

Terms of Service

10 May 2019

By registering for the Service, you agree to be bound by the Terms of Service set out here. Tradify reserves the right to update and change the Terms from time to time on 30 days' notice. By continuing to access the Platform after this notice period expires, you agree to be bound by the updated or changed Terms. Any new features that augment or enhance the current Service, including the release of new tools and resources, shall be subject to the Terms. Please also read our privacy policy (available on the Platform), because it will apply to all the information you provide to us and forms part of the Terms. By accepting the Terms, you also accept our privacy policy. If you do not agree to be bound by the Terms, you must not use any part of the Platform.

1. Definitions

“Confidential Information” – includes all information exchanged between you and Tradify, whether in writing, electronically or orally, including the Service but does not include information which is, or becomes, publicly available other than through unauthorized disclosure.

“Charges” means the charges payable by you in connection with the use of the Platform, as displayed on the Platform or otherwise agreed with you from time to time.

“Data” – means any data inputted by you or with your authority into the Platform.

“Intellectual Property Right” – means any patent, trade mark, service mark, copyright, moral right, right in a design, know-how and any other intellectual property rights, anywhere in the world whether or not registered.

“Platform” – means our website at www.tradifyhq.com or any other address used by us from time to time and the Tradify applications.

“Service” – means the online job management services made available (as may be changed or updated from time to time by Tradify) via the Platform.

“Terms” – means these Terms of Service.

“Tradify” – means Tradify Limited and all current and future global subsidiaries of Tradify Limited. “We”, “us” or “our” have a corresponding meaning.

“You” – means the person who registers to use the Service, and, where the context permits, includes any entity on whose behalf that person registers to use the Service, and any person or organisation that uses the Service with the authorisation of that person or entity. “Your” has a corresponding meaning.

2. Provision of Service

Tradify will offer a free version of the Service on iOS for the purpose of evaluation and use, and a free trial of the Service on web and Android platforms for the purpose of evaluation only. Following your evaluation, you have no obligation to continue to use the Service. We have the right to suspend or terminate the Service and refuse any and all current or future use of the Service for any reason at any time.

Usage Limitations

Use of the Service may be subject to limitations, including but not limited to monthly transaction volumes.

3. Intellectual Property

General

Title to, and all Intellectual Property Rights in the Service, the Platform and any documentation relating to the Service or the Platform remain the property of Tradify (or its licensors).

Ownership of Data

Title to, and all Intellectual Property Rights in, the Data remain your property. You grant Tradify a licence to use, copy, transmit, store, and back-up your information and Data for the purposes of enabling you to access and use the Service and for any other purpose related to provision of services to you. If your account is terminated, we will provide an export of your data on request.

Third-party applications and your Data

If you enable third-party applications for use in conjunction with the Service, you acknowledge that we may allow the providers of those third-party applications to access your Data as required for the interoperation of such third-party applications with the Service. We will not be responsible for any disclosure, modification or deletion of your Data resulting from any such access by third-party application providers.

4. Warranties and Acknowledgements

Authority

You warrant that where you have registered to use the Service on behalf of another person, you have the authority to agree to these Terms on behalf of that person and agree that by registering to use the Service you bind the person on whose behalf you act to the performance of any and all obligations that you become subject to by virtue of these Terms, without limiting your own personal obligations under these Terms. You will be responsible for all activities that occur on the Platform under your access credentials or your company's account. Please take care in adding additional users and setting access permissions, and tell us straight away if you think there has been a security breach.

No warranties

Tradify gives no warranty about the Service. Without limiting the foregoing, we do not warrant that the Service will meet your requirements, that it will be suitable for any particular purpose, or that it will be available on an uninterrupted, secure, or error-free basis. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement.

Consumer guarantees

You warrant and represent that you are acquiring the right to access and use the Service for the purposes of a business and that, to the maximum extent permitted by law, any statutory consumer guarantees or legislation intended to protect non-business consumers in any jurisdiction does not apply to the supply of the Service, the Platform or these Terms.

Viruses

Tradify does not guarantee that the Platform will be secure or free from bugs or viruses. You should use your own virus protection software. We will not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Platform. You must not misuse the Platform by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful. You must not attempt to gain unauthorised access to the Platform, the server on which the Platform is stored or any server, computer or database connected to the Platform. You must not attack the Platform via a denial-of-service attack or any other means.

5. Limitation of Liability

Tradify has no liability for consequential loss, loss of profit (actual or anticipated) or for other damages of any kind, however caused, arising in any way out of or in connection with the Service.

Tradify will not be responsible for failure to fulfil any obligation if due to an act of God, strike, lockout or other interference with work, war, blockade, disturbance, lightning, fire, earthquake, storm, flood, explosions, governmental or quasi-governmental restraint, intervention, direction or embargo.

In no event will Tradify's aggregate liability arising out of or in connection with the Terms and your use of or inability to use the Platform and Service exceed the Charges you have paid to Tradify.

Tradify is not responsible for any payments processed (or not processed) between your customers and their customers (payers) via Stripe.

6. Termination and indemnification

Tradify has the right to suspend or terminate the Service and refuse any and all current or future use of the Service for any reason at any time.

Free accounts unused for more than 90 days will be regarded as abandoned and may be closed by Tradify.

Use of the Service may be cancelled by the you at any time. Any monthly or yearly charges will not be refunded when you cancel. Any usage since the last charge will be prorated for the portion of the uncharged month which the account was active. To cancel the service, please send an email to support@tradifyhq.com.

You indemnify Tradify against all claims, costs, damage and loss arising from your breach of any of the Terms. You may have to pay Tradify for any costs, (including by not limited to) relating to the recovery of any Charges that are due but have not been paid by you.

Clauses 3 to 6 and 12 survive termination.

7. Modification to the Service

Tradify reserves the right at any time to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice.

Tradify shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Service.

8. Service Availability

Whilst Tradify intends that the Service should be available 24 hours a day, seven days a week, it is possible that on occasions the Service or Platform may be

unavailable to permit maintenance or other development activity to take place, or for reasons outside our control. If for any reason we have to interrupt the Services for longer periods than we would normally expect, we will use reasonable endeavours to publish in advance details of such activity, typically by email.

9. Charges and Payment

Tradify charges on a per user basis or as specified in the terms notified to a user for any additional features or services. Monthly paying subscribers to Tradify will be charged monthly automatically via their nominated card. The monthly payments will be based on the usage of the previous month.

Yearly billing charges will be based on the number of users when yearly billing payment option is made.

Invoice amounts are due and payable within the period noted on the invoice. If a deduction of the Charges payable is unsuccessful, we have the right to suspend service until full payment has been made. We are not responsible for pricing, typographical or other errors in any offer by us and we reserve the unilateral right to cancel any subscriptions resulting from such errors.

Tradify is a New Zealand business. Pricing for New Zealand-based customers is in New Zealand Dollars and exclusive of GST.

10. Refunds

Tradify charges per active user, for monthly billing, pro-rated for the portion of the month for which the user is an active user, and it is solely up to you to maintain your own user level. Refunds will be given at the discretion of Tradify. Please notify us in writing to billing@tradifyhq.com for accidental additional users or if you have any difficulty in deactivating a user or adjusting your user level.

11. SMS Terms and Conditions

By subscribing to text notifications you are signing up to receive recurring marketing messages and reminder messages at the phone number provided. For help contact support@tradifyhq.com.

Reply HELP for help. To unsubscribe from the program, reply STOP at any time. Message and data rates may apply. Message frequency varies.

12. Contacting Tradify

You can contact Tradify via email at support@tradifyhq.com

or via post:

81 Union St
Freeman's Bay
Auckland 1010
New Zealand

13. General

Entire agreement

The Terms (including our privacy policy) and the terms of any plan you purchase together constitute the entire agreement between you and us relating to the Service, and supersede and replace any prior agreement, arrangement or understanding relating to the Service.

Assignment

We may assign or transfer these Terms, at our sole discretion, without restriction. You may not assign or transfer your rights under these Terms without our prior written consent, which may be withheld in our absolute discretion.

Governing law

The Terms will be governed by and construed in accordance with New Zealand law. You agree to submit to the exclusive jurisdiction of the courts of New Zealand with respect to any claim or matter arising out of or in connection with the Terms or their termination. Unless we agree otherwise, any dispute arising out of or in connection with the Terms will be referred to and finally resolved by arbitration before a sole arbitrator in accordance with the Arbitration Rules of the Arbitrators' and Mediators' Institute of New Zealand for the time being in force.

Waiver

No failure or delay by Tradify to exercise any right or remedy provided under the Terms or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy.

Severability

If any provision or part-provision of these Terms is or becomes void, illegal or unenforceable, it will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant

provision or part-provision will be severable and deemed to be deleted, and will not affect the validity, legality or enforceability of the remaining provisions.

The Terms were last updated on 10 May 2019.