

Terms & Conditions

1. Definitions

In this document, the following terms are defined as follows:

- 1.1. Agreement: the whole of this document containing the Terms and Conditions set out herein.
- 1.2. Application: this service including the website, application, mobile application and any other means of accessing the service.
- 1.3. Best Menu: Best Menu Pty Ltd (ACN 167 626 119), registered office: 10/570 President Avenue, Sutherland, NSW 2232; contact@bestmenu.com.au.
- 1.4. Customer Application: the customer accessible service including the website, application, mobile application and any other means of accessing the service.
- 1.5. Licensee: You, the customer of Best Menus.
- 1.6. Representative: the person who has the effective control of the Licensee, and you covenant that the Representative has been duly authorised to make all decisions on your behalf, and the Representative covenants to observe the provisions hereof both in a personal capacity and as your representative.
- 1.7. "we", "our", and "us": are references to Best Menus.
- 1.8. "user", "you" and "your": are references to the Licensee.

2. Interpretation

In the interpretation of this Agreement

- 2.1. references to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under, the legislation;
- 2.2. words denoting the singular include the plural and vice versa; words denoting individuals or persons include bodies corporate and vice versa; references to documents or agreements also mean those documents or agreement as changed, novated or replaced, and words denoting one gender include all genders;
- 2.3. grammatical forms of defined words or phrases have corresponding meanings;
- 2.4. parties must perform their obligations on the dates and times fixed by reference to the capital city of the state of New South Wales;
- 2.5. reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia;
- 2.6. if the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in the place in which it is to be done, then it must be done on the next business day;
- 2.7. references to a party are intended to bind their executors, administrators and permitted transferees.
- 2.8. obligations under this Deed affecting more than one party bind them jointly and each of them severally.

3. Agreement and Alterations

- 3.1. These terms and conditions are a legal document which is an agreement between you, the Licensee and Best Menus.
- 3.2. These Terms and Conditions are governed by the laws in force in the State of New South Wales, Australia, and you and we submit to the non-exclusive jurisdiction of the Courts of New South Wales.
- 3.3. Please read this agreement carefully. By accessing the application, agreeing to the installation of the Application and/or by continuing to use the application, you are agreeing to the terms and conditions that appear below (all of which are called the "Agreement"). This Agreement is made between you and us.
- 3.4. We reserve the right to amend the terms and conditions of the Agreement at any time and it is your responsibility to review the agreement located on our website from time to time and keep yourself up to date as to its terms and conditions
- 3.5. You may terminate this Agreement by written notice to us if you do not wish to be bound by such new terms and conditions of the Agreement. However, continued use of the Application will be deemed to constitute acceptance of the Agreement.
- 3.6. You covenant that the Representative has been duly authorised to make all decisions on your behalf, and the Representative covenants to observe the provisions hereof both in a personal capacity and as your representative.

4. Registration

- 4.1. You must register and accept the terms and conditions of the Agreement in order to use the Application. We reserve the right to decline a new Registration or to cancel an existing Registration at any time.
- 4.2. To register you will be required to provide us with your name and email address and possibly, some other personal information. By accepting the terms and conditions of the Agreement you explicitly acknowledge and agree that your details will be stored and that you will be registered as a customer of Best Menus.
- 4.3. On registration you are agreeing that the information you have provided is true and accurate and that you will promptly inform us of any changes to such information by updating the details in your account.
- 4.4. It is entirely your responsibility to maintain the security of your account and you must notify us immediately of any unauthorised use of your details or account.
- 4.5. All accounts must be registered with a valid email address that you access regularly. Any accounts which have been registered with someone else's email address or with temporary email addresses may be closed without notice. We may require users to re-validate their accounts if we believe they have been using an invalid email address.
- 4.6. We reserve the right to close accounts if any user is seen to be using proxy IPs (Internet Protocol addresses) in order to attempt to hide the use of multiple registration accounts, or if a non-AU user pretends to be a user, or disrupts the Application in any way.
- 4.7. If you use multiple logins for the purpose of disrupting Best Menus you will be suspended from using the Application.

5. Collection and use of information.

- 5.1. Once you have registered and accept the terms and conditions of the Agreement you explicitly acknowledge and agree that your details will be stored and that you will be registered as a member.
- 5.2. Our Privacy Policy forms part of this Agreement, and can be located on our website.
- 5.3. As part of using our service, we may send service notifications by SMS and/or Email to you regarding changes of a significant nature to the Agreement or Application, scheduled outages including the details of such outages, tax invoices, and other communications related to your use of the Application.
- 5.4. By accepting this Agreement you are providing your express consent to receive commercial electronic messages from Best Menus or on behalf of Best Menus, and you acknowledge that an SMS or e-mail sent to you as part of the provision of the services set out in this Agreement is a commercial electronic message sent to you with your consent and does not constitute an unsolicited commercial electronic message ("spam") under the Spam Act 2003 (Cth).

5.5. For the purposes of this clause, you are taken to have authority to provide your express consent for the sending of commercial electronic messages to the phone number and/or e-mail address provided upon registration.

6. The Service offered

6.1. Best Menus offers an information sharing service and location guide for Australian restaurants.

6.2. The service provides the user the opportunity to review, comment and upload content on restaurants for review by other customers of Best Menus

7. Use of the Service

7.1. You will comply with all applicable laws, rules and regulations in connection with the User Content, User Websites and use of site blog Products or Services.

7.2. You will be solely responsible for all activities conducted on or through any User Websites in your User Account, including any transactions or interactions with end users of a User Website. You will be solely responsible for providing such end users with any required disclosure or explanation of the various features of the User Website and any goods or services offered thereon, as well as any terms of use and privacy policy for the User Website.

7.3. You will cooperate fully with site in connection with provision of site Products or Services. It is solely your responsibility to provide any equipment or software that may be necessary for you to use the Services.

7.4. You will be solely responsible for ensuring that all User Content and User Websites are compatible with the hardware and software used by site to provide all Products or Services, which hardware and software may be changed by Best Menus from time to time in its sole discretion.

7.5. You will use your best efforts to ensure that the User Content is and will at all times remain free of all computer viruses, worms, Trojan horses and other malicious code.

7.6. You will be solely responsible for ensuring that user content is appropriate and you agree not to post or transmit any content or engage in any activity that;

- i. Promotes illegal activity
- ii. Promotes behaviour that is defamatory, harassing, abusive or otherwise objectionable;
- iii. Is inaccurate, harmful, threatening, abusive, harassing, indecent, defamatory, discriminatory, vulgar, profane, obscene, hateful or otherwise objectionable, invasive of another's privacy, relating or encouraging money laundering or gambling;
- iv. Infringes the intellectual property rights or other proprietary rights of any third party;
- v. Violates the privacy rights or publicity rights of any third party;
- vi. Interferes with the operation of the Services; or
- vii. Violates the terms and conditions of this Agreement or any of the policies or agreements incorporated by reference herein.
- viii. Involves transmitting viruses, worms or malicious code.

7.7. We reserve the right to amend or remove/delete any content posted to the application

8. System Content and Faults

8.1. We will make every attempt to ensure all information displayed on the Application is accurate; however, we are not able to guarantee the accuracy of all information nor are we able to guarantee that the Application is free of errors or faults.

8.2. We do not warrant that your use of the Application will be uninterrupted and we do not warrant that any information (or messages) transmitted via the Application will be transmitted accurately, reliably, in a timely manner or at all.

8.3. We do not give any warranty that the Application is free from viruses or anything else which may have a harmful effect on any technology.

8.4. Although we will try to allow uninterrupted access to the Application, access to the Application may be suspended, restricted or terminated at any time.

8.5. Your access to the Application may be occasionally restricted to allow for repairs, maintenance or the introduction of new facilities or services. We will attempt to restore such access as soon as we reasonably can. We assume no responsibility for functionality which is dependent on your browser or other third party software to operate.

8.6. We will notify you of scheduled downtime and endeavour to provide you with seven days' notice of this. In the case of unforeseen downtime, we will take all reasonable steps to restore access on a best effort basis.

9. Linking to and from other Websites

9.1. Where the Website contains links to third party sites and to resources provided by third parties (together "Other Sites"), those Other Sites are merely linked to provide information only and are solely for your convenience. We have no control over and do not accept and we assume no responsibility for Other Sites or for the content or products or services of Other Sites (including, without limitation, relating to social networking sites such as Facebook) and we accept no responsibility for any loss or damage that may arise from your use of them. If you decide to access any of the third party websites linked to the website, you do so entirely at your own risk.

10. Liability

10.1. Without affecting any of your statutory rights that cannot be lawfully excluded, we will not be liable for any losses, damages, liability, claims or expenses (whatsoever and irrespective of whether direct, indirect, consequential) arising from the use of or connected with the Application. We make no warranty or representation as to the fitness or suitability of any product or service displayed on the Application. We will exercise reasonable care and skill in performing any obligation under this Agreement. We shall have no liability for the transmission or the reception of or the failure to transmit or to receive any material of whatever nature, or for:

- 10.1.1. loss of revenue;
- 10.1.2. loss of actual or anticipated profits;
- 10.1.3. loss of contracts;
- 10.1.4. loss of the use of money;
- 10.1.5. loss of anticipated savings;
- 10.1.6. loss of business;
- 10.1.7. loss of opportunity;
- 10.1.8. loss of goodwill;
- 10.1.9. loss of reputation;
- 10.1.10. loss of, damage to or corruption of data; or
- 10.1.11. any indirect or consequential loss; and

10.2. Such liability is excluded whether it is foreseeable, known, foreseen or otherwise. For the avoidance of doubt, all clauses apply whether such losses are direct, indirect, consequential or otherwise.

10.3. Some jurisdictions do not allow the limitation of liability for personal injury, or of incidental or consequential damages, so this limitation may not apply to you. In no event shall Best Menu's total liability to you for all damages (other than as may be required by applicable law in cases involving personal injury) exceed the amount of one dollar (\$1.00). The foregoing limitations will apply even if the above stated remedy fails of its essential purpose.

11. No warranty

11.1. You expressly acknowledge and agree that use of the Application is at your sole risk and that the entire risk as to satisfactory quality, performance, accuracy and effort is with you. To the maximum extent permitted by applicable law, the Application and any Services performed or provided by the Application (" Services") are provided "as is" and "as available", with all faults and without warranty of any kind, and Best Menu hereby disclaims all warranties and conditions with respect to the Application and any Services, either express, implied or statutory, including, but not limited to, the implied warranties and/or conditions of merchantability, of satisfactory quality, of fitness for a particular purpose, of accuracy, of quiet enjoyment, and non-infringement of third party rights.

11.2. Best Menu does not warrant against interference with your enjoyment of the Application, that the functions contained in, or services performed or provided by, the Application will meet your requirements, that the operation of the Application or Services will be uninterrupted or error-free, or that defects in the Application or Services will be corrected. No oral or written information or advice given by Best Menu or its authorised representative shall create a warranty.

11.3. Should the Application or Services prove defective, you assume the entire cost of all necessary servicing, repair or correction. Some jurisdictions do not allow the exclusion of implied warranties or limitations on applicable statutory rights of a consumer, so the above exclusion and limitations may not apply to you.

12. Indemnity

You shall indemnify us against each loss, liability or cost incurred by us arising out of any claims or legal proceedings which are brought or threatened against us by any person arising from:

12.1. your use of the Application;

12.2. the use of the Application through your account;

12.3. any breach of this Agreement by you; and/or

12.4. Any breach of any legislation resulting from your use of the application, including but not limited to the Spam Act 2003 (Cth),

13. Intellectual Property Rights/Copyright

13.1. The Website/Application is owned and operated by Best Menu Pty Ltd (ACN 167 626 119), a company registered in Australia whose registered office is in 10/570 President Avenue, Sutherland, NSW 2232. If you have any queries please contact us at contact@bestmenu.com.au.

13.2. Images and content on the website, mobile application(s), or any of our Partner websites and mobile applications may not be copied, saved or used in any format other than as incidental to your permitted use of our services.

14. Dispute resolution

14.1. If a dispute arises then before any proceeding is commenced the party raising the dispute must give 14 days' notice to the other party setting out the dispute and seek discussion and compromise to resolve the dispute.

14.2. If after 14 days the dispute is not resolved then it must be referred to mediation on the same terms as those ordered by the Supreme Court of New South Wales and the costs of the mediation shall be borne by the you and us jointly.

15. Contacting us

Best Menu may be contacted by means of the addresses set out in clause 1.3