

## **easyEntertainment Terms of Use**

The easyEntertainment service, is operated and provided by Gardners Books Ltd of 1 Whittle Drive, Eastbourne, East Sussex, BN23 6QH United Kingdom. These terms and conditions do not affect your statutory rights.

By accepting the terms and conditions of the easyEntertainment Service Agreement, Retailer (a) represents and warrants that he or she is 18 years old or older; (b) agrees to provide true, accurate, current and complete information about Retailer as prompted by the Account Registration Form; and (c) agrees to maintain and update this information to keep it true, accurate, current and complete. If any information provided by Retailer is untrue, inaccurate, not current or incomplete, easyEntertainment has the right to terminate Retailer's account and refuse any and all current or future use of the Service.

### **The Service**

The service will be supplied in accordance with these terms and the service descriptions on our website from time to time. easyEntertainment cannot guarantee that the service will be uninterrupted or free of faults. At times easyEntertainment may need to suspend the services to correct a fault or for maintenance purposes. If this happens easyEntertainment will restore the service to you as quickly as reasonably possible. easyEntertainment grants you a non-exclusive, non-transferable licence to use the easyEntertainment system. Upgrades to such software will be made available from time to time.

### **Retailer's Responsibility**

Retailer agrees not to use the service for any unlawful purposes such as making any offensive or indecent materials available or allowing other persons to do so or using the services fraudulently or in connection with a criminal offence. Retailer will comply with all reasonable instructions provided by us in relation to the services and will fully indemnify us against any expenses, liabilities, losses, costs (including legal costs), action, claims, damages or liabilities howsoever incurred by us as a result of retailers breach of this agreement.

Retailer acknowledges and agrees that it shall be responsible for presentation of their own easyEntertainment website shop front for all goods and services offered.

Retailer acknowledges that the easyEntertainment service provides a route for Retailer's consumer to shop with them and that any communications required by consumer or between consumer and Retailer shall remain solely the responsibility of Retailer and that Gardners Books shall not be responsible for communications and retail policy with the end user (consumer) or be expected to handle any communications on behalf of the Retailer.

Retailer agrees to display in the easyEntertainment website contact information, including but not limited to company name, address, telephone number, fax number and e-mail address. Retailer also agrees to update such information to keep it true, accurate, current and complete.

Retailer represents and warrants that it has full power and authority under all relevant laws and regulations:

- To offer and sell the goods and services offered at the easyEntertainment website shop front, including but not limited to holding all necessary licenses from all necessary jurisdictions to engage in the advertising and sale of the goods or services offered at the website.
- To copy and display the materials used or displayed at the website and,
- To provide via suitable payment gateway service provider for credit card payment and delivery of goods or services as specified at the website shop front.

easyEntertainment reserves the right to refuse to host or continue to host any website which it believes, in its sole discretion has received a significant number of complaints for failing to be reasonably accessible to customers or timely fulfil customer orders where retailer is fulfilment provider.

### **Data Protection**

If Retailer holds information about customers and suppliers on paper or in electronic form Retailer must comply with rules on data protection. easyEntertainment strongly recommends Retailer ensures compliance especially if Retailer intends to download and use data for purposes outside of direct fulfilment of consumer orders, such as marketing communications. For more information on data protection and Retailer's responsibilities, please see <http://www.businesslink.gov.uk> or <http://www.ico.gov.uk/>

All companies associated with the easyEntertainment service are registered in accordance to the Data Protection Act.

## **Proprietary Rights**

easyEntertainment grants the retailer a non-exclusive, non-transferable license to use the system from only on a server controlled by easyEntertainment or the sole purpose of creating and maintaining a website on such server. Retailer is not being granted any right to copy the software or to use it on computers other than a server controlled by easyEntertainment. Retailer may not use web pages or parts of web pages generated by means of the system, other than content that originates from and is proprietary to the Retailer, on any server other than the servers controlled by easyEntertainment without easyEntertainment's express written agreement. Retailer also acknowledges and agrees that the system is intended for access and use by means of web browsing software, and that easyEntertainment does not commit to support any particular browsing platform. easyEntertainment reserves the right at any time to revise and modify the system, release subsequent versions thereof and to alter features, specifications, capabilities, functions, and other characteristics of the system, without notice to Retailer. If any revision or modification to the software materially changes Retailer's ability to conduct business, Retailer's sole remedy is to terminate the Agreement pursuant to non-renewal of service.

easyEntertainment Intellectual Property. Retailer acknowledges and agrees that content available from easyEntertainment or the Service, including but not limited to text, software, music, sound, logos, trademarks, service marks, photographs, graphics, or video, is protected by copyright, trademark, patent, or other proprietary rights and laws, and may not be used in any manner other than as specified above.

Retailers Property. Retailer agrees that by using the Service, Retailer grants easyEntertainment all rights to any material and content displayed in Retailers easyEntertainment web site to distribute, display, reproduce, and create derivative works from such material in any and all media and display in any manner and on any easyEntertainment property the results of search queries and comparisons conducted on easyEntertainment. Retailer also grants easyEntertainment the right to maintain such content on easyEntertainment servers during the term of the Agreement and to authorise the downloading and printing of such material, or any portion thereof, by end users for their personal use.

Unauthorized Access. Retailer shall not attempt to gain unauthorized access to any servers controlled by easyEntertainment.

## **Fees and Payment**

### easyEntertainment System Software.

The service is provided by Gardners and the account will exist between Retailer and Gardners. Retailer agrees to pay Gardners £40 per calendar month, per 1,000 transactions. Retailer acknowledges that transaction charges apply plus any additional charges payable due to Retailer's bank's terms & conditions.

## **Terms of Trade & Payment of Goods**

Retailer will be invoiced for the goods within Gardners normal terms and conditions of trading. See Gardners Terms & Conditions for full details. All easyEntertainment applicants shall have a unique account activated for them (for the fulfilment of 3rd party orders only) in addition to their normal Gardners account and the standard terms of trade shall be 40% on standard discount lines. Gardners Select promotional discounts and offers will also apply to this account. All other sales will be in accordance to Gardners normal terms and conditions of business. Payment shall be required within 30 days from statement date.

## **Termination**

easyEntertainment may elect to terminate or suspend this agreement immediately without prior notice if Retailer breaches any of the terms and conditions of this agreement, or if Retailer becomes insolvent or bankrupt. easyEntertainment may also terminate this agreement if Retailer's store is operating from an invalid or blocked (by a third party ISP) IP address. easyEntertainment may suspend the service if it is suspected that any fraudulent use is being made of it. Either easyEntertainment or Retailer may end this agreement by providing the other with 30 days prior written notice subject to a 12 month minimum contract period.

Deletion of Information. Upon termination, easyEntertainment reserves the right to delete from its servers any and all information contained in Retailer's account, including but not limited to order processing information, mailing lists, and any web pages generated as part of the system.

Termination prior to term's end. If Retailer signs up for one of the easyEntertainment service plans with a 12 month term in order to receive a discount, the Agreement shall be effective for the full term's length (a 12 month contract shall be in effect for 12 months after the signup date). If Retailer decides to break this term contract before the term's length expires, Retailer shall pay an Early Termination Fee for a total of £250 +vat.

## **Limitation of Liability**

easyEntertainment will not be liable to Retailer either in contract or tort (including negligence) or otherwise for any damage, cost or expense, loss of or corruption of data, loss of profits or production, loss of operational time, goodwill, contracts or anticipated savings or any indirect or consequential loss caused by the interruption, delay, suspension, non-delivery, packet loss caused by the interruption of the services the downloading or use of the software or any event

beyond our control including the act of any network operator or third party. easyEntertainment expressly exclude any warranty as to the suitability, quality or reliability of the services or the software that they will be fit or suitable for Retailer's purposes.

### **Maintenance and Support**

Retailer can obtain assistance with any technical difficulty that may arise in connection with Retailer's utilisation of the easyEntertainment services by requesting assistance by E-mail to support@easyentertainment.co.uk. easyEntertainment reserves the right to establish limitations on the extent of such support, and the hours at which it is available.

Retailer is responsible for obtaining and maintaining all telephone, computer hardware and other equipment needed for its access to and use of the easyEntertainment system and Retailer shall be responsible for all charges related thereto.

### **Fulfilment of Orders (Prime Fulfilment Provider – Gardners Books)**

Where Gardners Books is the fulfilment provider of goods sold via the easyEntertainment service; orders received before 15.00 Monday to Friday, will normally despatch on the same day, unless exceptional circumstances or peak volumes make this unachievable, when the deadline for same day despatch will be brought forward by up to 2 hours. Orders received after this time, and during Saturday and Sunday, will be despatched on the next available collection.

A full description of the Fulfilment Service is given below. By signing the Terms of Use of easyEntertainment, the Retailer also accepts the Service, Terms and Conditions of the Fulfilment Service provided by Gardners.

For pre-ordered items and orders not fulfilled due to item being temporarily unavailable items will be held for a maximum of 28 days before shipping. If the order is not complete after this time and multiple shipments are subsequently made the Retailer acknowledges it is their responsibility to absorb additional shipping costs. The Retailer is responsible for setting their own shipping prices on easyEntertainment in order to re-coup and minimise their exposure to shipping costs.

Fulfilment service fees and other sundry service fees will be charged at Gardners current published tariff. Gardners reserves the right to amend these fees at any time subject to Gardners giving the Retailer one month's written notice. Payment of Fulfilment Service Fees shall be required 30 days from date of statement. .

### **Fulfilment of Orders (Secondary Fulfilment Provider – Retailer)**

Where Retailer has entered on to the easyEntertainment System product not already in the global easyEntertainment Database the Retailer acknowledges to be the fulfilment provider.

Retailer shall ensure all products entered on to the system are available for sale in his shop and that all received orders shall be processed and despatched within 2 business days. A 10% commission will be invoiced monthly by Gardners on the retail value of all goods not supplied by Gardners.

### **Force Majeure**

Neither party shall be liable to the other for any delay or failure in performance under the Agreement resulting directly or indirectly from acts of nature or causes beyond its reasonable control. Except in the case of fraud, this Agreement is the complete and exclusive statement of the Agreement between the parties relating to the subject matter of this Agreement, which supersedes all previous communications, agreements and other arrangements written or oral. This agreement shall be governed by English law and be subject to the exclusive jurisdiction of the English courts.

## **Gardners Books Limited “Third-Party Fulfilment” Agreement & Service Description**

This service is variously referred to as ‘Home Delivery’, B2C, Consumer Direct Fulfilment (CDF) or ‘Drop Ship’.

### **The terms set out below represent the basis upon which Gardners Books will provide a Fulfilment service direct to your customers on your behalf:-**

1. Any orders processed must be made through Gardners approved electronic methods.
2. The prices and discounts for deliveries will be as stated in the current Gardners Books Fulfilment Price List. Gardners Books reserves the right to vary the prices and discounts offered and will give notice to the account holder of any such changes before such changes are made. Payments due will appear on the account holder's normal account where the standard terms of settlement will apply.
3. The Fulfilment Services provided are as described in the Gardners Books Fulfilment Price List. However, whilst Gardners Books will endeavour to despatch all orders as soon as possible, it gives no guarantees with regard to delivery times.
4. If Fulfilment orders are received by Gardners Books before 15.00 Monday to Friday, Gardners Books will normally despatch the service on the same day, unless exceptional circumstances or peak volumes make this unachievable, when the deadline for same day despatch will be brought forward by up to 2 hours. Orders received after this time, and during Saturday and Sunday, will be despatched on the next available collection.
5. Gardners Books accepts no responsibility for items after they are despatched but not received or damaged in transit beyond the normal terms & conditions of the carrier. In the event of a despatch query Gardners Books will provide you with details of the carrier used.
6. Gardners Books will not be liable for any loss of profits or any other indirect or consequential loss arising from the Home Delivery Service.
7. Titles ordered under our Special Order Service (S.O.S.) and specific titles within our stock range which are supplied on a firm sale basis will not be credited if returned to Gardners Books. Although Gardners Books will on request from you do all it can to cancel those titles not required by you, if the titles subsequently arrive at Gardners Books premises, they will be despatched to your premises and invoiced accordingly. In such circumstances no fulfilment charge (charge for despatch to your customer) will apply. If firm sale titles are returned to Gardners Books (P.O. Box Service) by your customers, these will be despatched to your premises or disposed of, but not credited to your account.
8. Books in Gardners current stock catalogue which are received but are no longer required can be returned to Gardners Books under the normal returns conditions.
9. All P.O. Box returns will be processed with a service charge per parcel as detailed in our Fulfilment Price List.
10. All inserts must be provided with a readable EAN 13 barcode and will be processed with a service charge per insert, as detailed in our Fulfilment Price List.
11. An optional gift wrapping service is available with a service fee per book, as detailed in our Fulfilment Price List.
12. Where available, proof of delivery is available via [www.gardners.com](http://www.gardners.com). If hard copy P.O.D.'s are required these are chargeable, as detailed in our Fulfilment Price List.
13. It is your responsibility to ensure that the customers delivery details for Fulfilment orders are properly recorded and contained within the Gardlink database on your computer or within the FTP order. It is also your responsibility to ensure that regular backups of data to tape are taken to avoid any loss of information in the event of a computer breakdown.
14. Either party shall be entitled to terminate the Agreement by giving to the other not less than 30 days notice in writing.
15. Gardners Books reserves the right to make changes from time to time to the terms and conditions that apply to the Fulfilment Service and will notify you of any such changes, in advance of the implementation.
16. Use of the Fulfilment Service will be taken as your agreement to these terms and conditions. If you are not prepared to accept these terms and conditions, please ensure that you do not use the Home Delivery Service provided by Gardners Books.
17. This agreement is governed by English law.

**Retailer Application and acceptance of terms and conditions**

**Please complete this section & return 2 Copies to:**

**easyEntertainment Applications c/o Sue Pamplin, Gardners Books Ltd  
1 Whittle Drive, Eastbourne, East Sussex BN23 6QH  
Fax: 01323 525505**

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**I am interested in** (please tick one)

- Option 1) For retailers who do not already have an online merchant account for card transactions.
- Option 2) For retailers who already have an online account for card transactions.

Additional Note regarding domain URL (Website Address).

- In order to facilitate the easyEntertainment service, Merchants will need to have setup their own website address (URL)  
eg. <http://www.mystore.co.uk>
- If you have an existing website and just wish add a link to your easyEntertainment site, you can set up a sub domain.  
eg. <http://www.books.mystore.co.uk>
- Please point your domain or sub domain to IP 62.232.11.242 <http://www.easyentertainment.co.uk>
- For more information on obtaining a URL please email [itsupport@easyentertainment.co.uk](mailto:itsupport@easyentertainment.co.uk)

Proposed Domain URL	
Gardners Account Code	
Retailer (Company) Name	
Address 1 (Street)	
Address 2	
Address 3 (Town)	
Address 4 (County)	
Postcode	
Country	
Applicant's Name	
Position / Designation	
Signed	Date
If you already have a Gardners account do you want separate monthly statements?	YES / NO delete as applicable

**For Internal Use Only**

1 Copy to be retained on file and 1 copy to be returned to Retailer.

I have verified the account details above are accurate and a Home Delivery / 3rd Party Fulfilment Agreement has been activated.

A unique easyEntertainment Gardners Account Code has been assigned for Retailer.

Received for and on behalf of Gardners Books Ltd

easyEntertainment Account Code		
Name		Signed
		Date