is owned by *Us* or licensed to *Us*. Neither these *Terms* nor *Your* use of the *Services* or any aspect of the *Cookaborough IP* convey or grant to *You* any rights: (i) in or related to the *Services* except for the limited license granted above; or (ii) to use or reference in any manner *Cookaborough's* company names, logos, product and service names, trademarks or services marks or those of *Cookaborough's* licensors. *You* may not modify, publish, transmit, distribute, participate in the transfer or sale, create derivative works, or in any way exploit, any of the *Cookaborough IP* in whole or in part without *Our* prior written permission.

Indemnity

To the maximum extent permitted by law, *You* agree to indemnify and keep indemnified *Cookaborough*, its affiliated companies and their officers, employees, agents and contractors against all *Losses* incurred by those indemnified as a direct or indirect result of any negligence by *You* in connection with any *Meal*, *Your* use of the *Platform* or any *Services*, any breach of these *Terms* by *You* or any claim by any *Cook* against those indemnified, in relation to any *Meal* where *You* are the relevant *Customer* and have breached the your agreement to purchase a *Meal* from a *Cook*.

Whilst *Cookaborough* requires its *Cooks* to maintain satisfy the *Requirements*, *You* acknowledge that other than the *Requirements* *We* do not undertake background checks on *Cooks* and agree that *We* are not obliged to do so. *Cookaborough* may also in its discretion undertake taste checks, kitchen inspections, and police checks in respect of *Cooks* and their food-preparation premises.

Supply of Meals outside the *Platform*

If *You* arrange the supply of any food item from any *Cook* other than through the *Platform* then these *Terms* do not apply to that supply and *We* are not liable for the food item or the relevant *Cook* in any way.

Termination

We reserve the right, at any time, to terminate these *Terms*, and the *Services* at *Our* sole discretion. Without limiting the operation of any other *Terms* herein, *We* will not be held liable for loss or damage arising from the exercising of these termination rights and any indemnities given by you and limitations on *Our* liability will survive such termination.

Governing Law

Your use of the *Services*, and any dispute arising out of *Your* use of the *Services*, is subject to the laws of Victoria, Australia. If any provision of these *Terms* is held to be illegal, invalid or unenforceable, in whole or in part, under any law, such provision or part thereof shall to that extent be deemed not to form part of these *Terms* but the legality, validity and enforceability of the other provisions in these *Terms* shall not be affected.

Disclaimers

- (a) *We* only provide access to the *Services* and take no responsibility for any *Meals* provided through the use of the *Services*. *We* may not monitor or control the *Services* that are provided through the *Platform*. *We* do not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, or reliability of any information or services provided by third parties via the *Platform* or endorse any opinions expressed via the *Platform*.
- (b) The *Services* are provided on an "as is" and "as available" basis. To the maximum extent permitted by law, *We* disclaim any warranties, express, implied or statutory, that may be

expressed or implied by law regarding the *Services*, including warranties of accuracy, merchantability, fitness for a particular purpose, and all responsibility for any loss, injury claim, damage of any kind whatsoever. *We* further disclaim any warranties regarding the security, reliability, timeliness, availability and performance of the *Services*. *You* understand and agree that *You* will be solely responsible for any damages to any computer system or any *Loss* of data that results from the use of the *Services*. *We* do not warrant that the *Services* are free of any form of harmful surreptitious code, virus or other contaminants. *We* do not accept any liability for any interference with, or damage to, *Your* computer systems, infrastructure, software or data occurring in connection with the *Services*.

- (c) *We* make no representation or warranty (express or implied) as to the currency, completeness, accuracy, reliability, suitability, availability or relevance of any information provided by *Us* to *You* in relation to, or as part of the *Services*. *You* must exercise *Your* own judgement with respect to *Your* use of the *Services* and *You* should carefully evaluate the currency, completeness, accuracy, reliability, suitability, availability or relevance of the available information.
- (d) *We* do not warrant that *You* will have continuous and uninterrupted access to the *Platform* or that the *Services* will conform to any particular service levels or performance specifications.
- (e) The *Services* or the *Platform* may contain links to other websites. *You* acknowledge and agree that *We* have no responsibility for the content or availability of the linked websites and *We* do not specifically endorse any organisation, association or entity referred to or linked from the *Platform*.
- (f) *You* acknowledge that *Your* use of the *Services* is entirely at *Your* own discretion and risk and, to the maximum extent permitted by law, *We* expressly exclude all liability for any *Loss*, damage, expenses and costs incurred by *You* in accessing and using the *Services*, including but not limited to:
 - (i) use of the *Services* for a purpose for which it is not intended;
 - (ii) the inability to obtain consistent, reliable and uninterrupted access to the *Services*;
 - (iii) damage or interference to any piece of hardware, software, equipment or device installed on or used in connection with *Your* use and access to the *Services*, or *Your* internet data that arises in connection to *Your* use of the *Platform*, its content or any linked website; and
 - (iv) any errors, omissions or *inaccuracies* contained in the *Services*.
- (g) Any allergen, nutritional or dietary information provided in respect of a *Meal* is the sole responsibility of the *Cook*. *We* make no warranty as to the currency, completeness, accuracy or reliability of any allergen information provided in respect of a *Meal* and do not accept any liability for any *Loss* suffered as a result of inaccurate or incomplete allergen information.

- (h) To the maximum extent permitted by law, if any warranties or conditions are implied or imposed by law and cannot be excluded, *Our* liability for any breach of those warranties or conditions are limited, at *Our* option:
- (i) in the case of goods:
- (A) the replacement of the goods or supply of equivalent goods; or
- (B) the payment of the costs of replacing the goods or equivalent goods.
- (ii) in the case of services:
- (A) the supply of the services again; or
- (B) the payment of cost of the supply of the services again.

Definitions

In these *Terms of Use*:

- **Cold Meal** means a *Meal* offered as fresh (uncooked) or frozen.
- **Content** means all information, data, documents, pictures, graphics, video, audio, text or other content, in each case in any form and for the avoidance of doubt includes any recipes, photographs, prices, comments, reviews or feedback.
- **Cook** means a person who has successfully registered with us as a cook and has not had their registration suspended or revoked, and *Cooks* has the corresponding meaning.
- **Cookaborough, We or Us** refers to *Cookaborough Pty Ltd* (ACN 628 305 751), and **Our** has the corresponding meaning.
- **Cookaborough IP** means all intellectual property rights comprised in or utilised in the provision of the *Services*, the *Platform*, the *Cookaborough Material* or any other material supplied to you by *Cookaborough* including (without limitation) text, graphics, branding, trade marks, information, architecture and coding (including any copyright subsisting in them);
- **Customer** means a person who has successfully registered with us as a *Customer* and has not had their registration suspended or revoked.
- **Delivery** means delivery performed by a *Cook* or arranged by a *Cook* of the relevant *Meal*, to the relevant *Delivery* location.
- **Delivery Fee** in relation to a *Delivery* means the fee chargeable for the *Delivery*, as indicated in the relevant *Offer*.
- **Delivery Person** means a person who Delivers a *Meal* on behalf of a *Cook*.
- **GST** means any tax imposed under the *A New Tax System (Goods and Services) Tax 1999* (Cth) or any legislation that substantially replaces that legislation.
- **Hot Meal** means a *Meal* offered as pre-cooked and ready-to-eat.
- **Meal** means the food described in the relevant food description provided via the *Platform* in connection with the relevant *Offer*, and *Meals* has the corresponding meaning.

- **Meal Price** means the price (as stated in the relevant *Offer*) payable by the *Customer* to the *Cook* for the relevant *Meal*.
- **Menu** means batch of one or more *Meals* prepared by a *Cook* that are available for purchase by *Customers* in any given period.
- **Loss** means any loss, damage, cost, interest, expense, fee, penalty, fine, forfeiture, assessment, demand, action, suit, claim, proceeding, cause of action, liability or damages incurred by a person, and includes legal costs on an indemnity basis and indirect or consequential losses.
- **Offer** means an offer made via the *Platform* by a *Cook* to provide a *Meal*, specifying the terms of the *Offer*.
- **Offer Terms**, in relation to an *Offer*, means the terms specified by a *Cook* via the *Platform*.
- **Pick-Up** in relation to an *Offer*, means where the *Customer* picks up the *Meal* from the *Cook*, as the alternative to the *Meal* being delivered, and *Pick-Up* and *Picked-Up* has the corresponding meaning.
- **Platform** means the website, application and any other technology that *We* provide for *You* to use.
- **Privacy Policy** means *Our* privacy policy, as applicable from time to time. At any given time *You* can obtain a copy on our Website of the version applicable at that time.
- **Requirements** means, in respect of a *Cook*, a current Food Handling Certificate and ongoing compliance with the relevant municipal council's home-based food business regulations.
- **Services** means all the services that we agree to provide, or in fact provide, to *You* under or in connection with these *Terms*, including the provision of the *Platform* and its functionality.
- **Terms** means these *Terms* of Use.
- **Unacceptable Content** means any *Content* that:
 - (a) is racist, hateful, violent, defamatory, harassing, abusive, threatening, malicious, inflammatory or otherwise objectionable;
 - (b) is pornographic, sexually explicit, obscene or excessively profane;
 - (c) is unlawful or encourages unlawful conduct;
 - (d) is fraudulent, false, misleading or deceptive;
 - (e) infringes, or encourages the infringement of, a third party's rights, including intellectual property, confidentiality or privacy rights;
 - (f) contains any virus;
 - (g) amounts to commercial advertising of any other website, product or service; or
 - (h) contains any link to any website that includes any of the above types of content.
- **You** and **Your** refers to a person who uses the *Services* as a *Customer*.

Cookaborough – Privacy Statement (Customers)

This document (in conjunction with *Cookaborough's Privacy Policy*) describes how *Cookaborough* and its contractors collect, use, disclose and store *Your* personal information when *You* use or access the *Services*. *Cookaborough* will only collect and store personal information that relates to the provision of the *Services*.

We may collect *Your* name and *Your* email address. *We* will collect this personal information when *You* create a log on profile on the *Platform*. *We* may also use your IP address to verify *You* are accessing the *Services* from within Australia and collect other personal information for the purposes of identification and support.

We collect, use and disclose your personal information for the purpose of providing the *Services*, conducting our business, communicating with *You*, matching service data with *Customers*, the compilation and analysis of statistics, and complying with our legal obligations.

Cookaborough will also share relevant information with contractors that perform our services or dispose of our documents. *We* do not transfer *Your* personal information to anyone outside Australia.

For further information on *Cookaborough's* general *Privacy Policy* please see [\[insert hyperlink\]](#).