

## **TERMS OF USE**

Date of Last Revision: December 3th, 2009

### **PLEASE READ THESE TERMS OF USE CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION.**

By accessing or using « The Big Challenge Club » on our internet Site at the address [www.TheBigChallengeClub.com](http://www.TheBigChallengeClub.com), you (the "Member") signify that you have read, understand and agree to be bound by these Terms of Use ("Terms of Use"), whether or not you are a registered member of The Big Challenge Club. We reserve the right, at our sole discretion, to change, modify, add, or delete portions of these Terms of Use at any time without further notice. If we do this, we will post the changes to these Terms of Use on this page and will indicate at the top of this page the date these terms were last revised. Your continued use of the Site after any such changes constitutes your acceptance of the new Terms of Use. If you do not agree to abide by these or any future Terms of Use, do not use or access (or continue to use or access) the Site. It is your responsibility to regularly check this page on the Site to determine if there have been changes to these Terms of Use and to review such changes.

### **1. Preamble**

The Big Challenge Club was created for language teachers and their students wishing to correspond and communicate easily with fellow Big Challenge Club members from other countries. Its goal is to promote the development of multilingualism. The Big Challenge Club is exclusively accessible via the internet but by no other means of communication.

### **2. Minors under the age of 18**

In accordance with French legislation concerning minors under the age of 18, the registration of a student minor in the Big Challenge Club must imperatively include parental authorisation (by one parent or by a legal guardian).

If you are under 18 years of age and you are registering on this site, you recognise that by accepting these Terms of Use, you have obtained the authorisation of your parents to register. The Big Challenge Club reserves the right to ask for written proof of parental authorisation at any time, to make any verification necessary and to cancel the account of any member who is a minor and who does not submit in due time the written proof requested. Moreover, The Big Challenge Club will cancel the account of any minor at the written request of his or her parents or legal guardian.

If you are under 18 years of age and are registering on this site, you recognise that you have read the "rules of conduct" on the registration form and that you agree to respect these rules.

If you are under 18 years of age and are registering on this site, we also advise you to read the rules of safety on internet that can be found on the following sites: [www.mineurs.fr](http://www.mineurs.fr) and [www.cnif.fr](http://www.cnif.fr).

### **3. Registration Data and Account Security**

Prior registration in The Big Challenge Club is obligatory before use. Members must first create an account using the registration form available on the site.

In consideration of your use of the Site, you agree to:

- 1) provide accurate, current and complete information about yourself as may be prompted by any registration forms on the Site;
- 2) maintain the security of your password and user name;
- 3) maintain and promptly update the Registration Data, and any other information you provide to The Big Challenge Club, to keep it accurate, current and complete;
- 4) be fully responsible for all use of your account and for any actions that take place using your account.

As it is materially impossible for The Big Challenge Club to verify the information provided by each member, all members must accept that those who provide erroneous, incomplete, untrue or outdated information when registering may be held responsible to The Big Challenge Club as well as to its members.

The Big Challenge Club informs its members by email that their registration has been validated. The account is then activated when the member acknowledges receipt of this email.

The Big Challenge Club cannot verify all the information provided by its members. The Big Challenge Club declines responsibility for any false declaration made by a member. For that reason, The Big Challenge Club calls your attention to the fact that there is some risk that you might be in contact with persons using false identities.

Do not hesitate to contact The Big Challenge Club team using the « report abuse » button or at [info@thebigchallengeclub.com](mailto:info@thebigchallengeclub.com) to report any suspicious behaviour.

#### **4. Proprietary Rights in Site Content**

All content on the Site and in particular designs, text, graphics, pictures, video, information, applications, software, music, sound and other files, are the exclusive property of The Big Challenge Club. No Site Content may be modified, copied, distributed, framed, reproduced, republished, downloaded, scraped, displayed, posted, transmitted, or sold in any form or by any means, in whole or in part, without The Big Challenge Club's prior written permission, with the exception of all materials used in your own profile that you have posted legally on the site and that you can modify at any time. Unauthorised use may also violate applicable laws including copyright and trademark laws and applicable communications regulations and statutes. Unless explicitly stated herein, nothing in these Terms of Use shall be construed as conferring any license to intellectual property rights.

#### **5. Trademarks**

THE BIG CHALLENGE, THE BIG CHALLENGE CLUB and other Big Challenge Club graphics, logos, designs, page headers, button icons, scripts and service names are registered trademarks, trademarks of The Big Challenge Club. THE BIG CHALLENGE is a European Union trademark, registered at the OHIM under the number 004217386 and belongs to INTERNATIONAL SERVICE – 24 rue de Liège 75008 Paris – France. The Big Challenge Club's trademarks and trade dress may not be used, including as part of trademarks and/or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion and may not be copied, imitated, or used, in whole or in part, without the prior written permission of The Big Challenge Club.

#### **6. Use of the Site by Members**

Members connect to The Big Challenge Club using their own equipment and computer terminals. The Big Challenge Club provides no materials, telephone installations, terminals or other equipment, software or subscription service to its members.

When registering with The Big Challenge Club, each member chooses his or her user name along with a strictly personal and confidential access code which he or she agrees not to divulge to anyone else. The registered member is the only person authorized to use his or her user name and access code to connect. The member agrees to refuse access by any third party to his or her identity on the site. If the member becomes aware that another person is accessing the site using his or her user name, that member will inform The Big Challenge Club immediately and will confirm this information by email.

If a member does not use his account for a period of over 3 months, The Big Challenge may put the account on hold. The member will be informed of this measure by email. The account may be re-activated at the request of the member to The Big Challenge Club. In addition, The Big Challenge Club reserves the right to cancel any account that has been inactive for over a year.

#### **7. Member Conduct**

You understand that the Site is available for your personal, non-commercial use only. You represent, warrant and agree that no materials of any kind submitted through your account or otherwise posted, transmitted will violate or infringe upon the rights of any third party, including copyright, trademark, privacy, publicity or other personal or proprietary rights; or contain libellous, defamatory or otherwise unlawful material.

In addition, you agree not to use the Site for the following reasons, keeping in mind that this list is not exhaustive:

- harvest or collect email addresses or other contact information of other members from the Site by electronic or other means for the purposes of sending unsolicited emails or other unsolicited communications;
- use the Site in any unlawful manner or in any other manner that could damage, disable, overburden or impair the Site;
- use automated scripts to collect information from or otherwise interact with the Site;

- upload, post, transmit, share, store or otherwise make available any content that we deem to be harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically or otherwise objectionable;
- register for more than one member account, register for a member account on behalf of an individual other than yourself, or register for a member account on behalf of any group or entity;
- impersonate any person or entity, or falsely state or otherwise misrepresent yourself, your age or your affiliation with any person or entity;
- upload, post, transmit, share or otherwise make available any unsolicited or unauthorized advertising, solicitations, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- propose lessons, conduct lessons, offer lessons or services, directly or indirectly, contrary to rules of proper conduct and laws and regulations in effect.
- upload, post, transmit, share, store or otherwise make publicly available on the Site any private information of any third party, including, addresses, phone numbers, email addresses, Social Security numbers and credit card numbers;
- solicit personal information from anyone under 18 or solicit passwords or personally identifying information for commercial or unlawful purposes;
- upload, post, transmit, share or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- intimidate or harass another;
- upload, post, transmit, share, store or otherwise make available content that would constitute, encourage or provide instructions for a criminal offence, violate the rights of any party, or that would otherwise create liability or violate any local, state, national or international law;
- use or attempt to use another's account, service or system without authorization from The Big Challenge Club, or create a false identity on the Site.
- upload, post, transmit, share, store or otherwise make available content that, in the sole judgment of The Big Challenge Club, is objectionable or which restricts or inhibits any other person from using or enjoying the Site, or which may expose The Big Challenge Club or its members to any harm or liability of any type.

## **8. Member Content Posted on the Site**

You are solely responsible for the photos, profiles, messages, notes, text, information, and other contents that you upload, publish or display on the Site (hereafter designated "Member Content"). You may not post on the Site Member Content that you did not create or that you do not have permission to post. You understand and agree that The Big Challenge Club may, but is not obligated, to review the Site and may delete or remove (without notice) any Site Content or Member Content in its sole discretion, for any reason or no reason, including Member Content that in the sole judgment of The Big Challenge Club violates this Agreement or The Big Challenge Club Member Conduct, or which might be offensive, illegal, or that might violate the rights, harm, or threaten the safety of members or others. You are solely responsible at your sole cost and expense for creating backup copies and replacing any Member Content you post or store on the Site or provide to The Big Challenge Club.

When you post Member Content to the Site, you authorize and direct us to make such copies thereof as we deem necessary in order to facilitate the posting and storage of the Member Content on the Site. In virtue of the present Terms of Use, you remain owner of your Member Content and exercise author's rights over whatever that might be associated with it.

The Big Challenge Club site is intended for personal use only and must not be used for commercial activities. You hereby accept that you will not present or spread content that in any form is or might be illegal or offensive to others, contrary to the goals of The Big Challenge Club, in breach of laws and regulations in effect or of decent conduct. Although The Big Challenge Club forbids such content and intention, you recognize and accept that you could be exposed to such content and that you will use The Big Challenge Club at your own risk.

## **9. Copyright Complaints**

We respect the intellectual property rights of others and we prohibit members from uploading, posting or otherwise transmitting on The Big Challenge Club website any materials that violate another party's intellectual property rights. If you believe that any material on the Site infringes upon any copyright which you own or control, you may send a written notification to [info@thebigchallenge.com](mailto:info@thebigchallenge.com).

## **10. Repeat Infringer Policy**

The Big Challenge Club has adopted a policy of terminating, in appropriate circumstances and at The Big Challenge Club's sole discretion, members who are deemed, or not, to be repeat infringers. The Big Challenge Club may also at its sole discretion limit and/or terminate access to the Site and/or terminate member accounts which infringe any intellectual property rights of others, whether or not there is any repeat infringement.

## **11. Third Party Websites and Content**

The Site contains links to other web sites ("Third Party Sites") as well as articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software and other content or items belonging to or originating from third parties ("Third Party Content"). Such Third Party Sites and Third Party Content are not investigated, monitored or checked for accuracy, appropriateness, or completeness by us, and we are not responsible for any Third Party Sites accessed through the Site or Third Party Content posted on, available through or installed from the Site, including the content, accuracy, offensiveness, opinions, reliability, privacy practices or other policies of or contained in the Third Party Sites or Third Party Content. If you decide to leave the Site and access the Third Party Sites or to use Third Party Content, you do so at your own risk and you should be aware that our terms and policies no longer govern. You should review the applicable terms and policies, including privacy and data gathering practices, of any site to which you navigate from the Site.

## **12. Conditions of Registration**

Registration on the site is strictly reserved to language teachers and their students. The Big Challenge reserves the right to verify the truthfulness of information provided and to exclude any member that does not fulfil the required criteria.

## **13. Conditions of Subscription**

As soon as they are registered, members can access activities for which there is a charge. These services and their rates may evolve over time, in particular the individual use by students of communication tools made available on the site. Unless otherwise stipulated by the law, no payment or subscription will be reimbursed. Thus the duration of a subscription cannot, under any conditions, be reduced.

If you are under the age of 18, you must obtain authorisation from the adult paying the subscription invoice before you commit to paying fees.

## **14. User Disputes**

You are solely responsible for your interactions with other The Big Challenge Club members. We reserve the right, but have no obligation to monitor disputes between you and other members.

## **15. Privacy**

We care about the privacy of our members. In this respect, you may consult our «Privacy Policy » page. Files containing all the information collected are declared to the Commission nationale de l'informatique et des libertés (CNIL) in compliance with legal regulations in effect in France. The Declaration Number is 1400327. By using the Site, you accept that your personal information be transferred and processed in France. In accordance with articles 38 and 39 of the French "Loi informatique et libertés" dated 6 January 1978 and amended 6 August 2004, members reserve the right to access and rectify information about themselves. In order to exercise this right, members can contact us at [info@thebigchallenge.com](mailto:info@thebigchallenge.com).

The Big Challenge Club cannot be held responsible for insulting, defamatory or otherwise unacceptable comments posted on line by a member.

By virtue of Article 6 of French Law N° 2004-575 dated 21 June 2004, The Big Challenge Club is under no obligation to monitor information and contents accessible on its site.

## **16. Disclaimers**

The Big Challenge Club is not responsible or liable in any manner for any Member Content or Third Party Content posted on the Site, whether posted or caused by members of the Site, by The Big Challenge Club, by third parties or by any of the equipment or programming associated with or utilized in the Site. Although we provide rules for member conduct, we do not control and are not responsible for what members post on the Site and are not

responsible for any offensive, inappropriate, obscene, unlawful or otherwise objectionable content you may encounter on the Site or in connection with any Member Content or Third Party Content. The Big Challenge Club is not responsible for the conduct, whether online or offline, of any member of the Site.

The Site may be temporarily unavailable from time to time for maintenance or other reasons. The Big Challenge Club assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, member communications. The Big Challenge Club is not responsible for any technical malfunction or other problems of any telephone network or service, computer systems, servers or providers, computer, software, failure of email or players on account of technical problems or traffic congestion on the Internet or at any Site or combination thereof, including injury or damage to the member's or to any other person's computer, or other hardware or software, related to or resulting from using or downloading materials in connection with the Web. Under no circumstances will The Big Challenge Club be responsible for any loss or damage, including any loss or damage to any Member Content or personal injury or death, resulting from anyone's use of the Site, any Member Content posted on or through the Site or transmitted to other members, or any interactions between members of the Site, whether online or offline.

The site and the site content are provided "as-is" and The Big Challenge Club disclaims any and all representations and warranties, whether express or implied, including implied warranties of title, merchantability, fitness for a particular purpose or non-infringement. The Big Challenge Club cannot guarantee and does not promise any specific results from use of the site. The Big Challenge Club does not represent or warrant that software, content or materials on the site are accurate, complete, reliable, current or error-free or that the site are free of viruses or other harmful components. Therefore, you should exercise caution in the use and use industry-recognized software to detect and disinfect viruses. Without limiting the foregoing, you understand and agree that you will be solely responsible for your use thereof and any damages to your mobile device or computer system, loss of data or other harm of any kind that may result.

The Big Challenge Club reserves the right to change any and all content, software and other items used or contained in the Site.

## **17. Limitation on Liability**

In no event will The Big Challenge Club or its directors, employees or agents be liable to you or any third person for any indirect, consequential, exemplary, incidental, special or punitive damages, including for any lost data arising from your use of the site or any of the site content or other materials on, even if The Big Challenge Club is aware or has been advised of the possibility of such damages. Notwithstanding anything to the contrary contained herein, The Big Challenge Club's liability to you for any cause whatsoever, and regardless of the form of the action, will at all times be limited to the amount paid, if any, by you to The Big Challenge Club for the service during the term of membership. You acknowledge that if no fees are paid to The Big Challenge Club for the service, you shall be limited to injunctive relief only, unless otherwise permitted by law, and shall not be entitled to damages of any kind from The Big Challenge Club, regardless of the cause of action.

## **18. Termination**

Membership in The Big Challenge Club may be terminated at any time by the member without a particular motive simply by notifying The Big Challenge Club. You may terminate your Big Challenge Club membership by connecting to your account and following the instructions on the «My Profile» page. Your profile and all associated files will be deleted. As stipulated in Point 13, if the subscription is terminated before term, no refund will be made whatever the reason for and the date of this termination.

The Big Challenge reserves the right to terminate your membership, delete your profile or any contents or information you have published on the site and/or prohibit you from using or gaining access to the site, with or without a particular motive, with or without notice, at any time and at its sole discretion, without compensation or refund.

Members accept to compensate The Big Challenge Club for any losses, expenditure, damages or costs that may result from the transgression of any law or regulation or the rights of any third party.

## **19. Governing Law and Venue and Jurisdiction**

When consulting or using the site, you accept that the Terms of Use hereby defined, as well as any dispute which may result between you and The Big Challenge Club, are governed by French law. The original Terms of Use document is in French. This English translation is given for information only. In the case of a dispute, only the French version will be recognized in any legal action between a member and The Big Challenge Club. In the case of a dispute or claim, you accept to pursue resulting legal action within French jurisdiction.

## **20. Other**

These Terms of Use constitute the entire agreement between you and The Big Challenge Club regarding the use of the Site, superseding any prior agreements between you and The Big Challenge Club relating to your use of the Site. The failure of The Big Challenge Club to exercise or enforce any right or provision of these Terms of Use shall not constitute a waiver of such right or provision in that or any other instance. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect. If any provision of these Terms of Use shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Use and shall not affect the validity and enforceability of any remaining provisions.