

Terms and Conditions: “freYfahrt-App” (freYfahrt-App-GTC)

These General Terms and Conditions (“GTC“) of the City of Freyung, Rathausplatz 1, 94078 Freyung, (hereinafter “Stadt Freyung“) apply for the usage of the freYfahrt-software (“freYfahrt -App“), which allows for the booking of passenger transport services (“transport services“) provided by the transport company “Prager Reisen” (“Prager“) via high-capacity vehicles (hereinafter referred to as “freyfahrt-shuttles“) within the city limits of the City of Freyung.

The utilization of transport services offered by Prager via the freyfahrt-shuttles requires the agreement to a special passenger transport contract between Prager and the passenger. Reference is made to the General Terms and Conditions applicable after agreement to the passenger transport contract (“freYfahrt -shuttle-AGB“) (<http://www.prager-reisen.de/agb/freyfahrt>)

§ 1

Subject matter of the contract

- (1) The City of Freyung offers usage of the freYfahrt -App to the customer (“customer“) with reservation of the customer’s:
 - registration according to paragraph 2 of these GTC,
 - the availability of the freyfahrt-App and
 - the availability of the freyfahrt-shuttle.
- (2) The transport service can only be ordered via the freYfahrt -App. The freYfahrt -App will be available for both iOS and Android and can be obtained via Internet enabled mobile devices (e.g. smartphones or tablet pcs) from the respective app stores and used thereafter. Installation- and configuration services are not provided by the City of Freyung.
- (3) The transport service is provided by the transport company Prager Reisen, Stefan Prager e.K., Steinäcker 6, 94078 Freyung, which is in possession of all the necessary permits to provide transport services. All drivers are in possession of a driver’s license enabling them to provide passenger transport services according to § 48 of the German driver’s license regulation (Fahrerlaubnis-Verordnung), in case required by law. A separate passenger transport contract between Prager and the passenger is required for the usage of transport services offered by Prager via the freYfahrt -shuttles.

Usage of the freYfahrt-App

§ 2

Registration / User account

- (1) Registrations in the freyfahrt-App as well as usage of the freYfahrt -App are free of charge for the user. Costs for data transfers while using the freYfahrt -App are to be covered by the user.
- (2) In order to register within the freYfahrt –App, the user has to enter their first name, last name, email address, and a password of their choosing into an electronic form within the app. The user is obliged to provide accurate and complete registration data. Any changes to the data registered within the freYfahrt –App have to be updated immediately after the change occurs.
- (3) Registration takes place by sending the electronic form through the freYfahrt –App. A confirmation of the GTC as well as the data protection declaration, available at <https://www.freyung.de/de/rathaus-und-buerger/leben-in-freyung/freyfahrt.html> is required for registration. The user receives a registration confirmation email sent to the email address provided for registration. This confirmation email includes a link that needs to be clicked to confirm the wish to register. After clicking the link the user receives a user account (“account“) within the freYfahrt -App. The user has access to the account via their email address and the password they selected (“access data“).
- (4) The City of Freyung reserves the right to refuse the opening of a user account if there is reasonable suspicion that the data required according to section 4 was not accurate or if there are specific reasons to suspect that the user will not adhere to the provisions of the contract.
- (5) Should there be concrete indications that a user
 - a. is violating an obligation defined within these GTC or
 - b. – since usage of the freYfahrt-App and the freyfahrt-shuttle transportation services are inseparable (see paragraph 1 section 2, 7 section. 1) – is repeatedly violating the obligation to adhere to the terms of transportation according to paragraph 5 of the freYfahrt –shuttle GTC (<http://www.prager-reisen.de/agb/freyfahrt>) or
 - c. is violating applicable law,

the City of Freyung is entitled to immediately lock their user account, unless the violation is insignificant or not attributable to the user. The user is informed about the locking of the account and the reasons for its locking via electronic information sent to the email address used for registration. As soon as the user stops the violation and the City of Freyung gains knowledge of that fact, the lock is lifted.

- (6) The City of Freyung is entitled to terminate the account in electronic written form via email sent to the email address provided by the user when registering, should the user not stop violating these GTC or applicable law in a more than insignificant manner and should the violation be attributable to the user, even though they have received a warning with a deadline by the City of Freyung, once the deadline has passed and once a second deadline has also passed.
- (7) The user is entitled to terminate their account at any time without notice by sending an electronic declaration in written form to freyfahrt@freyung.de.
- (8) After termination of the account by the user or the City of Freyung all saved data is deleted by the City of Freyung within a reasonable time frame. A termination of the account has no effect on existing transport contracts.

§ 3

Availability if the freYfahrt-App

- (1) The user is not entitled to permanent accessibility of the freYfahrt -App. The City of Freyung nevertheless strives to solve possible technical problems as fast as possible.
- (2) The City of Freyung is furthermore entitled to temporarily or permanently stop providing the service for a valid reason, especially for maintenance-, security-, or capacity reasons. Existing transport contracts are not affected by such measures. In case of a permanent termination of the freYfahrt –App, § 2 section 8 comes into effect.

§ 4

Obligations of the user related to the freYfahrt-App

- (1) The user has to guarantee the safekeeping of their access data and may not pass them on to a third party or provide a third party access to their account in any way. In case of unauthorized access to a user's account by a third party the user is to immediately inform the City of Freyung about the unauthorized access.
- (2) The user is obliged to use the freyfahrt-App in a way that does not impair the freYfahrt –App's functionality or damage it in any way and that does not put the purpose of the app in jeopardy. The user will neither themselves nor with the help of a third party circumvent or alter the freYfahrt -App's security measures.
- (3) The users themselves are responsible to ensure Internet access, the fulfillment of technical requirements and the required configuration, the capacity of their mobile device as well as an up-to-date software status of their device.

§ 5

Copyrighted rights to the freYfahrt-App

- (1) The user obtains a non-exclusive right to usage according to these GTCs, limited in time for the duration of the installation of the freyfahrt-App, which is non-transferrable and non-sub-licensable.
- (2) Contractual use is restricted to
 - a. the installation of the freYfahrt -App on a mobile device in actual possession of the user,
 - b. a duplication required for loading, displaying, saving and running of the previously installed freYfahrt -App and
 - c. the right to create a backup copy of the freYfahrt -App by a person entitled to do so according to § 69d section 2 UrhG ("Data Retention Directive").
- (3) The user is only allowed to edit or decompile the freYfahrt –App when permitted by law and only in case the information necessary to do so has not been provided by the City of Freyung upon request by the user.
- (4) The user is not entitled to sell the freYfahrt -App, lend it, rent it out or sub-license it in any way, or to make it openly accessible or present it in public.
- (5) Should the freYfahrt -App contain open source software, the user obtains rights of use by derogation of sections 1-4 according to the respective pertinent terms and conditions of licensing of the software. These rights are restricted to the sections of open source software. Both parties commit to comply with the respective licensing conditions.
- (6) Additional rights of usage and exploitation to the freYfahrt -App are not granted to the user.
- (7) Should the user violate one of the aforementioned provisions, all rights of use granted within the framework of this contract are rendered invalid. In this case, the user is obliged

- a. to immediately and completely stop using the freYfahrt -App and to delete all copies of the freYfahrt -App installed on their systems as well as the backup copy, where applicable, or to hand them over to the City of Freyung. The user will confirm in writing, upon request by the City of Freyung, that they have indeed deleted all data of the freyfahrt-App from their systems or from third party systems.
- b. The City of Freyung is entitled to immediately lock the user account and to immediately terminate the contract in written form via email to the email address provided upon registration. Paragraph 2 section 8 applies correspondingly.

§ 6

Liability

- (1) The City of Freyung is liable without limitation for damages caused by the usage of the freyfahrt-App, either intentionally or as a result of gross negligence by the City of Freyung, its legal representatives or vicarious agents. The City of Freyung is further liable without limitation for damages in case of culpable, viz. willful or grossly negligent injuries to life, body or health or damages according to the product liability law.
- (2) The City of Freyung will only be liable in cases of simple negligence if there has been a breach of significant contractual obligations whose fulfillment the user placed special reliance on, resulting in endangering the object of the contract. Liability in these cases is limited to the compensation of damages typically foreseeable upon conclusion of the contract.
- (3) The foregoing limitations of liability shall also apply in favor of the City of Freyung's legal representatives and employees and are also applicable in cases of pre-contractual and tortious liability.
- (4) The City of Freyung is not liable to ensure that the information provided to the user is correct and complete and reaches the user in time.
- (5) In cases of data loss the City of Freyung is only liable for costs incurred for the recovery of data from electronic backup media. The user's responsibility to regularly backup data in accordance with the latest state in technology remains unaffected.
- (6) The City of Freyung does not assume responsibility for the correctness and completeness of data provided by third parties.
- (7) Possible claims resulting from the transport services brokered by the freYfahrt -App are solely based on the relationship between the user and Prager; a liability for such claims is explicitly excluded by the City of Freyung.

Transport services

§ 7

Booking of transport services

- (1) Any booking of transport services is done via the user's account. The user enters the desired departure and destination locations in a respective search template screen.
- (2) In order to book the transport service the user needs to enable locating services to automatically track their current location or insert their current location manually into the freyfahrt-App in order to set the current location as the desired departure point. The details of the data protection declaration, accessible via <https://www.freyung.de/de/rathaus-und-buerger/leben-in-freyung/freyfahrt.html> apply respectively for locating services of the app.
- (3) After the destination has been inserted into the freYfahrt -App, available shuttles as well as a cost estimate and a travel time estimate for the desired route are displayed. The user can then book a freYfahrt -shuttle based on this information and will be provided with details on the driver and possibly on the vehicle (name of the driver, model and license plate of the vehicle) within the freYfahrt -App.
- (4) The travel time to the destination displayed upon booking is an estimate based on current traffic conditions. Since traffic conditions can change any time (e.g. due to an accident, traffic jam) the estimate might differ from the actual travel time.
- (5) The number of travelers has to be specified when booking. Please note that children under the age of 12 and smaller than 1.50m may only be transported with a restraint (child seat).
- (6) By clicking the button "bestellen" (confirm booking) the user as well as possible additional passengers (paragraph 7 section 5, page 4) – respectively – reserve a fee-based transport contract via the freYfahrt -shuttles (viz. a booked trip with the freyfahrt-shuttle); in order to actually use the transport service provided by Prager via freYfahrt -shuttles an additional passenger transport contract needs to be agreed upon by the passenger and Prager upon commencement of the trip. The GTC applicable to the agreement on a passenger transportation contract ("freYfahrt -shuttle-GTC") can be found here (<http://www.prager-reisen.de/agb/freyfahrt>)

- (7) The following information on the user will be provided to the driver: name, departure location, destination, number of passengers. The user has the option to sign up for push notifications on the arrival time of the booked freyfahrt-shuttle.
- (8) After booking the freYfahrt -shuttles no alterations of the destination can be made. *Memorandum:* The user nevertheless has the option to end the trip prior to arriving at the booked destination and to leave the vehicle, if they so wish. The driver will make the decision on where a suitable spot is to prematurely end the trip. According to paragraph 4 section 5 of the freYfahrt -shuttle-GTC the user acknowledges that prematurely terminating the passenger transportation contract does not entitle them to a refund of already paid fares. The booking can be cancelled in accordance with the provisions of paragraph 6 of the freyfahrt-shuttle-GTC (<http://www.prager-reisen.de/agb/freyfahrt>) up until the pick-up by the freYfahrt –shuttle.

Final provisions

§ 8

Amendments to the GTC

- (1) The City of Freyung has the right to amend these GTC. Intended amendments will be published on the freYfahrt -App website in a timely manner. In case the user does not raise objections to the amendments within a month after their announcement they shall be deemed to be approved after the month has passed. Same goes if the user continues to use the freyfahrt-App after the end of the one month deadline. The user will be made aware of this consequence in law as well as of the day that marks the end of the amendment deadline through the amendment publication. *Memorandum:* Prager has a similar right to amend their freyfahrt-shuttle-GTCs; reference to this is made in paragraph 9 of the freYfahrt -shuttle-GTC (<http://www.prager-reisen.de/agb/freyfahrt>).
- (2) Should the user object to the amendment of the terms of use, the City of Freyung has the right to terminate their account within one month, starting with the day the objection has been announced.

§ 9

Other provisions

- (1) Amendments or further subsidiary agreements to these GTC require written form unless otherwise stated within these GTCs. This also applies for the revocation of the written form requirement.
- (2) The present contractual conditions are governed exclusively by the laws of the Federal Republic of Germany under exclusion of the UN Convention on the International Sale of Goods.
- (3) In the event of any inconsistency or conflict between the English and German versions of these GTC, the German version prevails.

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