

TERMS OF USE

Donut Social is a social influencer marketing service provided by, Brand Speaks Sdn Bhd. By using any of Donut Social's Services, you agree that you have read, understood and agree to be bound by these General Terms of Use and [Privacy Policy] (hereinafter collectively referred to as the "Terms"). These Terms may be revised from time to time by Donut Social at Donut Social's sole discretion and without prior notice. The revised Terms will be posted here and upon your continued access or use of Donut Social's Services after such revised Terms have been posted, you shall be deemed to be aware of such revision and your use of Donut Social Services shall constitute your agreement to be bound by the Terms as revised.

1. DEFINITION

"Account" means a registered account which you may be required to create if you wish to access and utilise all of Donut Social Services fully.

"Brand Speaks", "Donut Social", "we", "our", "company", "the company" or "us" means Brand Speaks Sdn Bhd (Company No. 1264367-K)

"Business Days" means a day other than a Saturday or Sunday on which banks are open for business generally in Kuala Lumpur.

"Client" means a client or prospective client of Brand Speaks and **"Clients"** shall be construed accordingly.

"content" means any textual, audio, and/or visual content and information including without limitation to name, profile picture, commentary and actions taken on Social Media Accounts.

"Donut Social Services" means the services provided by Brand Speaks to user on Donut Social's website and/or mobile application.

"Intellectual Property Rights" means any and all intellectual property rights, existing worldwide and the subject matter of such rights, including: (a) copyright, registered and unregistered trademarks, registered designs, patents, and any right to have confidential information kept confidential; and (b) any application or right to apply for registration of any of the rights referred to in paragraph (a), whether or not such rights are registered or capable of being registered and whether existing under any laws, at common law or in equity.

"Social Media Accounts" in respect of a user, means the user's accounts on all websites and applications that enable users to create and share content or to participate in social networking such as without limitation Facebook, YouTube, Instagram and Twitter, and "Social Media Account" shall mean any one of them.

"You" or "your" or "user" means a legal or natural person who visits or uses Donut Social Services and the term "users" shall mean two or more of them.

2. OVERVIEW

- 2.1 Donut Social is a platform which allows the user to register to become part of Donut Social's social influencer database. Donut Social will select users which it deems suitable to be proposed for respective Clients' branding or marketing campaigns or purposes.
- 2.2 Registering and creating an Account is free.

3. DONUT SOCIAL'S LIMITED LIABILITY

- 3.1 Donut Social Services is provided on an "as is" and "as available" basis, and without any warranty and Donut Social specifically disclaims any express or implied warranties of any kind, including without limitation to implied warranties of fitness for a particular purpose and non-infringement. Without limiting the foregoing, Donut Social do not warrant that Donut Social Services will be available at any particular time or location, uninterrupted or secure, that any defects or errors will be corrected, or that Donut Social Services are free of viruses or other harmful components. The risk arising out of the use of Donut Social Services remains solely with the user.
- 3.2 Donut Social is under no obligation to propose a user to Clients and shall not be liable to any user under any circumstances whatsoever in respect of any claim for loss of opportunity on the part of the user to enhance the user's reputation, influence, reach, profit or otherwise.
- 3.3 Donut Social makes no claims that Donut Social Service or any of its content is accessible or appropriate based on the domicile of the user. Access to Donut Social Service may not be legal for certain persons or in certain countries. If the user accesses Donut Social Service, the user does so on his/her own initiative and as such, shall be responsible for compliance with local laws.
- 3.4 Nothing in these Terms creates a partnership, joint venture, agency or employment relationship between Donut Social and you.
- 3.5 Without prejudice or derogation to the foregoing, in no event shall Donut Social be liable, whether in contract, warranty, tort (including negligence), or any other form of liability, for:
 - (a) any indirect, Social, incidental or consequential damages that may be incurred by user;
 - (b) any loss of income, business or profits (whether direct or indirect) that may be incurred by user; and
 - (c) any claim, damage, or loss which may be incurred by user as a result of any of the user's transactions involving Donut Social.

The limitations on Donut Social's liability to user above shall apply whether or not Donut Social have been advised of the possibility of such losses or damages arising.

- 3.6 To the extent that Donut Social is not able to exclude liabilities under the Terms, Donut Social expressly limit its liability to the following remedies (the choice of which is to be at Donut Social's sole discretion) to the supply of Donut Social Services again.

4. USING DONUT SOCIAL

4.1 By using Donut Social Services, you represent, warrant and undertake that:

- (a) where you are an individual, you are at least eighteen (18) years of age or if you are below eighteen (18) years of age, your legal guardian has registered an Account on your behalf and shall be bound by the Terms;
- (b) where you are a company, you are incorporated under the applicable laws;
- (c) you have the capacity and power to enter into and accept these Terms;
- (d) all information and documents that you are required to submit to register an Account and/or to use any and all of Donut Social Services is true, accurate, complete and up to date and that you will maintain the accuracy of such information and documents;
- (e) your use of the Donut Social Services do not violate any applicable law or regulation which you are subject to;
- (f) you agree to make payment, if required, for any Donut Social Services requested.

4.2 In using Donut Social Services, you shall not:

- (a) circumvent or manipulate Donut Social Services;
- (b) transfer your Account to another party;
- (c) distribute or post spam, unsolicited, or bulk electronic communications, chain letters, or pyramid schemes;
- (d) distribute viruses or any other technologies that may harm Donut Social, Donut Social Services, or the interests or property of Donut Social users (including their Intellectual Property Rights, privacy and publicity rights) or is unlawful, threatening, abusive, defamatory, invasive of privacy, vulgar, obscene, profane or which may harass or cause distress or inconvenience to, or incite hatred of, any person;
- (e) download and aggregate listings from Donut Social Services for display with listings from other mobile applications or websites without Donut Social's express written permission, "frame", "mirror" or otherwise incorporate any part of the Donut Social Services into any other mobile applications or websites without Donut Social's prior written authorisation;
- (f) attempt to modify, translate, adapt, edit, decompile, disassemble, or reverse engineer any software programs used by Donut Social in connection with Donut Social Services;
- (g) copy, modify or distribute rights or content from Donut Social Services or any other user's copyrights and trademarks; and/or
- (h) harvest or otherwise collect information about other users, including email addresses, without their consent;
- (i) otherwise attempt to interfere with the proper working of Donut Social Service.

5. AUTHORISATION GRANTED TO DONUT SOCIAL

5.1 By registering an Account with Donut Social, you are completely and unequivocally granting Donut Social a perpetual, non-exclusive, transferable, sub-licensable, royalty-free, and worldwide license to access your Social Media Accounts to use, reproduce, modify, perform, display, distribute and otherwise disclose to third parties any or all content therein and all statistics and APIs therefrom, and to do whatever deemed necessary in Donut Social's sole discretion for the purposes of considering you to be proposed or proposing you to a Client.

5.2 You represent and warrant that:

- (a) you own or have all rights in and to your content and have the right to grant permission for usage by Donut Social and respective licensees, successors and assignees;
- (b) your content does and will comply with the Terms and applicable laws;
- (c) your content is, at all times, correct, current and complete, and up to date;
- (d) you shall have one account per person. You cannot hold multiple accounts;
- (e) you understand and acknowledge that you have full responsibility of your content, including its legality, reliability, accuracy and appropriateness;
- (f) Donut Social is not responsible, or liable to any third party, for the content or accuracy of any of your content posted by you;
- (g) your content in its entirety comply with all laws and regulations. Without limiting the foregoing, your content does not:
 - (j) contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable;
 - (ii) promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, political leanings, disability, sexual orientation or age;
 - (iii) infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any other person; and
 - (iv) violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with the Terms.

5.3 Where a Client selects you for its branding or marketing campaign, Donut Social will contact you directly to negotiate and enter into a separate engagement agreement with you.

5.4 You further grant Donut Social (a) the right to use and display your name (company or business name included), logo, profile information and public description of jobs for Donut Social's marketing and other related purpose; and (b) permission to download and install updates to Donut Social's software where available.

6. DONUT SOCIAL'S RESPONSIBILITIES

6.1 Donut Social reserves the right to provide access, withdraw or amend the access to Donut Social Services, and any service or material that Donut Social provides on Donut Social Services, at its sole discretion and without notice. Donut Social will not be liable if for any reason all or any part of Donut Social Services is unavailable at any time or for any period. From time to time, Donut Social may restrict access to some parts of Donut Social Services, or the entire Donut Social Services.

6.2 Donut Social shall additionally have the right to at its sole discretion:

- (a) disable any user name, password or other identifier, whether chosen by you or provided by Donut Social, at any time at its sole discretion for any or no reason, including if, in Donut Social's opinion, you have violated any terms and conditions of the Terms;

- (b) block, ban, deactivate, refrain or take any action to temporarily/permanently suspend the your Account on Donut Social Services without further notice for any reason whatsoever including without limitation where if Donut Social believes that you and the Client are directly engaging and/or are in contact in connection with the service and purpose hereof without using Donut Social Services, or your content or the use thereof by Donut Social violates all or part thereof of the Terms;
- (c) take any action with respect to any of your content that Donut Social deems necessary or appropriate, including if Donut Social believes that your content violates the Terms, including the content standards stated herein, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of Donut Social Services or the public or could create liability for Donut Social Services;
- (d) take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of Donut Social Services;
- (e) without limiting the foregoing, Donut Social has the right to fully cooperate with any law enforcement authorities or court order requesting or directing the disclosure of the identity or other information of any user of Donut Social. You waive and indemnify Donut Social and its affiliates, licensees and service providers from any claims resulting from any action taken by the company/any of the foregoing parties during or as a result of its investigations and from any actions taken as a consequence of investigations by either the company/such parties or law enforcement authorities.

7. IDENTITY OF USERS

- 7.1 You authorise Donut Social, directly or through third parties, to make any inquiries Donut Social consider necessary to validate your identity. You must, at Donut Social's request: (a) provide further information to Donut Social, which may include your date of birth and or other information that will allow Donut Social to reasonably identify you; (b) take steps to confirm ownership of your email address; or (c) verify your information against third party databases or through other sources.
- 7.2 You must also, at Donut Social's request, provide copies of identification documents (such as your passport or national identity card). Donut Social may also ask you to provide photographic identification holding your identification together with a sign with a code that Donut Social provide as an additional identity verification step. Donut Social also reserves the right to request a video interview with you to validate this information, your identity, your background and your skills.
- 7.3 Donut Social reserves the right to close, suspend, or limit access to your Account and/or Donut Social Services in the event Donut Social is unable to obtain or verify to Donut Social's satisfaction the information which Donut Social request under this section.
- 7.4 Donut Social reserves the right to update your particulars on Donut Social in order to match any identity documentation that has been provided.

8. INTELLECTUAL PROPERTY

- 8.1 All text, graphics, editorial content, data, formatting, graphs, designs, HTML, look and feel, photographs, music, sounds, images, software, videos, designs, typefaces and other content (collectively “**Proprietary Material**”) that you see or read through the Donut Social is owned by Donut Social, excluding respective users’ Content that Donut Social has the right to use as described in above. Proprietary Material is protected in all forms, media and technologies now known or hereinafter developed. Donut Social owns all Proprietary Material, as well as the coordination, selection, arrangement and enhancement of such Proprietary Materials as a collective work. The Proprietary Material is protected by the domestic and international laws of copyright, patents, and other proprietary rights and laws. You may not copy, download, use, redesign, reconfigure, or retransmit anything from the Donut Social without Donut Social’s express prior written consent and, if applicable, the holder of the rights to the Content. Any use of such Proprietary Material, other than as permitted therein, is expressly prohibited without the prior permission of Donut Social and, if applicable, the holder of the rights to the Content.
- 8.2 The Intellectual Property Rights of Donut Social, including without limitation “Donut Social” and the Donut Social logos are service marks owned by Donut Social. Any other trademarks, service marks, logos and/or trade names appearing on the Donut Social are the property of their respective owners. You may not copy or use any of these marks, logos or trade names appearing on the Donut Social without the express prior written consent of the owner.

9. RIGHT TO CLOSE ACCOUNT

- 9.1 Donut Social may close, suspend or limit your access to your Account without reason. Without limiting the foregoing, Donut Social may close, suspend or limit your access to your Account:
- (a) if Donut Social determine that you have breached, or are acting in breach of the Terms;
 - (b) if Donut Social determine that you have infringed legal rights (resulting in actual or potential claims), including infringing Intellectual Property Rights;
 - (c) if Donut Social determine that you have engaged, or are engaging, in fraudulent, or illegal activities;
 - (d) you do not respond to account verification requests;
 - (e) you do not complete account verification when requested within 3 months of the date of request;
 - (f) to manage any risk of loss to Donut Social, a user, or any other person; or
 - (g) for other reasons.
- 9.2 Without limiting Donut Social’s other remedies, to the extent you have breached the Terms, you must pay Donut Social all fees owed to Donut Social and reimburse Donut Social for all losses and costs (including any and all of Donut Social’s employee time) and reasonable expenses (including legal fees) related to investigating such breach and collecting such fees.
- 9.3 In the event that Donut Social close your Account, you will have no claim whatsoever against Donut Social in respect of any such suspension or termination of your Account.

10. CLOSING YOUR ACCOUNT

- 10.1 You may close your Account at any time.

10.2 Account closure is subject to:

- (a) not having any outstanding engagements for Clients' campaigns;
- (b) resolving any outstanding matters and disputes; and
- (c) paying any outstanding fees or amounts owing on the Account.

10.3 Closing your account does not necessarily delete or remove all of the information Donut Social holds as Donut Social may retain some of your personal information to satisfy regulatory requirements and Donut Social's own external obligations.

11. INDEMNITY

11.1 You agree defend, hold harmless and indemnify Donut Social from and against any and all losses, costs, expenses, damages or other liabilities (actual and consequential) incurred by Donut Social: (a) in connection with or resulting from your use of Donut Social Services; (b) any breach of contract or other claims made by other users with which you conducted business or made a Deal with through the Donut Social; (c) any act or omission of yours to pay other users or perform services for the benefit of other users; (d) your breach of any provisions of the Terms; and (e) any negligent or intentional wrongdoing by you.

12. NETWORK ACCESS

12.1 The user is responsible for obtaining the data network access necessary to use Donut Social. The user's mobile network's data and messaging rates and fees may apply when using Donut Social.

12.2 The user is responsible for acquiring and updating compatible hardware or devices necessary to access and use Donut Social and any updates thereto. Donut Social does not guarantee that Donut Social, or any portion thereof, will function on any particular hardware or devices.

12.3 In addition, Donut Social may be subject to malfunctions and delays inherent in the use of the internet and electronic communications.

13. SECURITY

13.1 You must immediately notify Donut Social upon becoming aware of any unauthorised access or any other security breach to Donut Social or your Account and do everything possible to mitigate the unauthorised access or security breach (including preserving evidence and notifying appropriate authorities). Your Account is yours only, and you must not share your password with others. You are solely responsible for securing your password. Donut Social will not be liable for any loss or damage arising from unauthorised access of your account resulting from your failure to secure your password.

14. NO WARRANTY

14.1 Donut Social a dynamic time-sensitive website/mobile application. As such, information on Donut Social will change frequently. It is possible that some information could be considered offensive, harmful, inaccurate or misleading or mislabelled or deceptively labelled accidentally by Donut Social or accidentally or purposefully by a third party.

14.2 Donut Social Services, Donut Social and all content on it are provided on an 'as is', 'with all faults' and 'as available' basis and without warranties of any kind either express or implied. Without limiting the foregoing, Donut Social makes no representation or warranty about:

- (a) Donut Social Services;
- (b) the accuracy, reliability, availability, veracity, timeliness or content of Donut Social;
- (c) whether the Donut Social will be up-to-date, uninterrupted, secure, error-free or non-misleading;
- (d) whether defects in Donut Social will be corrected;
- (e) whether the Donut Social or any data, content or material will be backed up or whether business continuity arrangements are in place in respect of the Donut Social;
- (f) any third party agreements or any guarantee of business gained by you through the Donut Social; or
- (g) Donut Social or infrastructure on which they are based, being error or malicious code free, secure, confidential or performing at any particular standard or having any particular function.

14.3 To every extent permitted by law, Donut Social specifically disclaims any implied warranties of title, merchantability, fitness for a particular purpose, quality, suitability and non-infringement.

15. NOTICES

15.1 Legal notices will be served or to the email address you provide to Donut Social during the registration of Account process. Notice will be deemed given 24 hours after email is sent, unless the sending party is notified that the email address is invalid or that the email has not been delivered. Alternatively, Donut Social may give you legal notice by mail to the address provided by you during the registration process. In such case, notice will be deemed given three days after the date of mailing.

15.2 Any notices to Donut Social must be given by emailing to *hello@donutsocial.co*.

16. SEVERABILITY

16.1 The provisions of the Terms are severable, and if any provision of the Terms is held to be invalid or unenforceable, such provision may be removed and the remaining provisions will be enforced. This Terms may be assigned by Donut Social to an associated entity at any time, or to a third party without your consent in the event of a sale or other transfer of some or all of Donut Social's assets. In the event of any sale or transfer, you will remain bound by the Terms.

17. INTERPRETATION

17.1 Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.

18. NO WAIVER

- 18.1 Donut Social's failure to act with respect to an anticipated or actual breach by you or others does not waive Donut Social's right to act with respect to subsequent or similar breaches. Nothing in this section shall exclude or restrict your liability arising out of fraud or fraudulent misrepresentation.

19. GOVERNING LAW

- 19.1 The Terms are governed by the laws of Malaysia and you agree to irrevocably submit to the non-exclusive jurisdiction of the courts of Malaysia.