

EXTENDAGO POS

TERMS OF SERVICE

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Introduction

These terms are for direct customers of Extenda Retail AS. Having created their account on wallmobpos.com or extendago.com.

Customers purchasing their ExtendaGO POS, ExtendaGO POS co branded or whitelabeled solution from partners can have different conditions with their partner. Partners can be found on the extendago.com website.

All these agreements are done between the customer and the partner. Extenda Retail is not part of the end user agreement. However the end user must apply and accept the general terms of condition of usage of the software.

Chapter 1.2-4 : The partner is replacing Extenda Retail AS.

Chapter 2.1-8 : The registration, activation and payment is done through the partner and no payment details are required by Extenda Retail AS.

Chapter 4 : Not applicable for partner customers.

Chapter 5.1-4 : All payments are handled by the partner.

Chapter 7 : Not applicable as partner customers should obtain support from the partner. Content on website may be used at own risk. This as some partners provide integration that may interfere with the basic functionality.

1. Usability

1. These terms and conditions (“Terms and Conditions”) govern any use of the ExtendaGO POS software with modifications (hereafter collectively referred to as the “Software”) by a customer (“Customer”). The software consists of ExtendaGO POS for iPad including possibilities for Kitchen Display and a web based back office. Functionality available is dependent on type of subscription and is described on the website <https://www.ExtendaGO.com>. The Customer is hereby provided a limited license to use the Software for its business purposes, based on payment of a monthly subscription fee (“Subscription Fee”).
2. The Customer and Extenda Retail AS, corporate registration no: 954165892 (“Supplier”) can be referred to collectively as the “Parties” and separately as “Party”.
3. The Terms and Conditions are accepted by checking the box “I have read and accepted the terms and conditions” when subscribing for the Software.
4. The Supplier has the right to adjust or amend the Terms and Conditions. The Customer is informed by such adjustments or amendments via the Supplier’s website <https://www.extendago.com/terms/>. In case of an adjustment or amendment of material affect, the Supplier shall send information about the change to the e-mail address provided by the Customer in the user account. By such notice, the adjustments or amendments shall without further measures be deemed an integrated and legally binding part of these Terms and Conditions. In the event of material changes of the Terms and Conditions, the Customer is entitled to terminate the subscription of the Software within 20 days from receiving the notice of the material change. The Customer is responsible for keeping itself updated of the at each time applicable Terms and Conditions. The Customer is also responsible for providing the Supplier an at each time valid e-mail address to which the Supplier can use for notices of material changes of the Terms and Conditions.

2. Registration, activation and security

1. To obtain the license to use the Software, the Customer is required to create and activate a subscription account (“Account”).
2. In connection with registration of the Account, the Customer is obliged to register a debit or credit card, from which the Subscription Fee will be paid each month in advance. All fees are set out in the applicable currency specified when entering into the agreement, excluding VAT. VAT is not invoiced to customers outside Norway and must be handled by the Customer in accordance with local tax regulations.
3. By purchasing a subscription and entering debit or credit card details, the Customer agrees that the Supplier may withdraw the Subscription Fee monthly in advance and in accordance with the selected subscription. When the Customer purchases a subscription license for the Software, it will be automatically renewed until the Customer cancels the subscription in writing.
4. The Customer authorizes the Supplier to receive payment for the Software and services through a third-party payment provider.
5. When purchasing a subscription from the Supplier, the Customer shall submit accurate information regarding identity and validity and the Customer ensures that information regarding the Customer is correct and that the Customer does not abuse debit- or credit cards. Upon completion of registration, the Customer shall guarantee that the information provided by the Customer is valid and correct. If there is any possibility of a chargeback (i.e. a Customer pays with a credit card and subsequently denies the payment) from the Supplier’s third party (currently ePay), the Customer shall immediately pay to the Supplier the amount that the third party demands, regardless of reason. In the event of fraud or abuse, it is the Customer’s responsibility and duty to reimburse the Supplier of any damage caused to the Supplier due to the fraud or abuse so that the Supplier is fully indemnified. If the Customer shall pay the Subscription Fee through invoicing, this must be separately agreed between the Customer and the Supplier and informed to extendago@extendaretail.com. The Customer is responsible for the provision of such information.
6. The Customer is only entitled to disclose Account information to its users registered on the Account (“Customer Representative”).
7. The Customer guarantees that the Customer’s debit- or credit card information is correct and up to date. In the event of any change in the Account information or suspicions of abuse, breach of Customer’s card security, etc. the Customer shall without delay notify the Supplier.
8. The Customer shall ensure (and maintain) the Account’s confidentiality and security for any activity in or through the Account.

9. The Customer guarantees that the Customer is entitled to upload, transmit and store the information (e.g. in the form of text, images, audio-visual material et al) that it uploads, transmits or stores via the Software.
10. The Customer shall use the Software only for business appropriate- and legal purposes and is not entitled to use the Software for other measures (including but not limited to upload, transmit, deliver, run or save malicious code, malware or illegal content).
11. The Customer undertakes to not
 - (i) modify, reproduce, develop or compile, reverse engineer or otherwise deduce the source code of the Software;
 - (ii) remove, alter, conceal or obscure any notice of copyright, trademarks or other proprietary rights belonging to the Software; or
 - (iii) create or attempt to create software which is similar and/or can be confused with the Software.
12. The Customer is entitled to create user accounts linked to the Customer's Account ("Sub-accounts"), for use by the Customer's Representatives in accordance with these Terms and Conditions. Sub-accounts are created by the Customer itself through the ExtendaGO POS backoffice. For each Sub-account created, the Subscription Fee increases with a certain amount (specified prior to creating the Sub-accounts).
13. The Customer is responsible for the use of Sub-accounts (and that the use is compliant with the Terms and Conditions) as if the Customer used the Sub-accounts itself. This means that the Customer is liable towards the Supplier for the Customer's Representative's use of a Sub-account and that the Customer's Representatives uses the Sub-account in accordance with these Terms and Conditions. The Customer, therefore, bears the total risk and is solely responsible for all activity in the Customer's Account and the Sub-accounts in relation to the Supplier.
14. Unless otherwise is stated in these Terms and Conditions, the Supplier is not liable for any losses arising as a result of
 - (i) the Customer's use of an Account or Sub-account;
 - (ii) any activity from any Sub-account linked to the Customer's Account; or
 - (iii) the Customer's account management of the Account and associated Sub-accounts.

3. Third-party software and the Software

1. The Software will only function properly if it is used together with hardware approved by the Supplier. The Customer is responsible for the integration between the hardware and the Software and for any integration between the Software and third-party software.
2. Pre-conditions for Software functionality: The Customer must have at least: (1) one iPad, (2) a wireless network that is available where ExtendaGO POS devices, e.g. terminals, printers and other hardware, shall be used (printer and cash drawer require a LAN connection), and (3) an active Customer Account.
3. The Customer is required to comply with the at each time applicable software or hardware guidelines for ExtendaGO POS and third-party suppliers. Any violation of these Terms and Conditions (including mentioned guidelines) will entitle the Supplier to terminate the Customer's Account.
4. The software is only compatible with the payment systems and HW-equipment shown and sold in ExtendaGO's webstores (individual per market or country).
5. The Software transfers encrypted data between the Customer and the Customer's payment system, including the Customer's payment system's network and bank. The Customer therefore accepts that the use of the Software may be subject to terms and conditions in addition to these Terms and Conditions determined by a third party and that the Supplier is not responsible or liable for any performance under such third-party terms and conditions.
6. The Supplier is not responsible for any crashes, incompatibility or damage of any kind caused by third party systems and services, including, but not limited to, operational disruptions for the Customer's mobile devices, mobile operator or payment system.

4. Subscription fee

1. The Customer agrees to pay the Subscription Fee monthly in advance.
2. The Subscription Fee and other charges are invoiced and payable in advance and are non-refundable.
3. The Subscription Fee and other charges exclude taxes and fees outside Norway.
4. The Supplier reserves the right to change the Subscription Fee at its own discretion taking into account a 90 days' notice period. Any such changes will be notified to the Customer to the e-mail address the Customer submitted during Account registration. If the Customer does not accept the change, the Customer must cease to

use the Account and the Software, including all Sub-accounts within 90 days from the final date of the notice period.

- Continued use of the Software beyond the 90-day notice will be deemed acceptance of the announced change in Subscription Fees.
- Free trial is for test usage only, using the free trial for commercial purposes will obligate the Customer to one (1) month of payment for applicable Subscription fees. This payment includes the right to use the Software for a total of 60 days counted from the commencement of the free trial period.

5. Integrated third party functionality

By accepting these terms the customer also confirms and accepts the linked terms and conditions from third party suppliers listed below.

- Fully integrated loyalty and communication platform, Diller®. The customer undertakes to inform its users about the content of the terms. Link to terms and conditions: <https://terms.diller.no>

6. Termination and cancellation

- This Agreement enters into force when the Customer creates the Account and accepts these Terms and Conditions; cf. section 2.1.
- The Customer may close its Account by the end of a month with 30 days' notice via the Account site or by contacting Customer services at extendago@extendaretail.com.
- In event of the following the Supplier may, without notice and without liability, terminate and discontinue the Customer's access to the Software and the Customer's Account, including any associated Sub-accounts:
 - if the Customer violates the Terms and Conditions,
 - at the request of the police, prosecutor or other public authorities,
 - upon the Customer's own request,
 - in the event of disproportionate technical or safety use of the Software, or
 - if the Customer fails to pay the Subscription Fee in advance.
- If the Customer's access to the Software and/or the Account, with associated Sub-accounts, is interrupted pursuant to item 5.3.c, the Supplier is entitled to:
 - delete the Customer's Account and associated Sub-accounts and discontinue the Customer's access to the Software and any information, features and other data associated with the Account, except from personal data which shall be processed in accordance with section 8.11,
 - delete the Customer's password and retain all related information, files and content associated with or within the Customer's Account and associated Sub-accounts (or parts thereof), except from personal data which shall be processed in accordance with section 8.11, and
 - actively prevent the Customer's access to the Software in the future, either through an alternative account or otherwise.
- The Supplier is not liable to the Customer or any third party for consequences of termination pursuant to section 5.3 and 4, including information within or associated with the Customer's Account or Sub-accounts, or for any loss or damage of any kind as a result of such termination. As a result, the Customer is obliged to indemnify the Supplier for any claims made by third parties in connection with the termination.
- Upon termination of an Account, regardless of whether the Customer or the Supplier terminates the account, the associated Sub-accounts will also be terminated.

7. Communication etc.

- The Supplier cannot be held responsible, either by the Customer or a third party, e.g. the tax authorities, for the Customer's outstanding taxes or fees, or for any loss attributable or incorrectness related to the use of these calculations or the Software. The Customer is solely responsible for reporting the correct VAT, tax and other government fees.
- All communication from Supplier to Customer will be electronic, including e-mail. The Supplier is entitled to send any information and messages related to the Software and these Terms and Conditions to the e-mail address the Customer at each time has provided for its Account.

3. The Supplier can provide the Customer the opportunity to participate in the beta testing of new features that have not yet been thoroughly quality assurance tested. If the Customer accepts an offer from the Supplier to participate in such a beta-test, the Customer may not hold the Supplier liable for any loss or damage the Customer may incur as a result of such participation, including, but not exclusively, damage to computers, mobile phones, tablets or other devices, or data within or associated with the Customer's account.

8. Technical Support

1. Basic user-support is available via website and email. Relevant Supplier e-mail address is provided on the support page for each operating country. Such support is included in the Subscription Fee.
2. Upon request from the Customer, the Supplier may offer further technical support for the Software, including installation, modifications, training, phone support, etc. Such services are not included in the Subscription Fees, and therefore subject to the hourly rates at each time charged by the Supplier.
3. The Supplier does not guarantee any support response times for support according to section 7.1 or 7.2, however the ambition is to answer inquiries within a reasonable time.
4. Unless the Customer has signed a custom designed agreement for the Software, the Supplier is not responsible for any errors or deficiencies in the technical support, or for any loss or damage of any description the Customer may incur as a result.

9. Processing of personal data and information-security

1. In these Terms and Conditions, used definitions where applicable will have the same meaning as in the General Data Protection Regulation (EU) 2016/679 ("GDPR"). GDPR together with other at each time applicable data protection legislation is jointly referred to as the "Data Protection Legislation".
2. For the provision of the Software to the Customer, the Supplier will process personal data on behalf of the Customer, whereas the Supplier act as a processor and the Customer act as a controller.
3. By accepting these Terms and Conditions, the Customer instructs the Supplier to process personal data in the following manner: i) only in accordance with the Data Protection Legislation and the decisions and guidelines/general advice published by the supervisory authority; ii) to fulfil the Supplier's obligations under these Terms and Conditions; and iii) in accordance with the provisions of this section 8. The Supplier may also process personal data if required under Union law or under the national law of a Member State to which the Supplier is subject.
4. The Supplier has no reason to believe that there is legislation that prevents the Supplier from following the instructions provided by the Customer. The Supplier must, if becoming aware of it, inform the Customer if the Supplier considers that the instructions provided are in breach of the Data Protection Legislation.
5. When providing the Software, following can be relevant for the Supplier's processing:
 - a. Categories of data subjects: Customers, Users and Receipts.
 - b. Categories of personal data: Customer and Users with contact information.
 - c. Processing area: EU.
6. The Supplier shall ensure confidentiality, integrity and availability of personal data in accordance with the provisions of GDPR and Data Protection Legislation. Further, the Supplier has or will:
 - a. ensured that its employees or consultants who come into contact with personal data processed under these Terms and Conditions are covered by confidentiality agreements that correspond to the confidentiality required under the Data Protection Legislation;
 - b. carried out organizational and technical measures to ensure a reasonable level of security, considering the latest technology and the introduction costs in relation to the risk that the processing entails and the type of personal data to be protected, in particular customer and user data,
 - c. assists the Customer in ensuring compliance with the obligations pursuant to articles 32 to 36 GDPR, taking into account the nature of processing and the information available to the Supplier;
 - d. assist the Customer with appropriate technical and organizational measures, as far as possible, considering the nature of processing of personal data and the information available to the Supplier, ensure that the Customer is able to fulfil its obligations to respond to requests for exercising the data subject's rights laid down in Chapter III GDPR;
 - e. promptly and without unnecessary delay, cooperate with the Customer, so the Customer is able to fulfil what is stated in GDPR regarding the disclosure of information to the supervisory authority and data subjects in relation to personal data incidents;

- f. The Supplier shall, without undue delay, notify the Customer of i) requests from a data subject regarding the disclosure of personal data controlled by the Customer; or ii) requests from the supervisory authority regarding the disclosure of personal data related to the Customer.
- g. not reply to any requests from data subjects without the Customer's prior written consent.
7. The Supplier may use sub-processors to carry out parts of its processing activities, subject to the prior written approval of the Customer and subject to the Supplier entering into a written agreement with any sub-processor used for the processing activities in which the subcontractor undertakes the same obligations as those imposed on the Supplier under this section 8. The agreement shall be presented to the Customer for written approval. When using sub-processor, the Supplier shall remain fully liable towards the Customer for the performance of the sub-processor's obligations.
8. The Customer confirms that
 - a. it handles the personal data according to the Data Protection Legislation;
 - b. it has the lawful basis to process the personal data and submit them to the Supplier (including any sub-processors that the Supplier uses);
 - c. it is solely responsible for the accuracy, content, reliability and legality of the personal data processed by the Supplier under these Terms and Conditions; and
 - d. it has fulfilled its obligations to provide relevant information to data subjects regarding the processing of personal data according to the Data Protection Legislation.
9. The Customer has the right to conduct one annual audit of the Supplier's activities to examine whether the terms under this section 8 are fulfilled. If the GDPR would require, the Customer may request additional audits. When requesting an audit, the Customer shall submit an audit plan to the Supplier at least four (4) weeks prior to the proposed date of the audit, with a description of what the audit includes, how long the audit is planned to last and on what date it is planned to commence. If a third party (except from a supervisory authority) is to carry out the audit, the parties must jointly approve the third party to perform the audit. The audit shall not affect the Supplier's normal business and shall be performed during normal business hours. The Customer is responsible for all costs that arise due to a requested audit. If the Customer requests assistance from the Supplier in the audit which exceeds the standard service provided by the Supplier in order to comply with the Data Protection Legislation, the Supplier will charge a fee to the Customer for its participation.
10. For claims from data subjects, the Customer and the Supplier (as controller respective processor) is responsible in accordance with the principles prescribed in the GDPR. The Customer and the Supplier (as controller respective processor) is also responsible for the imposed administrative sanctions that a Party is liable to pay in accordance with the principles stated in the GDPR.
11. This section 8 is valid during the time that the Supplier processes personal data on behalf of the Customer, which shall cease upon the expiry of the Customer's subscription and use of the Software under these Terms and Conditions. Upon such expiry, the Supplier will, in accordance with the Customer's instructions, delete or return processed personal data if the Supplier is not obliged to process the personal data under applicable legislation. The Supplier is entitled to compensation for a reasonable cost and time spent for deleting/returning processed personal data.

10. The Customer's use and security

1. The Customer agrees that the Supplier may collect and analyze information on the Customer's interaction with, and use of, the Software, including, but not exclusively, statistics from the Customer's use of the Software, which operating system is used to use the Software, interaction with other hardware and software provided as part of the subscription.
2. Any information the Customer submits to the Supplier's website or via the Software can be intercepted by others, even if such information is encrypted. The Customer bears the full risk of hacking, viruses or breaches in relation to its submission and shall indemnify the Supplier in case of any damages caused under such circumstances.

11. Account contents etc.

1. When the Customer creates an account, the Customer simultaneously uploads various requisite business information that is needed to use the Software ("Account Content").

2. The Customer ensures not to, either through its Account or Sub-accounts, upload or allow to be uploaded content to the Software, unless the Customer is entitled to upload the relevant information and use it within the Software. Also, the Customer ensures that such information uploaded shall be free from bugs, virus or similar interruptions.
3. The Customer grants the Supplier an unrestricted, non-exclusive, royalty-free, fully-paid, transferable right to use, reproduce, modify, adapt, publish, prepare derivative work of, distribute, publicly perform and publicly display any Account Content and transaction data, worldwide on/in all media to provide and promote the Software and the Supplier's business. If this contains personal data, the Supplier shall ensure that the processing of personal data is performed in accordance with the Data Protection Legislation.
4. The Supplier own all intellectual property rights to the cumulative transverse data from the Customer's use. This means that the Supplier is entitled to use this general data collection for its own purposes and may share such information with third parties in unidentifiable form without the prior consent of the Customer.

12. Intellectual property rights

1. The Supplier, or its group companies, is the sole owner of any and all copyrights and intellectual property rights to the Software. The Software subject to these Terms and Conditions is licensed to the Customer, not sold, and the Customer acknowledges that the title to the intellectual property right is not transferred due to these Terms and Conditions. Where these Terms and Conditions includes software for which the Supplier is not the sole owner of the copyright and/or intellectual property rights, the Supplier has an agreement with the owner of such copyright and/or intellectual property right.
2. Subject to these Terms and Conditions the Supplier gives the Customer a non-transferable, non-exclusive, limited in time license to use the Software in accordance with the provisions of these Terms and Conditions. The license is conditioned that the Customer has paid the License Fee. The Customer is through these Terms and Conditions entitled to use the Software for its business purposes.
3. The Supplier explicitly reserves, for example but not limited to, the right to market, promote, distribute, sell, and grant license for the Software to other customers. Nothing in these Terms and Conditions shall be construed as limiting any manner of the Supplier's right to appoint other distributors, resellers, partners etc. All rights not expressly granted by the Supplier to the Customer under these Terms and Conditions are reserved to the Supplier.
4. The intellectual property rights to any developments, whether order by the Customer or not, of the Software will be the sole property of the Supplier.
5. The Supplier is entitled to audit the Customer's compliance with these Terms and Conditions. During such audit the Supplier may verify the usage data and other information affecting the calculation of the License Fees. Such audit will be conducted in a manner that minimizes disruption to the Customer's business and will be conducted during the Customer's normal business hours. The audit shall be subject to an agreed audit plan. The Customer agrees to provide records, system tools output, and other electronic or hard copy system information necessary for such audit. If any deviations are discovered during the audit, the Customer shall pay the costs for the audit.
6. The Customer shall not copy, distribute, pledge, lease or transfer or take any other action regarding the Software to any third party except from what is allowed according to these Terms and Conditions. The Customer shall not make changes to, disassemble, develop, decompile or use any other measures to try to recreate the source code of the Software or any part of it.
7. The Supplier shall be the sole owner of and shall have the exclusive right to all amendments made to the Software. The Supplier will also retain the intellectual property rights to any updates etc. of the Software.
8. Any mark, trademark or other recognition of the ownership of intellectual property rights in the Software cannot be amended or removed by the Customer.

13. Publication; the Customer suggestions, feedback and comments

1. By using the Software, the Customer approves that the Supplier uses the Customer's name on a list of customers on its website or otherwise as a reference in its marketing.
2. Any ideas, suggestions, feedback, art or other information or work ("Feedback") the Customer develops during its use of the Software shall be seen as the Supplier's intellectual property.

3. The Supplier is not obliged to review Feedback; but is free to use, publish and/or redistribute Feedback in whole or in part and in any form for commercial benefit to improve the Software or for another purpose and will provide no compensation of any kind (e.g. royalties) for such Feedback.

14. Third-party websites

1. The Supplier's website may contain hyperlinks to websites or websites operated by parties other than the Supplier ("Third Party Websites").
2. The Software may contain links to Third Party Websites as a service to the Customer and does not, therefore, imply that the Supplier has approved the content nor assumes any liability for the legality of the content.
3. The use of Third-Party Websites via a hyperlink is at the Customer's own risk as the content is outside the Supplier's control. The Supplier is not liable for any loss or damage due to the use of hyperlinks or Third-Party Websites.

15. Exemption of liability

1. Except from responsibility set down according to section 8.10, the following shall apply:
 - a. The Software is provided as is, and the only warranty from the Supplier is that Software substantially functions in accordance with the documentation.
 - b. If the Supplier breach these Terms and Conditions, the Supplier shall compensate any direct damages caused to the Customer by the breach. The Supplier's liability to compensate in accordance with this section 14.1 b) shall per calendar year be limited to 15% of the yearly Subscription Fee.
 - c. The Supplier is not liable for any faults in the Software for the Customer's use (including use of its Representatives), or for any loss the Customer may incur in connection with the use of the Software, including, but not limited to, damage to the Customer's other hardware, data loss etc.
 - d. The Supplier is not responsible for any indirect loss or consequential damage associated with the use of the Software, delays or inability to use the Software, including operational loss, any claim by a third party, etc.
 - e. The Supplier is only liable for product liability pursuant to the mandatory provisions under the Norwegian Product Liability Act. Any liability for product damage on any other basis is hereby explicitly excluded. Any use is at the Customer's own risk.
 - f. The Supplier assumes no liability for any damage to the Customer's hardware or other property (including information the Customer submits to the Supplier's website or via the Software, even if such information is encrypted), regardless of whether it is caused by a virus or similar due to the Customer's access to, or use of, the Supplier's (including its Representatives) website or the Software.
 - g. The Customer is obliged to indemnify the Supplier from any claim arising from a third party as a result of the Customer's (or its Representatives) use of the Software, violation of these Terms and Conditions or infringement of third-party rights.

16. Force Majeure

1. The Supplier cannot be held responsible for any delays or defects, including any disruptions or outages/failures in the Software, as a result of circumstances outside the Supplier's control, including, but not limited to, industrial disputes, terrorism, hacking, IT and other breakdowns, defects or delays in deliveries from suppliers and similar circumstances and consequences the Supplier is unable to prevent.

17. Other

1. Unless otherwise agreed in writing, these Terms and Conditions constitute the basis for the agreement between the Customer and the Supplier for the Customers' use of the Software.
2. The Supplier is entitled to assign its rights according to these Terms and Conditions to a third party after the Customer's prior written approval. Such approval can be provided from the customer's master user e-mail which will be considered an authorized party from the Customer.
3. The Customer is not entitled to assign its rights or obligations to a third party, unless otherwise agreed in writing.

18. Disputes

1. Any dispute between the parties shall be governed by Norwegian law.
2. If a dispute is not resolved through negotiations or mediation, the dispute shall be resolved with final effect in the Norwegian courts of law.
3. The venue shall be the court of domicile of the Supplier.