

COSTA WAY PORTAL - TERMS OF USE

- A. Costa Limited is a company registered in England and Wales under company number 01270695, with its registered office at Costa Coffee, 3 Knaves Beech, Loudwater, High Wycombe, HP10 9QR, UK and with VAT number GB 310 0319 (the "**Company**").
- B. The Company operates the My Costa Way portal made available by the URL as follows: <https://costacoffee.sharepoint.com/sites/cwol>
- C. The Costa Way portal to which you are being granted access pursuant to these terms shall be the "Portal".
- D. These terms (these "**Terms**") describe how you may access and use any of the services and functions made available through the Portal. Please read these Terms carefully before accessing and using the Portal.
- E. In these Terms, when we refer to "**we**", "**us**", "**or**" or "**our**", we mean the Company; and when we refer to "**you**" or "**your**" we mean you, the person registering and using the Account.
- F. As set out in these Terms, the Portal is made available to you pursuant to the terms of the Employer Agreement. You hereby confirm that you have full legal authority to represent the Employer and:
 - a) you have the authority of your Employer to register for an Account and to use the Portal on behalf of, and acting for, the Employer;
 - b) your Employer shall procure that you comply with these Terms and shall be liable to us for any breach of these Terms, including after your employment relationship with your Employer has terminated; and
 - c) you hereby acknowledge and confirm that all documentation and information contained on the Portal is deemed to be our confidential information in relation to the Company under the terms of the Employer Agreement and you will (and your Employer shall procure that you will) comply with the terms of the Employer Agreement in relation to it.

1. Definitions and interpretation

- 1.1 In these Terms, in addition to those defined above, the following terms shall have the following meanings:

"**Account**" has the meaning given to it in Clause 2.1;

"**Applicable Law**" means in respect of either Party, all laws, statutes, regulations, directions, guidelines and codes of conduct of any governmental or other regulatory body of competent jurisdiction and any orders of any court or other tribunal of competent jurisdiction which are applicable to the performance by that Party of its obligations or the exercise of its rights under these Terms;

"**Employer**" means the person or entity that employs you and that has entered into an agreement with us (the "**Employment Agreement**") pursuant to which you may register your Account and use the Portal;

"**Event of Force Majeure**" means a fire, flood, lightning, storm, earthquake or other similar geological or metrological event or condition or Act of God, national emergency, war, act of terrorism, riot or criminal act or damage, strike, lockout or other industrial action not involving our employees, communication failure or failure of technical or broadcasting facilities (to the extent such failure is beyond our reasonable control), epidemic (including COVID-19) or pandemic or the threat of an epidemic or pandemic, or any other event beyond our control;

"**Intellectual Property Rights**" means all intellectual property rights of any nature whatsoever throughout the world and for the full duration of any and all intellectual property protection afforded to the same including all: (a) patents, registered trademarks, service marks, copyright, designs and any

and all applications for registration of any of the same wheresoever made; (b) unregistered trade marks, service marks, designs, design right and copyright; and (c) know how, trade secrets and confidential information howsoever arising and any right or interest in any of the foregoing; and

"Party" means each of you and the Company, and **"Parties"** shall be construed accordingly.

1.2 In these Terms (except where the context otherwise requires):

1.2.1 any reference to a **"Clause"** is to the relevant clause of these Terms;

1.2.2 use of the singular includes the plural and vice versa;

1.2.3 any reference to **"employ"**, **"employment"** or similar is a reference to the person or entity that you represent in relation to your use of the Portal and to which we have an agreement relating to your use of the Portal, irrespective of whether your relationship to such person or entity is an employment, contractor, consultant or other form of relationship;

1.2.4 any reference to a statute, statutory provision, subordinate legislation, code or guideline (**"legislation"**) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation;

1.2.5 any phrase introduced by the terms **"including"**, **"include"**, **"such as"**, **"for example"** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.6 in writing includes by email unless otherwise indicated.

2. Your account

2.1 In order to access the Portal, you will receive an invitation email and asked to provide your consent to use the Portal to register your account with us (the **"Account"**). You will be asked to provide certain information (such as your work email address), as part of our security procedures.

2.2 You must treat your password as confidential and you must not disclose it to any third party.

2.3 You are fully responsible for any other persons who you allow to use your Account details to access the Portal and will be held liable for any of their conduct whilst using the Portal on your Account.

2.4 We have the right to disable your Account at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these Terms.

2.5 These Terms are only available in the English language.

3. Using Costa Portal Services

3.1 The Portal is made available free of charge to use.

3.2 You are responsible for making all arrangements necessary for you to have access to the Portal.

3.3 We shall endeavour to provide constant, uninterrupted access to the Portal, however:

3.3.1 the Portal may not be uninterrupted, timely, secure or error-free; and

3.3.2 from time to time, we may need to suspend access to the Portal to carry out upgrade and/or maintenance work.

- 3.4 We do not guarantee that the Portal will be totally secure or free from bugs or viruses. You are responsible for configuring your information technology, computer programmes and platform in order to access the Portal.

4. Acceptable Use

4.1 You agree:

- 4.1.1 not to use the Portal in any unlawful manner, for any unlawful purpose or in any manner inconsistent with these Terms;
- 4.1.2 not to infringe our Intellectual Property Rights or those of any third party in relation to your use of the Portal;
- 4.1.3 not to transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the Portal;
- 4.1.4 not to use the Portal by automated means or otherwise for the purposes of scraping, extracting or otherwise obtaining any material from the Portal for use within a third-party website or application;
- 4.1.5 not to collect or harvest any information or data from the Portal or our systems or attempt to decipher any transmission to or from the servers running the Portal;
- 4.1.6 not to copy, or otherwise reproduce or re-sell any part of the Portal;
- 4.1.7 not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Portal or attempt to do any such thing;
- 4.1.8 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Portal;
- 4.1.9 not to make alterations to, or modifications of, the whole or any part of the Portal, or permit the Portal or any part of it to be combined with, or become incorporated in, any other programs;
- 4.1.10 to keep all copies of the Portal secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Portal;
- 4.1.11 not to provide or otherwise make available the Portal in whole or in part (including object and source code) in any form to any person without prior written consent from us; and
- 4.1.12 to comply with all technology control or export laws and regulations that apply to the technology used or supported by the Portal.

- 4.2 You acknowledge that you have no right to have access to the Portal in source-code form.

5. Intellectual Property Rights

- 5.1 The Company is the owner or licensee of all Intellectual Property Rights in the Portal and its content and the "Costa" name and mark. Those works are protected by intellectual property laws and treaties around the world. All such rights are reserved.
- 5.2 You are not granted any right to use, and may not use, any of our Intellectual Property Rights other than as set out in these Terms.
- 5.3 No part of the Portal, including the text, designs, graphics, photographs and images contained in it, may be copied, reproduced, republished, uploaded, re-posted, modified, transmitted or distributed or

otherwise used in any way for any non-personal, public or commercial purpose without our prior written consent.

- 5.4 The Portal may from time to time contain links to third party websites. You are responsible for deciding whether to access a third party website and your use of third party websites will be governed by the terms of that third party website. We have no responsibility for any aspect of third party websites.

6. Liability

- 6.1 Except as expressly set out in these Terms, all conditions, warranties, stipulations and other statements whatsoever that would otherwise be implied or imposed by statute, at common law or otherwise howsoever are excluded to the fullest extent permitted by law.

- 6.2 Nothing in these Terms excludes or limits our liability for:

- 6.2.1 death or personal injury caused by our negligence;
- 6.2.2 fraud or fraudulent misrepresentation; and
- 6.2.3 any matter in respect of which it would be unlawful for us to exclude or restrict its liability.

- 6.3 Subject to Clause 6.2 above, in no event shall we be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with these Terms for: (a) any loss of profits, sales, business, or revenue; (b) loss or corruption of data, information or software; (c) loss of business opportunity; (d) loss of anticipated savings; (e) loss of goodwill; or (f) any indirect or consequential loss whatsoever.

- 6.4 Subject to Clause 6.2 above, our maximum aggregate liability to you for any loss or damage arising out of or in connection with these Terms and/or your use of the Portal, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to £100.

7. Termination

- 7.1 These Terms, and your right to access and/or use the Portal, shall continue until these Terms are terminated in accordance with this Clause 7.

- 7.2 Your right to access the Portal shall cease immediately upon termination of your employment with the Employer and you agree that you shall not try to access or use the Portal following termination of your employment with the Employer. You agree, on behalf of the Employer, that the Employer shall be liable for any actions you take in relation to your Account and the Portal after your employment with the Employer has terminated.

- 7.3 We may immediately terminate these Terms and your access to the Portal if:

- 7.3.1 you breach any of these Terms;
- 7.3.2 we reasonably believe that you are in any way committing fraudulent activity in the use of the Portal; or
- 7.3.3 the Employer Agreement terminates or expires or, for any other reason, we cease to provide access to the Portal to the Employer.

- 7.4 We may also suspend or terminate your access to the Portal:

- 7.4.1 at any time with immediate effect if we cannot provide access to the Portal to you due to technical or operational reasons outside of our control; or

7.4.2 for any other reason, on reasonable prior notice to you or your Employer.

7.5 On termination of these Terms for any reason your access to the Portal may be revoked.

8. Changes to these Terms

We may make changes to these Terms from time to time (if, for example, there is a change in the law that means we need to change these Terms). Please check these Terms regularly to ensure that you understand the up-to-date terms that apply at the time that you access and use the Portal. If we update these Terms, the updated terms will apply to each of your uses of the Portal from that point on.

9. Other important information

9.1 We shall not be in breach of these Terms if performance of any of our obligations under these Terms is prevented in full or in part or delayed by an Event of Force Majeure.

9.2 These Terms constitute the entire agreement between the Parties in relation to its subject matter. It replaces and extinguishes all prior agreements, draft agreements, arrangements, collateral warranties, collateral contracts, statements, assurances, representations and undertakings of any nature made by or on behalf of the Parties, whether oral or written, in relation to that subject matter. The Parties acknowledge that in entering into these Terms neither have relied upon any oral or written statements, collateral or other warranties, assurances, representations or undertakings which were made by or on behalf of the other Party in relation to the subject-matter of these Terms at any time before entering into these Terms (together "**Pre-Contractual Statements**"), other than those that are set out in these Terms. Each Party hereby waives all rights and remedies which might otherwise be available to that Party in relation to such Pre-Contractual Statements, provided that nothing in this Clause 9.2 shall exclude or restrict the liability of either Party arising out of its pre-contract fraudulent misrepresentation or fraudulent concealment.

9.3 If any provision of these Terms shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of these Terms and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision. Further and in particular the Parties acknowledge and agree that any Clause that imposes a restriction on either Party shall constitute an entirely separate and independent restriction and that the duration, extent and application of each restriction are no greater than is reasonable and necessary for the protection of the interests of the Parties but that, if any such restriction is adjudged by any court or authority of competent jurisdiction to be void or unenforceable but such restriction would be valid if part of the wording thereof were to be deleted and/or the period thereof were to be reduced and/or the area dealt with thereby were to be reduced, the said restriction shall apply within the jurisdiction of that court or competent authority with such modifications as are necessary to make it valid and effective.

9.4 Each of the provisions and part-provisions of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining provision, or part-provision as applicable, will remain in full force and effect.

9.5 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce its rights against you, or if we delay in doing so, that will not mean that we have waived its 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, it will only do so in writing, and that will not mean that we will automatically waive any later default by you.

- 9.6 Notwithstanding any other provision of these Terms, none of the Clauses shall be relied upon or enforceable under the Contracts (Rights of Third parties) Act 1999 by any third party who is not a party to these Terms.
- 9.7 You may not assign, transfer or sub-licence any of your rights or obligations under these Terms, without our prior written consent.
- 9.8 These Terms shall be governed by English law and each Party agrees that any dispute (contractual or non-contractual) arising out of or in connection with these Terms including any question regarding its existence, validity or termination shall be submitted to the exclusive jurisdiction of the courts of England.

10. Contacting us

Should you have any reasons for a complaint, we will endeavour to resolve the issue and avoid any re-occurrence in the future. You can always contact us by using the following details:

Address: Costa Way Online Team, 3 Knaves Beech, Loudwater, High Wycombe, HP10 9QR, UK

Email address: CostaWay@CostaCoffee.com