

# FOODY BAG MOBILE APP CUSTOMER TERMS AND CONDITIONS

Last updated June 30, 2025

## 1. Defined Terms

In these Terms:

**Application** means a mobile application platform through which Registered Users can use Purchase Services operated and made available by Apps People, and includes any updates or amendments.

**Apps People, we, us or our** means Apps People Pty Ltd (ABN 13 619 108 771) and any of its assigns, successors, subsidiaries, agents, employees, representatives, officers, directors affiliated entities and/or related bodies corporate.

**Intellectual Property Rights** means all present and future intellectual and industrial property rights of whatever nature (whether or not registered or registrable), including, but not limited to, rights in respect of all technical information, know-how, copyright, trade-marks, designs, patents, domain names, business names, logos, drawings, trade secrets, the right to have confidential information kept confidential or other proprietary rights, or any rights to registration of such rights, whether created, written, developed or brought to existence by us or you in the provision of the Purchase Services.

**Item(s)** means any products or services other than Product Bag(s) listed for sale by a Merchant Partner on the Application.

**Merchant Partner** means any business who lists Products on the Application.

**Privacy Policy** means our privacy policy, available at <https://docs.foodybag.com.au/privacy-policy-foody-bag.pdf>

**Product Bag(s)** means randomly selected (individually not identified) products listed for sale by a Merchant Partner at a discounted price on the Application.

**Products** means the Items and Product Bags together.

**Purchase Services** means an online mobile platform which connects Registered Users of the Application to Merchant Partners and enables the ordering of the Products.

**Registered User(s)** means a person or persons using the Application, either personally or on behalf of another person or entity.

**Registration Information** means information provided by you to us for the purposes of registration on the Application to access the Purchase Services including, but not limited to, name, date of birth and contact details.

**Terms** means these terms and conditions.

**You** means you, the person accessing or using the Application, either personally or on behalf of another person or entity (and *your* has a corresponding meaning).

## **2. About the Application**

- 2.1. Welcome to the Application. The Application is a mobile platform through which you can browse and purchase various Products that have been listed for sale by Merchant Partners through the Application. The Application facilitates this service by way of granting you access to the Products on the Application (the '**Purchase Services** '). We do not produce, handle, supply or sell the Product Bags and/or Products on, or via the Application.
- 2.2. The Application is operated by Apps People Pty Ltd (ABN 13 619 108 771) ('**Apps People**'). Access to and use of the Application, or any of its associated Products or Purchase Services, is provided by Apps People.

## **3. Acceptance of Terms**

- 3.1. Please read these terms and conditions (the '**Terms** ') carefully. You accept the Terms (including any applicable charges) by registering, using, browsing and/or reading the Application. You may also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you by Apps People in the user interface.
- 3.2. If you do not agree with the Terms, you must cease usage of the Application, or any of its Purchase Services, immediately.
- 3.3. Apps People reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Apps People updates the Terms, it will use reasonable endeavours to provide you with notice of updates to the Terms.
- 3.4. Any changes to the Terms take immediate effect from the date of their publication and will apply for the duration of your use of the Application or until termination in accordance with clause 12. Your continued use of the Application following the publication of those changes to the Terms will be deemed your acceptance of those changes. Every time you use the Application, it is your responsibility to be aware of our current terms. Before you continue, we recommend you keep a copy of the Terms for your records.

## **4. Registration to use the Purchase Services**

- 4.1. In order to access the Purchase Services, you must first register as a user of the Application. As an unregistered user you are able to browse and find Merchant

Partner's business profiles on the Application. You may not use one email address to register for multiple accounts.

- 4.2. As part of the registration process, or as part of your continued use of the Purchase Services, you may be required to provide personal information about yourself (such as identification or contact details), including:

- (a) Full name
- (b) Mobile number
- (c) Email address

- 4.3. Registered Users have access to the Purchase Services and are able to:

- (a) search and find Merchant Partners' business profiles on the Application;
- (b) view the listed Foody Bags and other Items available for sale from the Merchant Partners and the associated discounted prices (only quantities are displayed since the contents of Products listed on the Application are subject to availability, but Merchant Partners may provide information about the contents of their Products in their business profiles);
- (c) place an order for quantities of Products listed by a Merchant Partner;
- (d) pay for their order via credit card through Stripe;
- (e) access their purchase history and receipts;
- (f) contact Apps People support directly;

- 4.4. We do not guarantee the accuracy or completeness of any information on the Application or otherwise provided to users. This includes the Merchant Partners' and/or Registered Users' (or their Products) identity verification, credibility, capacity, ability or willingness to transact with you. You agree that it is your responsibility to make enquiries as to the accuracy or completeness of any information.

- 4.5. Any hyperlinks or banners linking to other websites on the Application are not subject to our control or privacy standards, policies and procedures and therefore we are not responsible for the content and other practices associated with such linked websites. Accordingly, we suggest that you check as to the relevant policies of those third parties.

- 4.6. We do not take any responsibility for any damage to your computer systems which may arise in connection with your access to and use of the Application.

- 4.7. You warrant that any information you give to the Application in the course of completing the registration process ('**Registration Information**') will always be accurate, correct and up to date.

- 4.8. You consent to the following:

(a) we may provide Registration Information to Merchant Partners and/or Registered Users for the purposes of providing you with Purchase Services; and

(b) you may receive emails and/or push notifications from us regarding your registration and orders or other third-party products and services that may be of interest to you determined by us;

4.9. Once you have completed the registration process, you will be a registered member of the Application ('**Registered User** ') and agree to be bound by the Terms. As a Registered User you will be granted immediate access to the Purchase Services.

4.10. You may not use the Purchase Services and may not accept the Terms if:

a) you are not of legal age to form a binding contract with Apps People; or

b) you are a person barred from receiving the Purchase Services under the laws of Australia or other countries including the country in which you are resident or from which you use the Purchase Service.

4.11. We reserve the right to take legal action and seek compensation from a parent or guardian of a person under legal age for any loss or damage we may suffer as a result of, or in connection with, any transaction entered into on, or via the Application by that person.

4.12. As a Registered User, you agree to comply with the following:

(a) you will use the Purchase Services only for purposes that are permitted by:

(i) the Terms;

(ii) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions;

(b) you have the sole responsibility for protecting the confidentiality of your password and/or email address. Use of your password by any other person may result in the immediate cancellation of the Purchase Services;

(c) any use of your registration information by any other person, or third parties, is strictly prohibited. You agree to immediately notify Apps People of any unauthorised use of your password or email address or any breach of security of which you have become aware;

(d) access and use of the Application is limited, non-transferable and allows for the sole use of the Application by you for the purposes of Apps People providing the Purchase Services;

(e) you will not use the Purchase Services or Application for any illegal and/or unauthorised use which includes engaging in any activity that

is malicious or technologically harmful, collecting email addresses of Registered User by electronic or other means for the purpose of sending unsolicited email or unauthorised framing of or linking to the Application;

- (f) you agree that commercial advertisements, affiliate links, and other forms of solicitation may be removed from the Application without notice and may result in termination of the Purchase Services. Appropriate legal action will be taken by Apps People for any illegal or unauthorised use of the Application;
- (g) you acknowledge and agree that any automated use of the Application or its Purchase Services is prohibited;
- (h) you must take precautions to ensure that your telecommunications or computer systems are not exposed to any viruses, malware or other form of interference that may damage your telecommunications or computer systems while using the Application;
- (i) you must not engage in any activity that interferes with the Purchase Services or the hosting networks;
- (j) you must not engage in any abusive, derogatory or discriminatory behaviour; and
- (k) you consent to Apps People dealing with your personal information including Registration Information in accordance with its Privacy Policy.

## **5. Purchase of Products**

5.1. In using the Purchase Services to purchase any Product through the Application, you will agree to the payment of the purchase price listed on the Application for the Product (the '**Purchase Price**'). All prices displayed on the Application are subject to change without notice and are in Australian Dollars and exclusive of goods and services tax (GST) unless otherwise specified.

5.2. Payment of the Purchase Price may be made through Stripe, our payment gateway provider. In using the Purchase Services, you warrant that you have familiarised yourself with, and agree to be bound by, the applicable Terms and Conditions of Use, Privacy Policy and other relevant legal documentation provided by Stripe. We accept no responsibility for transactions that occur outside the Application.

5.3. You acknowledge that the processing of payments for any Products can only proceed once you and the relevant Merchant Partner have entered into a separate agreement with Stripe for the purchase of those Products.

- 5.4. The Application may list Products from time to time available for Product Purchase from Merchant Partners with specific details regarding the time (**'Collection Time'**) and place of collection.
- 5.5. All Products are subject to availability and Apps People makes no guarantee that any Products will be available to order via the Application at any time. All listings constitute mere information only and does not form part of any offer to sell those goods.
- 5.6. You accept that Apps People is not liable for any claims that may result in any Product not being available for collection. The Merchant Partner may offer substitution (equal value) Product for your order that can be collected within the Collection Time or another time. If this is the case, the Merchant Partner will communicate this to you via text message or phone call on the number you provided during registration.
- 5.7. You may choose to purchase one or more Products via the Application. Once you have placed an order via the Application, it is your responsibility to collect that order from the relevant Merchant Partner within the specified timeframe.
- 5.8. You will receive an email confirming your order and a digital confirmation will appear in the Application. At the time of collection, the Merchant Partner may require you to either present the QR code shown in the Application or show your order on your phone and complete the "swipe to pickup" feature, depending on the store's preferred collection process.
- 5.9. Orders are final and non-refundable unless otherwise determined by Apps People.
- 5.10. You acknowledge and agree that an uncollected order may be resold to other users without any liability to you.
- 5.11. Following payment of the Purchase Price being confirmed by Apps People, you will be issued with a receipt to confirm that the payment has been received and Apps People may record your purchase details for future use.
- 5.12. Any Products listed on the Application must be used in accordance with the instruction of the relevant Merchant Partner listing that Product and in the absence of such instruction, all Products are intended to be consumed on the day that they are purchased. You are responsible for checking any applicable allergen information relating to any Product that you purchase via the Application with Merchant Partners directly.
- 5.13. A Registered User may communicate with Merchant Partners outside the Application for the purpose of Purchase Service. For the avoidance of doubt, all purchases/ and or payments made to any agreement that uses the Purchase Services is between you and the Merchant Partner to the exclusion of Apps People.

5.14. You may lodge a complaint directly with the relevant Merchant Partner if you are not satisfied with a Product (such as the quality or quantity of goods). If you are unable to resolve your complaint with the relevant Merchant Partner, then you may lodge a complaint with us at [info@foodybag.com.au](mailto:info@foodybag.com.au) within 72 hours of either lodging your complaint or receiving unsatisfactory outcome regarding your complaint from the Merchant Partner and we will use reasonable endeavours to contact the relevant Merchant Partner in attempt to obtain a refund on your behalf. However, we are not responsible or liable for obtaining such refund.

## 6. Promotion

6.1. Apps People may, in Apps People's sole discretion, offer promotions relating to the Purchase Services and/or other third-party services, subject to any additional terms applicable to that specific promotion.

## 7. Copyright and Intellectual Property

7.1. The Application, the Purchase Services and all of the related products of Apps People are subject to copyright. The material on the Application is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the site content and compilation of the Application (including text, graphics, logos, button icons, video images, audio clips and software) (the '**Content**') are owned or controlled for these purposes, and are reserved by Apps People or its contributors.

7.2. Apps People retains all rights, title and interest in and to the Application and all related content. Nothing you do on or in relation to the Application will transfer to you:

- (i) the business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright of Apps People; or
- (ii) the right to use or exploit a business name, trading name, domain name, trade mark or industrial design; or
- (iii) a system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a system or process).

7.3. You may not, without the prior written permission of Apps People and the permission of any other relevant rights owners: reproduce, display, perform, broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Content or third party content for any purpose. This prohibition does not extend to materials on the Application, which are freely available for re-use or are in the public domain.

7.4. By uploading, posting, transmitting or otherwise making available any material via the Application, you;

- (a) grant to us a non-exclusive, worldwide, royalty-free, perpetual, irrevocable licence to use, publish, reproduce and otherwise exploit the material in any form for any purpose and unconditionally waive any moral rights that you might have in respect of the material; and
- (b) represent and warrant that you either own the intellectual property rights in that material or have the necessary permission to upload, post, transmit or otherwise make available that material via the Application.

## **8. Force majeure**

We will not be liable to you if we are prevented from, or delayed in, providing the Purchase Services due to acts, events, omission or accidents beyond our reasonable control ('**Force Majeure events**'). Where a Force Majeure event occurs, we will attempt to recommence of the Purchase Services as soon as reasonably practicable.

## **9. Privacy**

Apps People takes your privacy seriously and any information provided through your use of the Application and/or the Purchase Services are subject to Apps People Privacy Policy, which is available on the Application.

## **10. General Disclaimer**

- 10.1. You acknowledge that Apps People does not make any terms, guarantees, warranties, representations or conditions whatsoever regarding the Products other than provided for pursuant to these Terms.
- 10.2. Apps People will make every effort to ensure a Product is accurately depicted on the Application, however, you acknowledge that sizes, colours and packaging may differ from what is displayed on the Application.
- 10.3. Nothing in these Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.
- 10.4. Subject to this clause, and to the extent permitted by law:
  - (a) all terms, guarantees, warranties, representations or conditions which are not expressly stated in these Terms are excluded; and
  - (b) Apps People will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Purchase Services or these Terms (including as a result of not being able to use



the Purchase Services or the late supply of the Purchase Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

- 10.5 Use of the Application including the Purchase Services is at your own risk. Everything on the Application, the Purchase Services, are provided to you on an "as is" and "as available" basis, without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors, third party content providers or licensors of Apps People make any express or implied representation or warranty about its Content or any products or Purchase Services (including the products or Purchase Services of Apps People Pty Ltd) referred to on the Application. This includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:
- a) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third party conduct, or theft, destruction, alteration or unauthorised access to records;
  - b) the accuracy, suitability or currency of any information on the Application, the Purchase Service or any of its Content related products (including third party material and advertisements on the Application);
  - c) costs incurred as a result of you using the Application, the Purchase Services or any of the Products;
  - d) the Content or operation in respect to links which are provided for the User's convenience;
  - e) any failure to complete a transaction, or any loss arising from e-commerce transacted on the Application; or
  - f) any defamatory, threatening, offensive or unlawful conduct of third parties or publication of any materials relating to or constituting such conduct.

## **11. Limitation of Liability**

- 11.1. Apps People's total liability arising out of or in connection with the Purchase Services or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the most recent Purchase Price paid by you under these Terms or where you have not paid the Purchase Price, then the total liability of Apps People is the resupply of information or Purchase Services to you but cannot exceed AU\$100.
- 11.2. You expressly understand and agree that Apps People, its affiliates, employees, agents, contributors, third party content providers and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit

(whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.

- 11.3. Apps People is not responsible or liable in any manner for any content (including the Content and Third Party Content) posted on the Application or in connection with the Purchase Services, whether posted or caused by users of the Application, by third parties or by any of the Purchase Services.
- 11.4. You acknowledge that Apps People does not provide the Purchase Services to you and you agree that Apps People will not be liable to you for any special, indirect or consequential loss or damage, loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Purchase Services.
- 11.5. The relevant Merchant Partner will be fully responsible and liable for all Products in respect to their preparation and consumption.
- 11.6. This clause 11 survives termination or expiry of these Terms.

## **12. Termination of Contract**

**12.1.** The Terms will continue to apply until terminated by either you or by Apps People as set out below.

**12.2.** If you want to terminate the Terms, you may do so by:

- a) notifying Apps People at any time; and
- b) closing your accounts for all of the Purchase Services which you use, where Apps People has made this option available to you.

Your notice should be sent, in writing, to Apps People via the 'Contact Us' link on our homepage.

**12.3.** Apps People may at any time, terminate the Terms with you if:

- a) you have breached any provision of the Terms or intend to breach any provision;
- b) Apps People is required to do so by law;
- c) all of the Merchant Partners have terminated its relationship with Apps People or ceased to offer the Purchase Services to you;
- d) Apps People is transitioning to no longer providing the Purchase Services to Users in the country in which you are resident or from which you use the service; or

- e) the provision of the Purchase Services to you by Apps People is, in the opinion of Apps People, no longer commercially viable.

12.4. Subject to local applicable laws, Apps People reserves the right to discontinue or cancel your account in the Application at any time and may suspend or deny, in its sole discretion, your access to all or any portion of the Application or the Purchase Services without notice if you breach any provision of the Terms or any applicable law or if your conduct impacts Apps People name or reputation or violates the rights of those of another party. We will not be liable to you or any third party for such action.

12.5. When the Terms come to an end, all of the legal rights, obligations and liabilities that you and Apps People have benefited from, been subject to (or which have accrued over time whilst the Terms have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of this clause shall continue to apply to such rights, obligations and liabilities indefinitely.

### **13. Indemnity**

13.1. You agree to indemnify and hold Apps People harmless, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:

- a) all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with any Content you post through the Application;
- b) any direct or indirect consequences of you accessing, using or transacting on the Application or attempts to do so and any breach by you or your agents of these Terms; and/or
- c) any breach of the Terms.

13.2. This clause 13 survives termination or expiry of these Terms.

### **14. Dispute Resolution**

#### **14.1. Compulsory:**

If a dispute arises out of or relates to the Terms, either party may not commence any Tribunal or Court proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sought).

#### **14.2. Notice:**

A party to the Terms claiming a dispute ('**Dispute**') has arisen under the Terms, must give written notice to the other party detailing the nature of

the dispute, the desired outcome and the action required to settle the Dispute. If the dispute relates to a payment to Merchant Partner, you must contact the relevant Merchant Partner directly about the complaint.

#### **14.3. Resolution:**

On receipt of that notice ('Notice') by that other party, the parties to the Terms ('Parties') must:

- (a) Within 14 days of the Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree;
- (b) If for any reason whatsoever, 28 days after the date of the Notice, the Dispute has not been resolved, the Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by the President of the Conflict Resolution Service or his or her nominee;
- (c) The Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing. The Parties must each pay their own costs associated with the mediation;
- (d) The mediation will be held in Perth, Australia.

#### **14.4. Confidential**

All communications concerning negotiations made by the Parties arising out of and in connection with this dispute resolution clause are confidential and to the extent possible, must be treated as "without prejudice" negotiations for the purpose of applicable laws of evidence.

#### **14.5. Termination of Mediation**

If 2 months have elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Party may ask the mediator to terminate the mediation and the mediator must do so. This clause 14 survives the expiry or termination of these Terms.

### **15. Venue and jurisdiction**

The Purchase Services offered by Apps People is intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Application, you agree that the exclusive venue for resolving any dispute shall be in the courts of Western Australia, Australia.

## **16. Governing Law**

The Terms are governed by the laws of Western Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of Western Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

## **17. Independent Legal Advice**

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties having taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

## **18. Severance**

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.

## **19. General Provisions**

**19.1.** Any reference in these Terms to the singular includes the plural, to any gender includes all genders, to any Act or statute includes any Act or statute which supersedes, replaces or modifies any earlier Act or statute, to persons includes all bodies and associations (including human, corporate and unincorporated), and vice versa.

**19.2.** Paragraph headings are for reference and convenience purposes only, and all references to clauses are to clauses in these Terms unless otherwise specified.

**19.3.** Your rights and obligations under these Terms are personal and cannot be assigned, without the prior written consent of Apps People. Apps People may assign, encumber or otherwise deal with its rights and obligations under these Terms to any third party without prior notice or consent from you.

**19.4.** A party's failure or neglect to enforce any of its rights under these Terms will not be deemed to be a waiver of that or any other of its rights. The exercise of a power or right does not preclude its future exercise or the exercise of any other power or right.

## **20. Ratings and Reviews**

**20.1. Customer Ratings:** Registered Users are encouraged to rate their purchased Foody Bags to provide feedback about their experience. Ratings help maintain quality standards and transparency on the platform.

- 20.2. Rating Guidelines:** All ratings and reviews must comply with these Terms, and should be constructive, honest, and respectful. Apps People reserves the right to moderate and remove ratings that are offensive, inappropriate, or violate these Terms.
- 20.3. Merchant Response to Negative Ratings:** If a Foody Bag receives a poor rating, the relevant Merchant Partner may offer a refund to the customer at their discretion. In such cases, the rating and review may be removed by Apps People to encourage Merchant Partners to improve their offerings without facing permanent negative feedback.
- 20.4. Impact of Ratings:** Apps People uses ratings to evaluate the quality of Merchant Partner offerings and may use aggregated ratings data to improve the platform and services. Persistent poor ratings for a Merchant Partner may lead to additional support, warnings, or, in extreme cases, removal from the platform in accordance with these Terms.
- 20.5. Moderation and Final Decisions:** Apps People reserves the right to review, moderate, and remove ratings or reviews if deemed necessary to ensure fairness, prevent misuse, or uphold the platform's community standards.