

FOODHUB™

RETAILER GENERAL TERMS AND CONDITIONS

1. OPERATIVE PROVISIONS/INTERPRETATION

- 1.1 This Agreement is entered into by and between Food Hub US LLC, a corporation registered in Delaware (Co No: 5004222) whose registered office is situated at Corporation Trust Center, 1209 Orange St, Wilmington, Delaware (the “Company” or “Foodhub”) and the retailer identified in the accompanying contract order form (the “Order”) (with the “Retailer”) and shall constitute a legally binding agreement between the Parties. “We, us or our” shall mean the Company and “you or your” shall mean the Retailer. The “Parties” shall mean the Company and the Retailer.
- 1.2 The Company shall be construed as including any person to whom the business of the Company (or any rights appertaining thereto) has been transferred or licensed or otherwise disposed of. The words ‘we’ and ‘our’ and ‘us’ shall be interpreted as including reference to such purchaser, transferee, licensee, or assign as if they were original parties and signatories to this Agreement.
- 1.3 This Agreement solely and exclusively governs the supply of Goods and provision of Services by us to you under the Order.
- 1.4 Save and except as otherwise expressly stated herein, no person other than the Parties has any rights or obligations to enforce any term of the Agreement but this does not affect the right or remedy of a third party which exists or is available at law apart from, and independently of, that Act.
- 1.5 This Agreement shall be read in conjunction with and shall be subject to the Customer Terms and Conditions which shall be incorporated into this Agreement as if set out herein.
- 1.6 This Agreement shall solely and exclusively apply to the exclusion of all and any other terms and conditions which were, or may be, proposed or tendered by you, unless we have expressly agreed in writing signed to the unequivocal effect that they shall be applicable, in whole or in part, or additionally, to your Order in respect of any dealings between us.
- 1.7 Any variation, amendment, or addition to, or substitution of, the provisions of this Agreement, shall only be valid and effective where they have been agreed in writing and signed by the Party to be bound.
- 1.8 Subject to Clause 2, this Agreement (and any document referred to in the Contractual Documents in so far as such reference shall be necessary to better explain provisions contained herein) shall constitute the entire agreement between the Parties, and shall

FOODHUB™

RETAILER GENERAL TERMS AND CONDITIONS

supersede, be in substitution of and for, any previous arrangement, understanding or agreement.

- 1.9 Subject to Clause 2, the Parties otherwise confirm that they have not entered into this Agreement based on any representations not expressly restated in the Contractual Documents nor do they rely upon any pre-contractual statement or warranty of any person (whether a party to this agreement or not) other than as expressly set out in the Contractual Documents (other than fraudulent representations).
- 1.10 Any advertising literature published descriptive matter, whether in hardcopy or electronic format or online and any descriptions or illustrations contained in catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Software systems and the Services which we provide. They are not intended by the Parties to constitute part of this Agreement expressly or impliedly and shall not have any contractual or legal force.
- 1.11 Our relationship with you is non-exclusive and, other than as expressly stated to the contrary in Contractual Documents, we shall not be precluded, prevented, or restricted from entering into similar agreement with any other person for the provision of the Goods and Services.
- 1.12 Nothing in this Agreement or otherwise shall be deemed or construed to create any partnership or joint venture between the Parties.
- 1.13 In these Terms and Conditions, the following words and expressions shall mean:

Addendum - any addendum referenced in the Order which is intended to supplement the General Terms and Conditions (GTC)

Agreement - the Contractual Documents

Applicable Laws - as applying from time to time: (a) laws of United States of America; (b); and (c) any policies, guidelines or industry codes made by any regulatory body in a jurisdiction over a Party or any of their assets, resources, or business (in each case whether or not legally binding) which apply to the provision of Goods or the performance of the Services or to which either party is subject.

Applications ("App") - online food ordering applications which Customers have download without charge via App Store, Google Play or accessed via a downloadable the link on our Website.

Business Day - a day other than a Saturday, Sunday or a public holiday in the United States of America or any in the territory in which a Location is situated.



RETAILER GENERAL TERMS AND CONDITIONS

Business Information - all data or information (whether technical, commercial, financial or of any other type) in any form acquired under, pursuant to or in connection with this Agreement and any information used in or relating to a business (including information relating to services (bought or supplied), operations, processes, formulae, methods, strategy, product information, know-how, design rights, trade secrets, market opportunities, customer lists, relationships, marketing, sales materials and general business affairs.

Charges - the Installation/Set Up Charges, the Rental Charges, Transaction Fees, SMS and Communication Charges (each as stated in the accompanying Order and subject to any Addendum), fees, costs, and expenses payable by you to us hereunder.

Confidential Information - Business Information or other confidential information or data conveyed by a disclosing party, together with all information derived by the receiving party from such information and any other information designated by a Party as being confidential to it (whether or not it is marked 'confidential'), or which ought reasonably to be considered to be confidential.

Contractual Documentations - The Order, the GTC together with any Addendum, and use of the term Agreement means the combined legal effect of them taken together.

Commencement Date - The date of the Parties signature of the Order.

Customer - an end customer of the Company who has downloaded the App onto their mobile or tablet.

Customer Terms & Conditions - The terms and conditions (the current edition of which is stated on our Website) which apply to the use of Applications (Apps) by Customers.

Data protection laws - any Applicable Laws relating to the processing, privacy and/or use of Personal Data, as applicable to either Party or the services provided by them which shall include: (a) equivalent applicable laws in Location is situated; (b) any laws which implement any such laws; (c) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; and (d) all guidance, guidelines and codes of practice issued by any relevant Data Protection Supervisory Authority relating to such Data protection laws (in each case whether or not legally binding).

Data Subject - any information collected in relation to Personal Data which is collected and processed and disclosed by one Party to the other.

Equipment - electronic point of sale system (EPOS), point of sale system (POS) and any other



RETAILER GENERAL TERMS AND CONDITIONS

equipment provided by us that comprises of the Hardware, Software and use of the Website or App, which enables customers to order from your Localities via the Website and over the telephone and for the orders to be printed out in the locality where the order is placed.

Goods - the Software and any Hardware which we have provided to operate Software on as stated in the Order.

Hardware - any keyboard, computer or laptop or other physical Goods which we have agreed to supply you with as stated in the Order.

Intellectual Property Rights (IPR) - patents, any extensions of the exclusivity granted in connection with patents, utility models, registered designs, trademarks, service marks, applications for any of the foregoing, the right to apply for and be granted any of the foregoing, rights in trade names, business names, brand names, get-up, logos, domain names and URLs, copyrights, design rights, rights in inventions, rights in know-how, rights in databases, trade secrets and any other intellectual property rights which subsist in documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature and all other forms of intellectual property right which may exist anywhere in the world.

Interest - the statutory rate of 8% per annum or as stated in the date of claim hereunder against you.

Location - the outlets which you operate from as stated in the Order. Any undeclared/ additional location must be confirmed to us upon opening or acquisition and will be subject to the Charges.

Material - the content provided by you to use from time to time for inclusion on the Website including photographs, menus, price lists and other information.

Order - the processed order form which accompanies these Terms and Conditions signed by the Parties.

Payments - the Charges confirmed in the Order together with legal or administrative costs and Interest applicable and due upon deferred or late payment of such Charges under this Agreement.

Personal Data - any personal information relating to an identified or identifiable natural person (whether an End Client, Contracting Party or otherwise) and shall have the same



RETAILER GENERAL TERMS AND CONDITIONS

meaning as any Applicable Laws relating to the processing, privacy and/or use of Personal Data.

Processing of Personal Data - any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, accessing, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

Protected Personal Data - received from or on behalf of a customer, or otherwise obtained by a Party (or anyone acting on its behalf) in connection with the performance a Party's obligations under this Agreement.

Services - the services which we have agreed to supply you with as stated in the Order under Clause 3 of this Agreement.

Software - the Equipment or other system and any companion software that facilitates the promotion of your business and the taking of point-of-sale orders from Customers.

Stipulated Minimum Period - Shall be 4 months initial trial period with a 12-month rolling contract thereafter (4 months plus 12 months), unless otherwise terminated subject to clause 9.1 and 9.2 of this Agreement.

Term as defined by Clause 9 herein.

Sales tax - tax imposed in any state of the United States of America or any similar tax which may be substituted for or levied in addition to it, or any value added, sales, turnover or similar tax from time to time. We shall be entitled to charge you the rate of tax applicable at the invoiced date.

Website - the online Website domain "Foodhub.co.uk" and its associated App.

- 1.14 Any descriptive following the words including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase, or term preceding those words.
- 1.15 Any reference to a "person" herein shall mean individual, corporation, partnership, unincorporated association, public body or combination of them (as applicable).
- 1.16 The expressions "writing" and "in writing" shall include email save and except for notices.



RETAILER GENERAL TERMS AND CONDITIONS

- 1.17 The headings to clauses and paragraphs are for convenience of description only and shall have no legal meaning or otherwise have any effect upon the interpretation of the Clauses and Paragraphs which they purport to describe.
- 1.18 Reference to any statute or statutory provisions or to any regulatory provisions includes reference to any amendment, extension, re-enactment, or consolidation thereof, including all orders, regulations, instruments, or other subordinate legislation.
- 1.19 Each of the Parties shall use all reasonable and effective efforts to procure that any other person shall, do and execute and perform all such further deeds, documents, assurances, acts or things as may be required to give effect to this Agreement.
- 1.20 Neither the single nor partial exercise or temporary or partial waiver by any Party of any right, nor the failure by such Party to exercise in whole or in part any right or to insist upon the strict performance of any provision of this Agreement, nor the discontinuance, abandonment, or adverse determination of any proceedings taken by the Party to enforce any right or any such provision shall (except for the period or to the extent covered by any such temporary or partial waiver) operate as a waiver of, or preclude any exercise or enforcement of (as the case may be) any further or other exercise or enforcement by the Party of, that or any other right or provision.
- 1.21 This Agreement and all other agreements and documents referred to within it are strictly confidential to the Parties and shall not be disclosed to any other person save for the Parties' professional advisers except under authority of law, and their content shall not be adopted or adapted and used, in whole or in part, for any other purpose without the prior written permission of the Company.

2. BASIS OF AGREEMENT WITH RETAILER

- 2.1 By entering into this Agreement, you warrant that you are ready, willing, and able to reasonably satisfy Customer orders, and have the facilities and shall deploy sufficient personnel to provide and deliver such orders within a reasonably acceptable period of time from the nominated Localities.
- 2.2 You further represent and warrant you comply with all Applicable Laws regarding food hygiene and health and safety standards, licences, trading standards and similar, and if requested shall provide us with evidence of such compliance.



RETAILER GENERAL TERMS AND CONDITIONS

- 2.3 You shall incept and maintain public liability and all recommended related insurances in respect of the operation of your business and shall provide us with evidence of the same upon request.
- 2.4 You expressly acknowledge that any breach of Clauses 2.1 to 2.3 may cause loss and damage to our reputation and business, shall recompense us in respect thereof without specific attributable proof of any such consequential loss or damage.
- 2.5 The provision of Goods and Services by us shall be subject at our discretion to, and contingent upon, satisfactory assessment by us, or our authorised representative, of your retail provision to customers at our discretion.
- 2.6 You shall be liable for any representations made, prior to entering into this Agreement (whether in writing or verbally), or any inaccuracy contained in any document provided to us or customers by you relating to your business and the services which you provide, upon all of which we shall be entitled to rely without further enquiry.

3. PROVISION OF GOODS & SERVICES

- 3.1 We provide non-commission-based Services and enabling Hardware and Software to subscribe retailers as an online food delivery service on behalf of Customers and shall provide you with the Goods for installation and Services within 14 days of the Commencement Date.
- 3.2 Goods shall be provided in a manner that is suitable for purposes and are of satisfactory quality, and Services shall be delivered in a timely manner and in accordance with all Applicable Laws.
- 3.3 Software and related services provided shall, subject to confirmation in the Order include:
- 3.3.1 personal online ordering website;
 - 3.3.2 ordering management App;
 - 3.3.3 listing on Foodhub online ordering portal;
 - 3.3.4 entering into partner network;
 - 3.3.5 driver tracking solutions;
 - 3.3.6 Android POS or BYO device;
 - 3.3.7 own Landing page on our website which directs Customers to your own website; and
 - 3.3.8 24/7 technical and Customer support.
- 3.4 The Hardware which has been provided and bailed to you is specified in the Order. We will pack and supply the Hardware to you, without any additional cost, but the Hardware must be



RETAILER GENERAL TERMS AND CONDITIONS

returned to us (together with our Software) at the end of the Term. You will remain responsible for:

- 3.4.1 Returning the Hardware fully functioning and in good condition (subject to fair wear and tear).
- 3.4.2 Returning the Hardware in its original packaging provided by us.
- 3.4.3 Any loss, theft or damage caused to the Hardware or Software; and
- 3.4.4 A US\$500 fee to repair or replace any of our Hardware or Software that is lost, damaged, not functioning properly or returned absent of its original packaging.

Foodhub do not sell EPOS or POS systems separately, but we do charge a rental or subscription charge for their use.

- 3.5 We advertise and carry out other above-the-line and below-line marketing and promotional activities, both nationally and locally where we have retail partners as we have indicated to you. The nature and extent of such advertising and activities shall be entirely at our discretion.
- 3.6 Transfer of Customer payments in respect of an order is through our nominated transaction partners as stated in the Order, and they shall be entitled to levy such transaction fees as are applicable at the time of the Customer order.
- 3.7 You are required to ensure that your banking details as stated in the Order are complete, correct, and current, shall promptly notify us in writing of any updates to such details, and we neither we nor our nominated transaction partners under sub-clause 3.6 shall be liable for any misdirected or delayed transaction payments in consequence of any error in such details or your failure to update us.
- 3.8 You shall solely be responsible for ensuring that each Locality has adequate and reliable internet connections, and any information or advice which we may provide in such regard shall only be given on the understanding that it is without legal liability of whatsoever nature.
- 3.9 You shall solely be responsible without recourse against us, for any delays in, or aborted, Customer orders, loss of payments or any other adverse consequence resulting from your failure to adhere to sub-clause 3.8.

4. FOOD HYGIENE AND SAFETY



RETAILER GENERAL TERMS AND CONDITIONS

- 4.1 Foodhub requires our Takeaways to meet their minimum legal obligations to trade and for ensuring the sale of food and any associated products is safe and compliant with the applicable food hygiene and safety standard laws.
- 4.2 Foodhub cannot be held liable for any failures by our Takeaways to meet their legal and statutory obligations. It is the Takeaway's responsibility to adhere to these, if you are unsure what your obligations are, then please seek specific professional advice.
- 4.3 As a customer of Foodhub, you will inform us, as soon as is practicable, if the Takeaway has breached its minimum food hygiene standards. In such circumstances, Foodhub reserves the right, in its sole discretion, to withdraw the provision of its Goods and Services without notice.
- 4.4 Foodhub reserves the right to terminate or suspend its Goods and Services with you and without notice, where it reasonably believes your Takeaway is the subject of an ongoing enquiry or concerns about your food hygiene or safety standards by the appropriate authorities supervising this.

5. CHARGES AND PAYMENTS

- 5.1 We shall charge you the monthly payments which have been stipulated in the Order, which shall be due and payable on sign-up of the Order and thereafter during the Term on the last Business Day of each month by standing order which you will be obliged to have arranged on sign-up.
- 5.2 All charges are stated as exclusive of any tax at the applicable rate.
- 5.3 All Payments due are calculated in US Dollars and, where we receive payment in another currency, we shall be entitled to additionally levy any conversion, transaction or similar charges incurred by us in consequence.
- 5.4 We shall deliver a statement of account with regard to the payments which we have received on a quarterly basis and a summary statement of account in respect of each financial year.
- 5.5 We shall be entitled to charge you interest on any sums outstanding to us at an annual rate of 8% per annum (or such other rate as shall be stated at the relevant time as the statutory rate of interest on judgement debts) from the due date, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and you shall pay the interest immediately on demand.
- 5.6 You shall indemnify us against all costs, charges and expenses (including reasonable legal costs) incurred by us in enforcing our rights against you under this Contract and will be entitled to do so. Any such costs will be summarily assessed and added to the judgment debt.



RETAILER GENERAL TERMS AND CONDITIONS

- 5.7 All sums payable under this agreement, or otherwise payable by any party to any other party under this agreement are exclusive of any taxes chargeable on the supplies for which such sums (or any part of them) are the whole or part of the consideration for tax purposes.
- 5.8 Where, under this agreement, any party makes a supply to any other party (“Recipient”) for tax purposes and tax is or becomes chargeable on that supply for which the supplying party is required to account to the relevant tax authority, the Recipient shall, subject to the receipt of a valid tax invoice, pay the supplying party (in addition to, and at the same time as, any other consideration for that supply) the amount of such tax.
- 5.9 Where any party is required by this agreement to reimburse or indemnify any other party for any cost or expense, that first party shall reimburse or indemnify the other party for the full amount of the cost or expense, including any tax on that amount, except to the extent that the other party is entitled to credit or repayment for that tax from any relevant tax authority.
- 5.10 Foodhub is not a Market Place Facilitator, and is not responsible for the reporting and settlement of Sales Taxes (and all other taxes relating to Takeaway’s trading with the consumer). Foodhub will not be responsible for charging, collecting and reporting any Sales Tax on any transaction made under this Agreement.
- 5.11 The Parties shall each be responsible for the payment of any Taxation or similar which may be personally due from them by virtue of the provisions of this Agreement and shall be fully responsible for and shall indemnify the others for and in respect of any Taxation or any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provisions of this agreement, where the recovery is not prohibited by law, and shall further indemnify the others against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by them in connection with or in consequence of any such liability, deduction, contribution, assessment or claim.

6. WARRANTIES

- 6.1 Each party warrants and represents that:
- 6.1.1 it has full capacity and authority to enter into and perform this Agreement;
- 6.1.2 this Agreement is executed by a duly authorised representative of that party; and
- 6.1.3 All marketing materials, including without limitation, the ownership and use of all intellectual property rights, are and will remain the sole and exclusive property of each



RETAILER GENERAL TERMS AND CONDITIONS

party. You hereby grant Foodhub non-exclusive, royalty free right to use, reproduce, adapt, represent and display such marketing materials and intellectual property rights on their Website and App during the term of this Agreement, without restriction.

- 6.1.4 Foodhub reserves the right, at its sole discretion, to withdraw any Goods and Services being provided to you where it is found you do not own, have infringed or lack the required consent to use any marketing materials or intellectual property rights provided to Foodhub. You will remain liable to Foodhub to settle, in full, any costs or damages incurred through unauthorised use of another party's marketing material or intellectual property rights.
- 6.1.5 there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under this Agreement.
- 6.1.6 It shall perform its obligations hereunder in strict accordance with the provisions of this Agreement.
- 6.1.7 it will perform and procure the performance of its obligations under this Agreement in compliance with all Applicable Laws; and
- 6.1.8 shall discharge its obligations under this Agreement using personnel of required skill, experience, and qualifications and with all due skill, care and diligence including in accordance with good industry practice and use all services necessary to provide the Services efficiently and cost effectively.

7. CONFIDENTIALITY

- 7.1 The Parties each undertake to keep confidential and not to disclose to any third party, or to use for his own purposes, or other than for the purposes of, or as permitted under or in accordance with, this Agreement, Business Information or Confidential Information.
- 7.2 The obligations contained in this Clause 7 shall survive the expiry or determination of this Agreement for any reason but shall not apply to any information which becomes publicly known otherwise than through a breach of this Agreement by the other Party or their employees, agents or contractors.
- 7.3 No Party shall use any other Party's other Confidential Information for any purpose other than to perform its obligations under this Agreement.

FOODHUB™

RETAILER GENERAL TERMS AND CONDITIONS

- 7.4 Without prejudice to any common law or statutory duties incumbent upon a party, each Party undertakes not (nor to permit or allow any other person engaged by them) either during the subsistence of, or after the expiry or determination, of this Agreement, to:
- 7.4.1 Use any Confidential Information for their own purposes (other than in the performance of their obligations hereunder) or for, or to, the benefit of any third party; or
 - 7.4.2 Disclose any Confidential Information to any other person (otherwise than as permitted hereunder).
- 7.5 Each Party shall be responsible for protecting the confidentiality of any Confidential Information which may be disclosed to them during the course of their relationship and shall:
- 7.5.1 use their best endeavours, and take all reasonable recommended steps to ensure the security and protection of such information, and to prevent the use or communication of any Confidential Information by any person (except in the proper course of their duties, as required by law to any third party; and
 - 7.5.2 inform the Contractor of any breach of confidentiality immediately upon becoming aware, or suspecting, that any such person or third party has come into the possession of, or used, Confidential Information.
- 7.6 All Confidential Information and copies thereof, in whatsoever format, shall be the Intellectual Property of the respective Parties who have divulged such information or the intellectual property of their sub-contractors (whichever may be the case) and shall be handed over to that Party upon expiry or determination of the relationship between the Parties.
- 7.7 Nothing in this Clause shall prevent a Party from disclosing information which they are entitled to disclose, to include any Money Laundering Laws or Regulations or similar provisions, provided that the disclosure is made in accordance with the provisions of the relevant legislation.
- 7.8 All drafts, Agreements, documented procedures and pro forma supplied are the Intellectual Property of the providing Party or their sub-contractors (whichever may be the case) and may not be divulged, disclosed or copied, in whole or in part, to any person or used, or permitted to be used, by you for any purpose other than, and within the remit and provisions of, the relationship between the Parties.
- 7.9 Sub-clause 10.8 shall not apply to the extent that such information is:

FOODHUB™

RETAILER GENERAL TERMS AND CONDITIONS

- 7.9.1 already known to or in possession of the receiving party prior to its disclosure;
 - 7.9.2 publicly available at the time of its disclosure or becomes publicly available through no wrongful act of the receiving party;
 - 7.9.3 rightfully received from a third party without obligation of confidentiality;
 - 7.9.4 independently developed by the receiving party without breach of this Agreement or access to the applicable Confidential Information of the other party; or
 - 7.9.5 required to be disclosed by Applicable Law (provided that the relevant party, where possible, notifies the other party at the earliest opportunity before making any such disclosure).
- 7.10 On the termination or expiry of this Agreement for any reason each Party shall forthwith return or, at the other's designation, forthwith destroy all Confidential Information (and all copies thereof whether held by them by computer, paper or other means) in its possession or control on the date of termination (including, if required, by way of electronic data transfer) and certify to the other that it has done so.
- 7.11 For the purposes of this Agreement, the Confidential Information of the Company shall be deemed to include all Personal and Protected Data.

8. DATA PROTECTION

- 8.1 The Parties agree that we are a data controller, and you are a data processor for the purposes of processing Personal and Protected Data pursuant to this Agreement. The Parties shall each ensure, and shall ensure its Sub-processors shall, at all times comply with all data protection laws in connection with the processing of Personal and Protected Data and shall not by any act or omission cause the other (or any other person) to be in breach of any of the data protection laws.
- 8.2 The Parties shall only process (and shall ensure personnel only process) the Personal and Protected Data in accordance with this Agreement except where otherwise required by Applicable Laws (and in such a case shall inform the other of that legal requirement before processing, unless Applicable Laws prevent it doing so on important grounds of public interest). A Party shall immediately inform the other if any instruction relating to the Personal and Protected Data infringes or may infringe any data protection law.



RETAILER GENERAL TERMS AND CONDITIONS

- 8.3 The Parties shall at all times implement and maintain appropriate technical and organisational measures to protect Personal and Protected Data against accidental, unauthorised, or unlawful destruction, loss, alteration, disclosure or access. Such technical and organisational measures shall be at least equivalent to the technical and organisational measures set which shall reflect the nature of the Personal and Protected Data.
- 8.4 The Parties shall not permit any processing of Personal and Protected Data by any Sub-Contractor or other third party (except its and its authorised Sub-processors own employees that are subject to an enforceable obligation of confidence with regards to the Personal and Protected Data) without the prior specific written authorisation of the other only then subject to such conditions as the other may require.
- 8.5 The Parties shall ensure that access to Personal and Protected Data is limited to the authorised persons who need access to it for the purposes of this Agreement only.
- 8.6 The Parties shall prior to the relevant Sub-processor carrying out any processing activities in respect of the Personal and Protected Data, appoint each Sub-processor under a binding written contract containing the same obligations as under this Clause 8 in respect of Personal and Protected Data that (without prejudice to, or limitation of, the above):
- 8.6.1 includes providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing of the Personal and Protected Data will meet the requirements of all data protection laws; and
- 8.6.2 is enforceable by the other Party and ensure each such Sub-processor complies with all such obligations.
- 8.7 The Parties shall each remain fully liable to the other under this Agreement for all the acts and omissions of each Sub-processor and each of their personnel as if they were its own.
- 8.8 The Parties shall each ensure that all persons authorised by them or any Sub-processor to process Personal and Protected Data are reliable and:
- 8.8.1 adequately trained on compliance with this Clause 8 as applicable to the processing of data;
- 8.8.2 informed of the confidential nature of the Personal and Protected Data and that they must not disclose Personal and Protected Data;
- 8.8.3 subject to a binding and enforceable written contractual obligation to keep the Personal and Protected Data confidential; and

FOODHUB™

RETAILER GENERAL TERMS AND CONDITIONS

- 8.8.4 provide relevant details and a copy of each agreement with a Sub-processor to the Customer on request.
- 8.9 The Parties shall (at its own cost and expense) promptly provide such information and assistance (including by taking all appropriate technical and organisational measures) as the other as they may require in relation to the fulfilment of the other's obligations to respond to requests for data held (and any similar obligations under any applicable data protection laws).
- 8.10 The Supplier shall (at its own cost and expense) provide such information, co-operation and other assistance to the other as they reasonably require (taking into account the nature of processing and the information available to the Supplier) to ensure compliance with obligations under data protection laws, including:
- 8.10.1 security of processing;
 - 8.10.2 data protection impact assessments (where applicable under the data protection laws);
 - 8.10.3 prior consultation with a Data Protection Supervisory Authority regarding any high risk processing of data; and
 - 8.10.4 any remedial action and/or notifications to be taken in response to any Personal Data Breach and/or any complaint or request relating to either party's obligations under data protection laws relevant to this Agreement, including (subject in each case to the Customer's prior written authorisation) regarding any notification of the Personal Data Breach to Data Protection Supervisory Authorities and/or communication to any affected Data Subjects.
- 8.11 The Parties shall (at no cost to the other) record and refer all requests and communications received from Data Subjects or any Data Protection Supervisory Authority to the other which relate (or which may relate) to any Personal and Protected Data promptly (and in any event within [three days] of receipt) and shall not respond to any without the other's express written approval and strictly in accordance with the other's instructions unless and to the extent required by Applicable Laws.
- 8.12 The Parties shall not process and/or transfer, or otherwise directly or indirectly disclose, any Personal and Protected Data in or to countries outside the United States of America or to any International Organisation without the prior written authorisation (which may be refused or granted subject to such conditions as the Company deems necessary).

FOODHUBTM

RETAILER GENERAL TERMS AND CONDITIONS

- 8.13 The Parties shall each (and shall ensure all Sub-processors shall) promptly make available to the other such information as is required to demonstrate their compliance with their respective obligations under this Clause 8 and the data protection laws, and allow for, permit, and contribute to audits, including inspections, by the other (or another auditor mandated by that other) for this purpose at their request from time to time. The Parties shall provide (or procure) access to all relevant premises, systems, personnel, and records during normal business hours for the purposes of each such audit or inspection upon reasonable prior notice and provide and procure all further reasonable co-operation, access and assistance in relation to any such audit or inspection.
- 8.14 The Parties shall each promptly notify the other if it (or any of its Sub-processors or the Supplier Personnel) suspects or becomes aware of any suspected, actual, or threatened occurrence of any Personal Data Breach in respect of any Personal and Protected Data.
- 8.15 The Parties shall each promptly provide all information as the Company requires to report the circumstances referred to in Clause 8.14 to a Data Protection Supervisory Authority and to notify affected Data Subjects, as applicable, under data protection laws.
- 8.16 The Parties shall (and shall ensure that each of their Sub-processors and personnel shall), upon written request, either securely delete or securely return all the Personal and Protected Data to the Company in such form as the Customer reasonably requests after the earlier of:
- 8.16.1 the end of the provision of the relevant Services related to processing of such Personal and Protected Data; or
 - 8.16.2 once processing by the Supplier of any Personal and Protected Data is no longer required for the purpose of the Supplier's performance of its relevant obligations under this Agreement, and securely delete existing copies (except to the extent that storage of any such data is required by Applicable Laws and, if so, the Supplier shall inform the Customer of any such requirement).
- 8.17 The Parties shall each indemnify and keep indemnified the Company against:
- 8.17.1 all losses, claims, damages, liabilities, fines, interest, penalties, costs, charges, sanctions, expenses, compensation paid to Data Subjects (including compensation to protect goodwill and ex gratia payments), demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a Data Protection Supervisory Authority) arising out of or in connection with any breach by the Supplier of its obligations under clause 6; and



RETAILER GENERAL TERMS AND CONDITIONS

- 8.17.2 all amounts paid or payable by the other to a third party which would not have been paid or payable if the Party's breach of clause 8 had not occurred.
- 8.18 Unless otherwise expressly stated in this Agreement the Party's obligations and the Customer's rights and remedies under this Clause 8 is cumulative with, and additional to, any other provisions of this Agreement.
- 8.19 Nothing in this Agreement affects the rights of Data Subjects under any relevant data protection law against the Customer, the Supplier, or any Sub-Processor.
- 8.20 This Clause 13 shall survive termination or expiry of this Agreement for any reason.

9. DURATION AND TERMINATION

- 9.1 The Commencement Date, duration, notice and Stipulated Minimum Period of this Agreement will be stated in the Order with you. This Agreement shall take legal effect on the Commencement Date and, subject to any Stipulated Minimum Period and the remaining terms of this Clause, shall continue in full force and effect unless and until otherwise terminated by either Party by giving to the other no less than 30 Business Days' prior written notice.
- 9.2 Subject to Clause 10.1 and for the avoidance of any doubt, if you wish to terminate this Agreement during the initial 4 month trial period, then the 30 Business Day's prior written notice is required and the set-up fee charged by us will be refunded upon request. If you do not terminate the Agreement after this initial 4 month trial period, you will be entered into a 12 month rolling contract with us. The set-up fee will be non-refundable.
- 9.3 Either Party shall be entitled to terminate this Agreement at any time by 30 Business Days' prior written notice to the other if they are in material breach of this Agreement which is irremediable or, if remediable, not remedied by the defaulting party within 30 days of being requested to do so by the other.
- 9.4 Without prejudice to any other rights or remedies available to us, we shall be entitled to terminate this Agreement by notice with immediate effect if at any time you are:
- 9.4.1 in breach of any of your obligations under this Agreement regarding Confidential Information; or
- 9.4.2 in breach any Applicable Laws, or provision herein, relating to data protection; or

FOODHUBTM

RETAILER GENERAL TERMS AND CONDITIONS

9.4.3 infringe, challenge or dispute our Intellectual Property Rights (IPR);

9.5 You hereby acknowledge that damages may not be an adequate remedy if we are entitled to terminate this Agreement under sub-clause 10.3 and shall be further automatically entitled to apply to the courts for injunctive relief in respect of such breach.

10. CONSEQUENCES OF TERMINATION

10.1 Any provision of the Agreement that expressly or by implication is intended to come into, or continue, in force on, or upon, termination of this Agreement shall remain in full force and effect.

10.2 Termination of this Agreement shall not affect the rights, remedies, obligations, or liabilities of the Parties that have accrued prior date of termination including the right to claim damages in respect of any breach of the Agreement which existed at, or before, the date of termination.

10.3 On termination in accordance with Clause 9, the Parties shall each return to the other all Hardware, Software, materials, or documentation then in their possession, custody or control belonging to, or provided by, the other, and uninstall and remove all Applications, links and attributions to the other, and, if required, shall provide a signed undertaking and warrant they have complied with this sub-clause 9.3.

11. DISPUTES AND ARBITRATION

11.1 If you fail to make any Payments under this Agreement, we may at our election instigate and commence proceedings against you without first complying with this Clause 11.

11.2 Either Party may seek urgent interlocutory relief in relation to the actions of the offending Party under this Agreement without first complying with Clause 11.

11.3 This Clause 11 shall not apply to any breaches by you of Clause 9.3.

11.4 Unless sub-clauses 11.1 to 11.3 apply, if a dispute arises out of, or in relation to, this Agreement (including any dispute as to breach or termination of this Agreement) a Party may not commence court proceedings relating to such dispute unless:

11.4.1 the Party claiming the dispute has arisen has given written notice to the other Party specifying the nature of the dispute (a "Dispute Notice"); and



RETAILER GENERAL TERMS AND CONDITIONS

- 11.4.2 the Parties first endeavour in good faith to resolve the matters stated in the Dispute Notice expeditiously using the mediation process, applying the procedures, and within the timeframes, that have been stipulated in sub-clauses 11.5 to 11.7.
- 11.5 Upon service of a Dispute Notice the Parties shall jointly agree upon a mediator and the mediator's remuneration within the jurisdiction under Clause 11.6. If the Parties fail to agree and appoint a mediator within 14 days of the service of a Dispute Notice (or such other further extension agreed by the parties in writing) either Party may ask to appoint an independent mediator on behalf of the Parties.
- 11.6 Mediation shall be conducted in accordance with, and under, this Clause 11 by reference to the provisions of this Agreement.
- 11.7 The Parties shall observe the instructions of the appointed mediator regarding the agreed terms of, and conduct of the mediation, and seek to resolve the dispute with the assistance of the mediator within the time-frame proposed by the mediator, or in the absence of any such proposed and agreed time-frame, within a period of 30 Business Days of appointment of the mediator (or such other period from appointment as shall be agreed in writing by the Parties) (the "Agreed Time-frame").
- 11.8 If no terms are agreed regarding the appointment of the mediator under sub-clause 11.5, or the Dispute is not resolved within the Agreed Timeframe, then the non-offending Party may commence court proceedings.
- 11.9 The costs of the mediator will be borne equally by the Parties (unless agreed in writing otherwise between them).
- 11.10 The outcome, and terms, of settlement of the dispute, which is arrived at, and agreed by and between, the Parties, shall be confirmed in writing between them within 5 Business Days of the conclusion of the mediation, and shall be formally confirmed by means of an executed and delivered settlement agreement between them (the "Settlement Agreement").
- 11.11 Where the Parties fail to agree, or execute and deliver, of a Settlement Agreement, under sub-clause 11.10, either Party may request the mediator to provide a statement confirming what was agreed between the Parties at mediation (the "Settlement Statement").
- 11.12 Either of the Parties may bring proceedings and sue upon the terms and basis of the Settlement Agreement or Settlement Statement, and enforce them, as if they were, for all intent and purpose, a judgment of the courts.

FOODHUBTM

RETAILER GENERAL TERMS AND CONDITIONS

12. ASSIGNMENT OF AGREEMENT

- 12.1 Subject to any statutory rights you may have, this Agreement may be novated or assigned in furtherance or consequence of the re-organisation of our business or the transfer of any part of it.
- 12.2 For the avoidance of any doubt, you shall have no express or implied entitlement to novate, assign or otherwise transfer this Agreement to any third party without our express written consent, whether upon sale or transfer of your business or otherwise and such purchaser/transferee shall be required to enter a novation of these Terms and Conditions (as updated by us at the time of purchase/transfer) with us, which novation shall be entirely at our discretion but shall not be unreasonably refused subject to credit reference and other checks. We may stipulate advanced payments from the purchaser/transferee.
- 12.3 Novation shall only be entered into by us upon the condition precedent that all Payments which are historically outstanding to us under this Agreement have been paid prior to such novation, assignment, or transfer. Novation or transfer shall not entitle the assignee/novatee/transferee to the benefit of any Addendum relating to introductory offers, discounts or otherwise.

13. CHANGES TO TERMS AND CONDITIONS

- 13.1 Foodhub reserves the right to make updates or revise our terms and conditions, periodically, as we deem fit. Where we make changes to our charging structure and / or your material obligations under these terms and conditions, we shall inform you of these to include which will become applicable during the Term of your existing Agreement with us.

14. APPLICABLE LAW AND JURISDICTION

- 14.1 Each Party irrevocably agrees, subject only to Clause 10, this Agreement is governed by the laws of the United States of America as the exclusive jurisdiction to settle any disputes/claims.

15. SAVING PROVISIONS

- 15.1 If any provision of this Agreement is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.



RETAILER GENERAL TERMS AND CONDITIONS

16. SURVIVAL

16.1 Provisions of this Agreement which are either expressed to survive its termination or, from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such termination.

17. FORCE MAJEURE

17.1 We shall not be liable to provide Goods or Services, nor shall we be responsible for our failure to do so in consequence of:

17.1.1 of war, invasion, act of foreign enemies or other hostilities (whether war is declared or not);

17.1.2 act of terrorism, rebellion, riot, demonstration or civil disturbance; 17.1.3 strike or industrial action (whether official or otherwise);

17.1.3 pandemic or widespread public infection or any restrictions imposed in consequence;

17.1.4 contamination by radioactivity from any nuclear fuel or waste or combustion of such fuel, or from other environmental pollution or contamination;

17.1.5 adverse weather or other disruptive natural events;

17.1.6 interruption of communications or transport links due to whatsoever cause; or

17.1.7 interruption/compromise of the web, email, social media platforms or similar or integrity and functioning of any of them by virtue of whatsoever cause.

18. NOTICES

18.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be:

18.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office or principal place of business; or

18.1.2 sent by fax to its main fax number; or



RETAILER GENERAL TERMS AND CONDITIONS

- 18.1.3 sent by email to the most recent email address notified or used by the other party (but only so long as it shall constitute “in writing” within the meaning of Clause 1 of this Agreement).
- 18.2 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.