

Terms of Service

8 November 2024

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.

"Our AI" – Our AI or Our Artificial Intelligence includes the use of OpenAI, ChatGBT, Google Document Intelligence, SupaHuman, and other tools to provide SmartTools features and capability within the Tradify platform.

“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 on 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. Acceptable use policy for the Tradify AI features

General

Welcome to the Acceptable Use Policy (**AUP**) for the SmartTools features (**AI Features**) which have been made available to you in the Tradify application.

This AUP outlines the acceptable ways in which You can use our AI assistant to ensure that the AI Features remains a safe and secure tool for all of Our users. By using the AI Features, You agree to comply with this AUP and ensure that any use of the tool is lawful, ethical, and respectful to others. Please take a moment to read through this policy to understand Your responsibilities as a user.

Where You use AI Features, that use shall be subject to the terms and conditions in Your agreement with Us and this AUP. Where You or Your authorised users (as applicable) fail to comply with the AUP, We reserve the right to, at Our discretion: a) provide a written warning; (b) suspend or withdraw access to the feature; and/or (c) terminate Your agreement with Us.

Your content

Your Content: You and Your Authorised Users may provide input (Input), to the AI Features and receive output from the AI Features based on the Input (Output). We call Input and Output together Customer Content. You (a) retain all ownership rights in Input and (b) own all Output. We hereby assign to You all of Our right, title, and interest, if any, in and to Output.

Our Obligations for Customer Content: We will process and store Customer Content in accordance with Our [Privacy Policy](#) We will only use Customer Content as necessary to provide You with the AI Features, comply with applicable law, and enforce Our Policies. We will not use Your Customer Content to develop or improve the Services.

Your Obligations for Customer Content: You are responsible for all Input and represent and warrant that You have all rights, licences, and permissions required to provide Input to the AI Features. You are solely responsible for all use of the Outputs

and evaluating the Output for accuracy and appropriateness for Your use case, including by utilising human review as appropriate.

Similarity of Output: You acknowledge that due to the nature of Our AI Features and artificial intelligence generally, Output may not be unique and other users may receive similar content from Our AI Features.

Ethical use of Output: If You engage in conduct while using Our AI Features that is illegal, improper or otherwise deemed by Us as unethical conduct We reserve the right to invoke the provisions of the Agreement in relation to Your access to Our AI Features.

Fair usage

This feature is designed to be used by You in a manner that is consistent with fair usage. We reserve the right to monitor and limit the use of the AI Features where usage exceeds typical levels. If We determine, in Our sole discretion, that Your usage of the AI Features is excessive or inconsistent with fair usage, We may take appropriate action, including limiting or suspending access to the AI Features, without prior notice. We may also require You to upgrade Your subscription or pay additional fees to continue using the feature if Your usage exceeds typical levels.

Unauthorised access/interference

You may not attempt to gain unauthorised access to or attempt to interfere with or compromise the normal functioning, operation, or security of any of Our networks, systems, computing facilities, equipment, data, or information. You may not use Our AI Features to engage in any activities that may interfere with the ability of others to access or use Our AI Features or the internet. You may not attempt to gain unauthorised access to the user accounts or passwords of other users.

Illegal or prohibited activities

You agree to use Our AI Features only for lawful purposes. Use of Our AI Features for transmission, distribution, retrieval, or storage of any information, data, or other material in violation of any applicable law or regulation (including, where applicable any tariff or treaty) is prohibited. This includes, without limitation, the use or transmission of any data or material protected by copyright, trademark, trade secret, patent, or other intellectual property right without proper authorisation and the transmission of any material that constitutes an illegal threat, violates export control laws, or is obscene, defamatory, or otherwise unlawful.

You are also prohibited from the following activities:

- Using the feature to access or transmit illegal content, including copyrighted materials, pirated software, and malicious software.

- Using the feature to engage in any illegal or fraudulent activity, including phishing scams, hacking attempts, or identity theft.
- Using the feature to harass, defame, or threaten others, including hate speech and cyberbullying.
- Using the feature to engage in any activity that violates the privacy or security of others, including unauthorised access to private information or systems.
- Using the feature to engage in any activity that disrupts or damages the functionality of Tradify or any other system, including denial of service attacks and spamming.
- Using the feature to engage in any activity that violates applicable laws, regulations, or ethical standards.

You agree to cooperate with appropriate law enforcement agencies and other parties involved in investigating claims of illegal or inappropriate activity.

Modifications

We reserve the right to modify this AUP from time to time at Our sole discretion. We will notify You of any such modifications either via e-mail or by posting a revised copy of the AUP on Our website.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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

14. 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 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.

Blue text identifies the changes over prior versions.