

TERMS OF USE FOR MY ORDER APP

By choosing to set up and create a Preoday My Order App for your venue, you are agreeing to these terms. If you do not agree with these terms, you are unable to comply with these terms, or you do not have the power, right or authority to act on behalf of and bind your company, then you must not proceed with your order.

These terms form a legal agreement (the "**Agreement**") between you and Preoday Limited, a company registered in England and Wales with company number 08243191 ("**Preoday**", "**we**" or "**us**").

1 Definitions

1.1 In this Agreement these words have the following meaning:

"**App**" means our application and, where provided as part of the independent Premium Services, your branded application, which facilitates your customers' order and payment for food, drinks and merchandise at your venue;

"**Premium Services**" means the additional services offered for a fee as described in each service's respective Supplemental Terms;

"**Services**" means the services provided by Preoday relating to the creation, marketing and operation of the App and any additional services provided by Preoday to you, including the Premium Services, in accordance with this Agreement; and

"**Supplemental Terms**" means the additional terms on which the Premium Services are provided.

1.2 Where applicable the Supplemental Terms form part of this Agreement and shall have effect as if set out in this Agreement. Any reference to this Agreement includes such Supplemental Terms.

2 Registration

2.1 In order for you to access the Services, you must register with us and create an account on our website.

2.2 For security purposes, you must also set a password. You should keep your username and password confidential. Any use of the Services with your login credentials will be your responsibility. You can reset your password at any time on our website.

2.3 You may create additional login credentials for your account (for other staff or admin users). These usernames and passwords should be kept confidential. Any use of the Services with these login credentials will be your responsibility. You can reset these login credentials at any time on our website.

2.4 As an alternative to creating an account with us you can use existing third party credentials (e.g. Facebook or Google+). If you use third party credentials we may obtain certain information (e.g. your email address and date of birth) from the third party.

3 Payment

- 3.1 In order for you to receive your customers' payments for the food, drink and merchandise they order using the App, you will need to register with one of our payment service providers.
- 3.2 Payment processing services are provided by a third party. The details you provide to the payment service provider will be subject to its terms of use and privacy policy. If you have any questions relating to these services, please contact the relevant payment services provider.
- 3.3 Payment transactions are between you and your customers. Whilst we facilitate the payment procedure, Preoday is not involved in the processing of your customers' payments and is not responsible or liable for the services provided by the payment service provider.

4 Your use of the Services

- 4.1 Subject to your compliance with the terms of this Agreement, we grant you a non-exclusive, non-transferable licence for the purpose of accessing and using the Services in accordance with this Agreement.
- 4.2 You must not:
 - 4.2.1 sub-license, assign or transfer your rights or obligations under this Agreement;
 - 4.2.2 access and use the Services using any interface other than in accordance with this Agreement.
- 4.3 You acknowledge that, except for the content provided by you, the App and the content of the Services are protected by copyright, database rights, trade marks and other intellectual property rights of us and our other licensors, as applicable, and all rights not expressly granted to you are reserved to us and our licensors.
- 4.4 You must not use the Services in any way incompatible with their intended purpose nor in any unlawful or unauthorised manner and, in particular, you must not:
 - 4.4.1 make any copies of the Services (other than a single back-up copy to the extent necessary to exercise your rights under this Agreement);
 - 4.4.2 modify, adapt, reverse engineer, decompile or disassemble, create derivative works of, publish, distribute exploit the App or any content or software element of the Services;
 - 4.4.3 remove any copyright or proprietary notices on the App or the content of the Services;
 - 4.4.4 use, distribute or disclose confidential, personal or sensitive data or information within the App or the Services without appropriate authority;
 - 4.4.5 export the App in breach of applicable export control or other laws relating to the export of technology and software; nor

- 4.4.6 make any unlawful or unauthorised use of our (or our service providers') equipment, networks, systems or software (including attempting to gain unauthorised access, introducing any computer virus or malware, or inhibiting their operation).

5 Duration and termination

- 5.1 This Agreement will commence from the time you accept this Agreement.
- 5.2 Subject to any applicable terms in the Supplemental Terms, you may terminate this Agreement at any time by sending an email to us at hello@preoday.com.
- 5.3 We may withdraw the Services and associated content, suspend your access to the Services and/or terminate this Agreement at any time at our absolute discretion, including (without limitation) if you breach, or we reasonably suspect that you are in breach, of any term of this Agreement, or if we cease to offer (or change the way in which we offer) the Services. Except where expressly stated, you will not be entitled to any compensation for such withdrawal, removal, termination or suspension.
- 5.4 Following termination of this Agreement or suspension of your access to the Services for any reason, we may retain your account details and other records relating to you for our record keeping. Additionally, your customer's will no longer be able to access or use the App.
- 5.5 The termination of this Agreement shall also terminate any Supplemental Terms in force at the time of termination.

6 Extent of the Services

- 6.1 Our Services are provided for your convenience, and are not intended to be relied upon by you. Whilst we use reasonable efforts to provide effective Services, we cannot guarantee availability of the Services or the App at all times.
- 6.2 The App and the Services may contain links to websites provided by third parties, and we are not responsible for the availability, accuracy or content of third party websites.

7 Content provided by you

- 7.1 You agree that you:
 - 7.1.1 have provided, and will continue to provide, accurate and complete information in your registration and account, and will update such information as appropriate;
 - 7.1.2 are responsible for the accuracy of any data or content provided as part of the Services; and
 - 7.1.3 will not upload or transmit to our (or our service providers') systems or otherwise provide to us any unlawful content (including any content which is defamatory, obscene or abusive, or in breach or an infringement of intellectual property or privacy rights, or any data protection or confidentiality obligations).

- 7.2 You should not rely on our Services for storage or maintenance of information or your content. We may, at any time at our absolute discretion review and remove any content from the Services or request that you re-register or set up a new account for your continued use of the Services.

8 Limitations of liability

- 8.1 Nothing in this Agreement shall exclude or limit our liability for fraud, or for death or personal injury caused by our negligence or other liability which cannot lawfully be excluded or limited.
- 8.2 Except as may be expressly set out in this Agreement, all conditions, representations and warranties relating to the App and the Services and are excluded to the maximum extent permitted by law.
- 8.3 We shall not be liable for:
- 8.3.1 any defects or errors in the App or the Services;
 - 8.3.2 and in relation to, the accuracy, completeness or legality of any data, content or other information provided by you;
 - 8.3.3 interruptions in or unavailability of the App or the Services; nor
 - 8.3.4 any breach of any obligations due to a cause beyond our reasonable control.
- 8.4 We shall not be liable for any:
- 8.4.1 loss, damage or distress arising from reliance on information or reliance on availability of services; nor
 - 8.4.2 loss of business, customers or profits; nor
 - 8.4.3 indirect, consequential or economic loss, damage or distress (including any such loss, damage or distress arising from unauthorised use of or damage to your data or content),
- which you suffer in relation to this Agreement, or your use of the Services.
- 8.5 Without prejudice to other limitations on our liability (including clauses 8.3 and 8.4) and clause 8.1, Preoday's total liability to you in any twelve (12) month period for any other losses or claims relating to the App or the Services and arising during that period is limited to £500 or the fees paid by you to us in such a period, whichever is greater.
- 8.6 You agree to indemnify us against all liabilities, costs, expenses, damages and losses suffered or incurred by us relating to any breach of clause 7.1.3.

9 Changes

- 9.1 We may make changes to the Services, this Agreement or the terms on which the App may be used by your customers at any time at our absolute discretion. Depending upon the changes, we may require you to read and accept a new agreement for you to continue to use the Services.

- 9.2 We may (by means of a notice on our website, within the relevant application store or otherwise) require your customers to install and use an upgraded version of the App in place of the current version, or to uninstall the App if we cease to offer it or the Services. All upgrades to the App fall under the definition of the "App" under this Agreement.
- 9.3 Other than the Premium Services, the Services are currently provided free of charge, but we reserve the right to charge for the Services in the future. If we do charge a fee for the Services, then we shall notify you and, in accordance with clause 5.2, you may terminate this Agreement if you do not wish to continue to use the Services for a fee.

10 Privacy notice

- 10.1 You agree to our use of your personal data as set out in our privacy policy, which can be found at www.preoday.com.
- 10.2 In particular, please note that although Preoday is based in the UK, it and its service providers may have servers located overseas, where the laws may not give the same level of protection to personal data as within the UK and that by submitting your personal data, you agree to allowing your personal data to be transferred, processed and stored overseas as set out in this clause.

11 General

- 11.1 All provisions of this Agreement which by their nature are intended to continue shall survive termination, including terms relating to exclusions and limitations of liability, intellectual property restrictions and on-going use of your data.
- 11.2 Termination of this Agreement or the Services shall not affect accrued rights and liabilities of you or us up to the date of termination.
- 11.3 No provision of this Agreement is intended to be enforceable by any person other than you and us.
- 11.4 We may, without your consent, sub-contract provision of the Services or sub-license our rights under this Agreement to our third party service providers.
- 11.5 We may, without your consent, assign or transfer any or all of our rights and obligations under this Agreement any successor in title of all or part of the App, the Services, or intellectual property or other rights or obligations subsisting in relation to the same.
- 11.6 Failure or delay by us to exercise any right or remedy under this Agreement does not constitute a waiver of that right or remedy.
- 11.7 The terms of this Agreement constitute the entire agreement between you and us with respect to the subject matter and supersede any and all prior agreements, negotiations and discussions relating to the same.
- 11.8 If any provision of this Agreement is found by any court or legal authority to be invalid, unenforceable or illegal, the other provisions shall remain in force and, to the extent possible, the provision shall be modified to ensure it is valid, enforceable and legal, whilst maintaining or giving effect to its commercial intention.

- 11.9 This Agreement is governed by the laws of England and Wales, and the courts of England and Wales shall have exclusive jurisdiction to hear any disputes arising in connection with it.