

Tango Restaurant Terms of Service

Last modified March 20, 2020

Welcome to Tango!

These Tango Restaurant Terms of Service ("**Terms**") are incorporated into and made part of the Restaurant Order Form and Agreement (the "**Order Form**").

These Terms and the Order Form govern your use and access to our websites, applications, products, and services ("**Services**"). The Services are provided by BetterYet Loyalty Inc. ("**Tango**").

Using our Services

Use. You may use our Services only in compliance with these Terms and as permitted by law. Our Services are not designed for use outside the United States, and by using our Services you are representing to us that you are in the United States. You agree not to interfere with our Services or try to access them using a method other than the interface and the instructions that we provide. We may suspend or stop providing our Services to you if you do not comply with our terms or policies, or if we are investigating suspected misconduct.

Food Safety. By using the Services, you agree to comply with all applicable laws, rules, regulations, and standards that pertain to the preparation, marketing, and sale of food including all such laws rules, regulations and standards regarding proper food preparation and menu disclosure and you agree that Tango is not liable for any preparation of food in connection with your use of the Services. Tango does not independently verify, and is not liable for any representations made by you regarding your food, including any descriptions, disclosures, or representations made by you in connection with your menu.

Intellectual Property. The Services are protected by copyright, trademark, trade secret and other U.S. and foreign laws. These Terms or your use of the Services do not grant you any right, title or interest in the Services, others' content in the Services, Tango trademarks, logos or other brand features. We welcome feedback, but note that we may use comments or suggestions without any obligation to you. You agree to grant and hereby grant to Tango a non-exclusive, worldwide, royalty-free, transferable, and revocable license to use the trademarks, service marks, trade names, meal names, meal descriptions, logos, designs and other designations, copy, or brands used by you in connection with your business or any other content that you post, upload, share, store, or otherwise provide through the Services ("**Restaurant IP**"). This license is expressly limited: (i) to uses by Tango in connection with the Services; and (ii) as specifically permitted by you in writing. You are hereby granted a non-exclusive, non-transferable, and revocable license to use the trademarks, service marks, trade names, logos, designs and other designations, copy, or brands used by Tango in connection with the Tango Services ("**Tango IP**") solely for the purpose of promoting the Tango Services on your premises, provided that you agree to use Tango IP solely in

compliance with any rules and guidelines provided by us. You also agree to immediately cease all use of Tango IP upon request from Tango or upon termination or expiration of the Order Form. Other than the license to use the Tango IP granted in this Section and except as expressly permitted in connection with the Services hereunder, you are not granted any other right, title, or interest in any intellectual property owned by Tango.

Data. Tango may provide you with aggregate information regarding meals, refunds, and other metrics. In addition, you may be provided or have access to personally identifiable information ("**PII**") in connection with your use of the Services. All PII is subject to the Privacy Policy, and you agree to abide by the Privacy Policy with respect to the PII. In addition, you agree that you will only use the PII for fulfillment of orders made through the Services, and not for any other purpose (including marketing).

Product Changes. Our Services evolve constantly. As such, the Services may change from time to time, at our discretion. We may stop (permanently or temporarily) providing the Services or any features within the Services to you or to users generally.

Communications. In connection with your use of the Services, we may send you service announcements, administrative messages, and other information. You may opt out of some of those communications.

Age Requirement. Our Services are not intended for and may not be used by people under the age of 16. By using our Services, you are representing to us that you are over 16.

Tango Devices. Tango may provide you or your restaurant with mobile or other devices (the "**Devices**") to access the Tango Services. You agree to only use any Devices in connection with the Tango Services, and that Device(s) may not be transferred, loaned, sold or otherwise provided in any manner to any third party. Device(s) will at all times remain Tango's property, and upon expiration or termination of the Order Form or these Terms or request by Tango you will return all Device(s) to Tango within ten (10) days. If the Device(s) is lost or damaged beyond normal wear and tear or you do not return all such Device(s) to Tango during such period, you agree to pay \$300 (or the fee set forth in the Order Form) for each such Device to Tango. If there is a wireless data plan with a Device, you agree that Tango may charge you or your restaurant for the costs associated with the wireless data plan of each applicable Device.

Payment Processing. You expressly authorize Tango's service provider, Dwolla, Inc., or other service provider of which Tango notifies Restaurant, to originate credit transfers to your financial institution account.

Your Tango Account

You need a Tango account in order to use some of our Services (a "**Tango Account**"). To protect your Tango Account, keep your password confidential. You are responsible for the activity that happens on or through your Tango Account. Try not to reuse your Tango Account password on third-party applications. If you learn of any unauthorized use of your password or Tango Account, contact us at sales@paywithtango.com.

Privacy and Copyright Protection

Privacy Policy. Our Privacy Policy (<https://www.Tango.co/legal/privacy>) describes how we handle the information you provide to us when you use our Services. You understand that through your use of the Services you consent to the collection and use (as set forth in the Privacy Policy) of this information for storage, processing and use by Tango.

Copyright Protection. We have adopted the following general policy toward copyright infringement in accordance with the Digital Millennium Copyright Act or DMCA (posted at www.lcweb.loc.gov/copyright/legislation/dmca.pdf). The address of our Designated Agent to Receive Notification of Claimed Infringement ("Designated Agent") is listed at the end of this Section. It is our policy to (1) block access to or remove material that we believe in good faith to be copyrighted material that has been illegally copied and distributed by any of our advertisers, affiliates, content providers, members or users; and (2) remove and discontinue service to repeat offenders.

1. Procedure for Reporting Copyright Infringements:

If you believe that material or content residing on or accessible through the Services infringes a copyright, please send a notice of copyright infringement containing the following information to the Designated Agent listed below:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed;
2. Identification of works or materials being infringed;
3. Identification of the material that is claimed to be infringing including information regarding the location of the infringing materials that the copyright owner seeks to have removed, with sufficient detail so that we can find and verify its existence;
4. Contact information about the notifier including address, telephone number and, if available, email address;
5. A statement that the notifier has a good faith belief that the material identified in (3) is not authorized by the copyright owner, its agent, or the law; and
6. A statement made under penalty of perjury that the information provided is accurate and the notifying party is authorized to make the complaint on behalf of the copyright owner.

2. Once Proper Bona Fide Infringement Notification is Received by the Designated Agent:

It is Company's policy:

1. to remove or disable access to the infringing material;
2. to notify the content provider, member or user that it has removed or disabled access to the material; and
3. that repeat offenders will have the infringing material removed from the system and that Company will terminate such content provider's, member's or user's access to the Services.

3. Procedure to Supply a Counter-Notice to the Designated Agent:

If the content provider, member or user believes that the material that was removed (or to which access was disabled) is not infringing, or the content provider, member or user believes that it has

the right to post and use such material from the copyright owner, the copyright owner's agent, or, pursuant to the law, the content provider, member, or user, must send a counter-notice containing the following information to the Designated Agent listed below:

1. A physical or electronic signature of the content provider, member or user;
2. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or disabled;
3. A statement that the content provider, member or user has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material; and
4. Content provider's, member's or user's name, address, telephone number, and, if available, email address, and a statement that such person or entity consents to the jurisdiction of the Federal Court for the judicial district in which the content provider's, member's or user's address is located, or, if the content provider's, member's or user's address is located outside the United States, for any judicial district in which we are located, and that such person or entity will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Designated Agent, we may send a copy of the counter-notice to the original complaining party informing that person that we may replace the removed material or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed material may be replaced or access to it restored in 10 to 14 business days or more after receipt of the counter-notice, at our discretion.

Please contact our Designated Agent to Receive Notification of Claimed Infringement at the following address:

Designated Agent to Receive Notification of Claimed Infringement:

info@paywithtango.com.com

Your Content in our Services

Your Ownership. Some of our Services may allow you to upload, submit, store, send or receive content, for example the menu items for your restaurant. You retain ownership of any intellectual property rights that you hold in that content. In short, what you provide to us stays yours.

Anything you post, upload, share, store, or otherwise provide through the Services is your "User Submission." You are solely responsible for all User Submissions you contribute to the Services. You represent that all User Submissions submitted by you are accurate, complete, up-to-date, and in compliance with all applicable laws, rules and regulations.

You agree that you will not post, upload, share, store, or otherwise provide through the Services any User Submissions that: (i) infringe any third party's copyrights or other rights (e.g., trademark, privacy rights, etc.); (ii) contain sexually explicit content or pornography; (iii) contain hateful, defamatory, or discriminatory content or incites hatred against any individual or group; (iv) exploit

minors; (v) depict unlawful acts or extreme violence; (vi) depict animal cruelty or extreme violence towards animals; (vii) promote fraudulent schemes, multi-level marketing (MLM) schemes, get rich quick schemes, online gaming and gambling, cash gifting, work from home businesses, or any other dubious money-making ventures; or (viii) that violate any law.

Disclaimers

OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS OR ADDITIONAL TERMS AGREED TO BY Tango IN WRITING, NEITHER Tango NOR ITS THIRD PARTY SUPPLIERS OR DISTRIBUTORS OR LICENSORS MAKE ANY SPECIFIC PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE SPECIFIC FUNCTIONS OF THE SERVICES, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. Tango, AND ITS THIRD PARTY SUPPLIERS, DISTRIBUTORS AND LICENSORS, DO NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICES, INCLUDING WITH RESPECT TO ITS CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. WE PROVIDE THE SERVICES "AS IS". SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS OR ADDITIONAL TERMS AGREED TO BY Tango IN WRITING, WE (AND OUR THIRD PARTY SUPPLIERS AND DISTRIBUTORS AND LICENSORS) HEREBY DISCLAIM AND EXCLUDE ALL WARRANTIES, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

Liability for our Services

TO THE FULLEST EXTENT PERMITTED BY LAW, TANGO AND TANGO'S PAST, PRESENT AND FUTURE OFFICERS, AGENTS, SHAREHOLDERS, MEMBERS, REPRESENTATIVES, EMPLOYEES, SUCCESSORS AND ASSIGNS (THE "**TANGO PARTIES**"), WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, THE Tango PARTIES' AGGREGATE LIABILITY FOR ANY CLAIMS UNDER THESE TERMS OR THE ORDER FORM, INCLUDING FOR ANY IMPLIED WARRANTIES, WILL NOT EXCEED \$300. IN ALL CASES, Tango, AND ITS SUPPLIERS AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE, INCLUDING, WITHOUT LIMITATION, ANY FORCE MAJEURE EVENT. EXCEPT AS PROVIDED HEREUNDER, YOUR SOLE AND EXCLUSIVE REMEDY UNDER THESE TERMS IS TO DISCONTINUE USING THE SERVICES.

Force Majeure. In the event that Tango is prevented from performing, or is unable to perform, any of its obligations under these Terms due to acts of God, natural disasters, or other cause beyond its

reasonable control, its performance shall be extended for the period of delay or inability to perform due to such occurrence.

Indemnification. You agree to indemnify and hold harmless Tango, its contractors, and its licensors, and their respective directors, officers, employees and agents from and against any and all claims and expenses, including attorneys' fees, arising out of (a) your access to, use of, or misuse of the Tango Services, in a way that is harmful to others including any claim arising from your preparation, description, or sale of food; (b) your violation of any portion of these Terms or the Order Form, any representation, warranty, or agreement referenced in these Terms or the Order Form, or any applicable law or regulation; (c) your violation of any third-party right, including any intellectual property right of publicity, confidentiality, other property, or privacy right; or (d) any dispute or issue between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of those claims.

Resolving Disputes

Agreement to Arbitrate. You and Tango agree that any dispute arising out of or relating to these Terms or the Order Form or the breach, termination, enforcement, interpretation or validity hereof or thereof, including, without limitation, the determination of the scope or applicability of this agreement to arbitrate, and any other dispute, claim or controversy between the parties hereto (any of the foregoing, a "**Dispute**"), will be determined fully, finally and exclusively by neutral, binding and confidential arbitration pursuant to the substantive and procedural provisions of the Federal Arbitration Act.

Procedure. The arbitration will be administered by JAMS (or any successor thereof) in San Francisco, California, or the city in which you are located, before a single arbitrator, and it will be initiated and conducted according to the JAMS Comprehensive Arbitration Rules and Procedures; provided, however, that discovery will be limited to an exchange of relevant documents, unless the arbitrator determines that additional discovery is necessary. The arbitrator will follow the substantive laws of the State of California, to the extent such laws are not inconsistent with the Federal Arbitration Act, in adjudicating any Dispute. Judgment on any award may be entered in any court having competent jurisdiction in San Francisco County, California, and the parties hereby submit to the jurisdiction of such court for this purpose.

Confidential Proceedings. The parties will maintain the confidential nature of any arbitration proceeding and will not, without the prior written consent of the other Party, disclose to any other person or entity the fact, existence, substance, contents, or results of the arbitration, any arbitration hearing, the award of the arbitrator, or any other proceeding in connection with the arbitration, except as may be necessary to enforce, enter, or challenge such award in a court of competent jurisdiction or as otherwise required by applicable law or judicial decision.

NO CLASS ACTION. EXCEPT AS OTHERWISE REQUIRED UNDER APPLICABLE LAW, ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS.

CLAIMS OF MORE THAN ONE RESTAURANT OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER RESTAURANT OR USER.

Tax Audits. You agree to provide information requested by Tango within a reasonable period in the event of any sales tax audit. You agree to indemnify Tango against any assessment of sales tax, penalties, and interest imposed by any state or local jurisdiction and any costs associated thereto. You further agree to indemnify Tango against any assessments, fees, judgments, and penalties resulting from lawsuits that may be brought by any party for the improper collection of sales tax.

Exception to Agreement to Arbitrate. Either party may bring a lawsuit in the federal or state courts of Santa Clara County, California solely for injunctive relief to stop unauthorized use or abuse of the Services or infringement of intellectual property rights without first engaging in the informal dispute notice process described above. Both you and Tango consent to venue and personal jurisdiction there.

Termination

You are free to stop using our Services at any time upon written notice to us. We reserve the right to suspend or terminate your access to the Services immediately upon notice to you if: (a) you are in breach of these Terms, (b) you are using the Services in a manner that would cause a real risk of harm or loss to us or other users, (c) in our sole discretion for any reason at any time.

Modification of Terms

We are constantly trying to improve our Services, so these Terms may need to change along with our Services. We reserve the right to change the Terms at any time, but if we do, we will place a notice on our site located at www.Tango.co/legal/restaurant-terms, send you an email, and/or notify you by some other means.

If you do not agree with the new Terms, you are free to reject them; unfortunately, that means you will no longer be able to use the Services. If you use the Services in any way after a change to the Terms is effective, that means you agree to all of the changes.

About these Terms

Third Party Rights. These terms control the relationship between Tango and you. They do not create any third party beneficiary rights.

No Waiver. If you do not comply with these terms, and we do not take action right away, this does not mean that we are giving up any rights that we may have (such as taking action in the future). If a particular term is not enforceable, this will not affect any other terms.

Assignment. You may not assign any of your rights under these Terms, and any such attempt will be void. Tango may assign its rights to any of its affiliates or subsidiaries, or to any successor in

interest of any business associated with the Services (whether by sale of stock or assets, merger, consolidation or otherwise).

Governing Law. The laws of California, U.S.A., excluding California's conflict of laws rules, will apply to any disputes arising out of or relating to these terms or the Services.