

TERMS AND CONDITIONS FOR “FROM THE RESTAURANT SL” BUSINESS SERVICES

PLEASE READ THESE TERMS OF SERVICE (“TERMS OF SERVICE” OR “AGREEMENT”) CAREFULLY BEFORE YOU USE ANY WEBSITE, APPLICATION, SOFTWARE OR RELATED SERVICE (THE “SERVICE”) OFFERED BY FROM THE RESTAURANT SL DBA TAKE AWAY NOW (“WE” “US” “OUR” OR “FTR”). BY USING THE SERVICE, YOU, ANY ENTITIES THAT YOU REPRESENT AND ALL OF YOUR PARTICIPATING LOCATIONS (“YOU” OR “RESTAURANT”) (FTR AND THE RESTAURANT SHALL BE JOINTLY REFERRED TO AS THE “PARTIES” AND EACH, INDIVIDUALLY, AS A “PARTY”) AGREE TO BE BOUND BY THESE TERMS OF SERVICE. WE MAY REVISE THESE TERMS FROM TIME TO TIME. BY CONTINUING TO ACCESS OR USE THE SERVICES YOU AGREE TO BE BOUND BY THE TERMS.

From the Restaurant SL, dba Take Away Now is a company registered in Spain with NIF B55427660 and registered office at Regus Maria de Molina, 8th floor Maria de Molina 39, Madrid, Comunidad de Madrid, 28006, Spain. Our VAT number is: ESB55427660.

BY ENTERING INTO THESE TERMS OF SERVICE WITH US, YOU AGREE TO COMPLY WITH APPLICABLE LOCAL LAWS AND GUIDELINES.

The definitions set out in clause 14 apply to these Terms of Service.

These Terms of Service between FTR and you are effective as of the date that we first provide services as described in these Terms of Service (the “Services”) to your or process the first order for your Restaurant (whichever is earlier) (the “Effective Date”) at which point the agreement between you and us which is subject to these Terms of Service will be formed (the “Agreement”).

1. OUR SERVICES.

1.1. FTR provides services and technology solutions for restaurants to enable restaurants to process online orders for delivery or take away. This can be achieved in one (or more) of the following ways. The approach which will be used will be agreed by the Restaurant and FTR:

1.1.1. FTR will incorporate a link to the FTR Order Portal (as defined below) into the Restaurant’s own pre-existing website (“Existing Website”);

1.1.2. FTR will create a website and/or app (“New Website”) for the Restaurant which will incorporate a link to the FTR Order Portal; and

1.1.3. FTR will include the Restaurant on FTR’s own consolidated website (or app) (“Consolidated Website”) which features multiple restaurants and incorporates the FTR Order Portal.

- 1.2. FTR will operate an Order Portal (the “FTR Order Portal”) which contains the Restaurant’s menu and enables Customers to place orders for the Restaurant Products which are to be fulfilled by the Restaurant. The Restaurant’s contract with the Customer will be subject to the order terms set out in the Terms of Use {url to be added}.
- 1.3. FTR will make the Restaurant Portal available to the Restaurant to enable the Restaurant to view Orders and manage its relationship with FTR.
- 1.4. FTR may also make available to the Restaurant from time to time certain related services through our relationships with other service providers, such as delivery, call relay, promotions or marketing services.
- 1.5. FTR will set the prices for the Restaurant Products, FTR’s service charges, delivery charges and other amounts payable by the customer via the FTR Order Portal.
- 1.6. The FTR Order Portal will incorporate a payment gateway (such as Stripe) and FTR will receive payments made by Customers via the FTR Order Portal into its own bank account. The Restaurant acknowledges and agrees that FTR will not hold the payments received from Customers on trust for the Restaurant and FTR will not be liable to pay the Restaurant for the Restaurant Products until such payment becomes due and payable in accordance with clause 3.5 of these Terms of Service.
- 1.7. The Restaurant may opt-out of certain Services by notifying us at support@takeawaynow.com. The opt-out will be effective when confirmed in writing by us.
- 1.8. FTR will perform the Services in a commercially reasonable manner but may change the technical specifications of the FTR Order Portal or other aspects of the Services at any time.
- 1.9. FTR will provide support to the Restaurants via email at support@takeawaynow.com. Restaurant agrees that FTR may act in its name as agent solely in relation to the conclusion of its contracts with the customers for orders placed through the FTR Order Portal.
- 1.10. FTR reserves the right, at its sole discretion, to change, suspend, or discontinue any FTR Product (including the availability of any feature or content) or disable any Restaurant Location at any time. FTR further reserves the right to adjust menu prices and retain the difference between any marked-up amount and the item price for the Restaurant Products provided by the Restaurant.

2. RESTAURANT RESPONSIBILITIES.

- 2.1. The Restaurant will be responsible for keeping the following information up to date on the Restaurant Applications and the Consolidated Website (as applicable). Where FTR provides a New Website for the Restaurant or features the Restaurant on the Consolidated Website, FTR

will provide the Restaurant with login details to the Restaurant Portal to enable such updates to be made:

- 2.1.1. its days and hours of operation, including holidays, of the Restaurant
 - 2.1.2. the Restaurant's menu including full descriptions of the Produce, allergy and allergen information, nutritional information and all other information which is required to be made available to customers whether by law or good industry practice;
 - 2.1.3. changes to the prices payable by FTR to the Restaurant for the Product;
 - 2.1.4. banking information required to enable FTR to make payments to the Restaurant; and
 - 2.1.5. any other information reasonably requested by FTR.
- 2.2. The Restaurant shall not list or include any products (e.g., alcoholic beverages) or locations that subject FTR to undue regulatory risk, health and safety risk, or other liability. Any such products or locations are subject to removal by FTR, in its sole discretion.
 - 2.3. The Restaurant will notify FTR as soon as possible of any unexpected closures of any Restaurant Location or changes to the menu or unavailable Restaurant Products.
 - 2.4. The Restaurant will not access or use the FTR Products or any portion of the FTR Products if it is not legally allowed to do so where it is located.
 - 2.5. The Restaurant will notify relevant staff members of the relationship with FTR, and train staff members on processing orders received through the FTR Order Portal on a timely basis.
 - 2.6. If FTR made available to the Restaurant any Order Equipment the Restaurant will promptly notify FTR in the event Order Equipment is broken, lost or stolen. For any broken Order Equipment, if such equipment is not returned to FTR within thirty (30) days after you notify us that such equipment is broken, the Restaurant will be charged the replacement cost of such Order Equipment as an additional Fee.
 - 2.7. In the event a Customer has an issue with an Order or Restaurant Products, FTR will direct the Customer to contact the Restaurant directly to resolve the issue. However, FTR will handle any response and associated costs should a Customer issue a charge-back on their credit card or challenge a credit card transaction as fraudulent.
 - 2.8. In the event that an Order is accepted by FTR as agent acting on behalf of the Restaurant and the Restaurant subsequently needs to modify or cancel that Order, through the FTR Product, the Restaurant will be able to modify the Order on the date the Order is placed and Restaurant will be able to cancel the Order at any time for a one-week period following the date of such Order.

2.9. Restaurant Locations and Franchisees

2.9.1. Subject to clause 2.9.2, where the Restaurant operates from multiple Restaurant Locations in Ireland, the Restaurant agrees that the Agreement will apply to all such Restaurant Locations and FTR will be able to include all such Restaurant Locations on the FTR Order Portal unless agreed by the parties in writing. References to the Restaurant in these Terms of Service will include each of the Restaurant Locations and the Restaurant which agrees to these Terms of Service will be responsible for procuring compliance by the other Restaurant Locations.

2.9.2. FTR agrees that the Restaurant's franchisees may use certain FTR Products hereunder pursuant to the terms and conditions of the Agreement. The Restaurant shall indemnify, defend, and hold FTR harmless against any third-party suits, fees, costs or expenses resulting from a dispute between Restaurant and any of Restaurant's franchisees relating to or arising from conduct of the Restaurant (including former franchisees).

3. OPERATIONAL PROCEDURES

3.1. Delivery. The Restaurant acknowledges that FTR partners with certain third-party delivery service providers. Delivery areas are subject to the policies of such service providers and may be restricted accordingly. FTR is not responsible the performance or non-performance of any FTR partners and will not be liable for any Orders that are not picked up or are lost during delivery. In the event the delivery service provider determines that an Order has been lost and issues a refund to FTR, the Restaurant must provide confirmation of such refund to support@takeawaynow.com. Upon receipt of such confirmation, FTR will issue a refund to the Customer and the Restaurant will still be paid for the Order in accordance with our standard payment policies.

3.2. Fees. The Restaurant agrees to pay FTR the Fees applicable to each order and acknowledges that such Fees will automatically be deducted from the amounts otherwise payable to the Restaurant by FTR. Except as expressly set forth in the Agreement, FTR and the Restaurant are each responsible for its own costs. You agree to communicate to us any dispute, disagreement, or issue with a transaction, Fee, or Order, including those made in connection with fraudulent transactions or payments, within fourteen (14) days of the applicable transaction, Fee, or Order.

3.3. Other Fees. If there is a Change in Law, FTR may pass through to the Restaurant such fees and/or costs incurred by FTR or other generated as a result of the Change in Law with 15 days' written notice. FTR may also charge the Customers a service fee in exchange for their use of our technology or platform; provided, however, that any such fees will be clearly shown to the Customer prior to the submission of an Order and such fee will not be passed through to the Restaurant.

- 3.4. Invoicing. FTR will issue an invoice to Restaurant on a monthly basis showing the aggregate cost of its fees.
- 3.5. Payment. FTR will pay Restaurant on a weekly basis for the Restaurant Products it has prepared pursuant to Orders accepted by FTR on behalf of the Restaurant during the preceding week (excluding Orders which are cancelled in accordance with clause 2.8).
- 3.6. Taxes. Restaurant is responsible for all taxes, duties, and other governmental charges on the sale of any orders processed under this Agreement, and remitting such taxes, duties, and other governmental charges to the appropriate authorities. For the avoidance of doubt, FTR shall have no duty to defend or indemnify Restaurant for taxes, duties, and other governmental charges.
- 3.7. Google Business Profile. The Restaurant acknowledges and agrees that FTR may manage business information on its Google business profile (the “Profile”) for no additional cost. In connection with such services, the Restaurant and FTR each acknowledge and agree that: (a) FTR will inform the Restaurant of any changes or edits to the Profile; (b) FTR will not change or disable profile features without the Restaurant’s consent, (c) FTR will endeavor to provide the Restaurant with accurate information regarding its Profile, including the ability to distinguish it from data gathered from other platforms (if applicable), (d) FTR will not respond to any customer reviews without the Restaurant’s written consent, (e) in the event Google suggests updates to the Profile, FTR will consult with the Restaurant to verify that the data is still accurate, and (f) FTR will take commercially reasonable steps to ensure the integrity and security of the Profile. In the event the Restaurant wishes to discontinue FTR’s management of its Profile, Restaurant shall please send a message to support@takeawaynow.com or submit a help request from the merchant dashboard to disassociate from Google Business Profile. We will disassociate from your account, giving you exclusive control, within 7 Business Days of such request.
- 3.8. Promotional Programs: Future Program Changes.
- 3.8.1. *Future Program Changes*. From time to time during the Term, the Restaurant or FTR may desire to implement efficient enrollment processes that will enable you to automatically participate in new FTR products, promotions or services and/or effect changes to the terms pursuant to which we provide our services to such you (“**Future Program Changes**”).
- 3.8.2. *Enrollment*. You agree that we may enroll you in Future Program Changes in the form of an opt-in, an opt-out, or mass sign-up system (“**Enrollment Protocol**”), provided that we shall administer such Enrollment Protocol in compliance with Law.
- 3.9. Third-Party Add-On Features. From time to time, FTR may make available third-party add-on features (“**Third-Party Add-On Features**”) for use with the FTR Products. Third-Party Add-On Features are not included within the definition of FTR Products under the Agreement, and FTR hereby expressly disclaims all warranties, express, implied, or statutory, regarding

Third-Party Add-On Features, including but not limited to any implied warranties of merchantability, title, satisfactory quality or results, or fitness for a particular purpose and non-infringement. FTR also makes no representations or warranties regarding availability of any Third-Party Add-On Feature. Third-Party Add-On Features may be discontinued by FTR and/or the third-party provider at any time, with or without cause.

4. INTELLECTUAL PROPERTY AND LICENSE

- 4.1. Use of FTR Products. During the Term, FTR grants to the Restaurant a non-exclusive, royalty-free, non-assignable, non-transferable, non-sublicensable, revocable, limited license to access the FTR Products solely to transmit information to facilitate the processing of Orders in accordance with the terms of the Agreement. All intellectual property rights and other rights, title and interest in the FTR Products and other FTR materials and intellectual property will remain the exclusive property of FTR or its licensors.
- 4.2. FTR Product Restrictions. The Restaurant will not and will not permit or authorize any third party to: (a) sell, license, rent, resell, lease, assign (except as permitted herein), transfer, or otherwise commercially exploit the FTR Products or Services; (b) circumvent or disable any security or other technological features or measures of, or otherwise gain or attempt to gain unauthorized access to the FTR Product or Service; (c) reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code or the underlying ideas, algorithms, structure, or organization of the FTR Product; (d) use the FTR Services or Product in any manner or for any purpose that violates any Law; and (e) use the FTR Services or Product for a reason other than as specifically provided or intended under the Agreement.
- 4.3. Restaurant Content and Trademark; Photographs of Restaurant Products. Restaurant grants to FTR a royalty-free, non-exclusive, limited, revocable, and non-transferable right and license to use and display the Marks and any other content provided by or on behalf of the Restaurant in the provision of Services and for purposes of referencing Restaurant as a FTR client, or promoting FTR's Products and Services.
- 4.4. Photograph requirements. If photographs of Restaurant Products are not available or if they do not meet FTR's requirements, as reasonably determined by FTR, then the Restaurant consents to FTR: (i) enhancing the quality of Restaurant's existing photographs; (ii) using stock photographs of the Restaurant Products or other products; and/or (iii) using photographs from Restaurant's website or social media channels, and displaying such photographs on the applicable website as representations of Restaurant Products; provided that Restaurant may contact FTR support to have such photographs removed from the Restaurant's listing and, in such event, we will comply in a timely manner.
- 4.5. Copyright Infringement. If you believe that any of your work has been copied and posted on the FTR Products in a way that constitutes copyright infringement, please contact our support team at support@takeawaynow.com and provide the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright

interest; (b) a description of the copyrighted work that you claim has been infringed; (c) a description of the location on the FTR Products of the material that you claim is infringing; (d) your address, telephone number and e-mail address; (e) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (f) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

5. TERM AND TERMINATION.

5.1. Term. The Agreement will begin on the Effective Date and continue until terminated in accordance with the Agreement.

5.2. Termination. You may terminate the Agreement for any reason at any time upon seven (7) days' prior written notice to us. We may terminate the Agreement immediately for any reason at any time upon notice to you. Either Party may terminate the Agreement immediately, (a) in the event of a material breach by the other Party or (b) if the other Party ceases to do business, becomes insolvent, or seeks protection under any bankruptcy or comparable proceedings.

5.3. Effect of Termination. Termination of the Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the 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.

5.4. Survival. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination of the Agreement shall remain in full force and effect including the following: Clauses 3.2 (Fees), 3.3 (Other Fees) 3.4. (Invoicing) 3.5 (Payment) 3.6 (Taxes), 5 (Term and Termination), 6 (Representations, warranties, disclaimers and waivers), 7 (Indemnity), 8 (Insurance and Liability), 9 (Confidentiality), 10 (Data Privacy and Security), 11 (Governing Law, Arbitration, Class Action Waiver), and 12 (Notices and communications) and 13(Other Provisions).

6. REPRESENTATIONS, WARRANTIES, DISCLAIMERS AND WAIVERS.

6.1. Mutual Representations and Warranties. Each Party represents and warrants that:

6.1.1. it has the full right, power, and authority to enter into and perform its obligations under the Agreement;

6.1.2. its performance of its obligations under the Agreement will not result in a breach of any obligation to any third party;

6.1.3. such Party's content and materials owned, licensed, developed or used in performance of the Agreement do not knowingly infringe or violate any third-party intellectual property right;

- 6.1.4. it will obtain any necessary permits, consents, certificates, approvals, inspections, releases, authorizations, and licenses and/or file any registration forms (if any) in connection with performing its obligations under the Agreement; and
 - 6.1.5. it will comply with all applicable law, regulations, and rules in operating its business and performing its responsibilities hereunder (including, if applicable to Restaurant, all such Laws regarding health, food safety, sanitation, food packaging and labeling, including required consumer-facing warnings and calorie information).
- 6.2. Restaurant warranties. The Restaurant represents and warrants that:
- 6.2.1. it will inform FTR of any warnings, charges, opt-ins, and instructions related to Restaurant Products that become required in the future;
 - 6.2.2. if applicable, it will disclose common allergens in any Restaurant Products items listed on or sold through the Services;
 - 6.2.3. it will not include any regulated products (e.g., alcohol) (“Restricted Restaurant Products”) as a Restaurant Product available on a FTR platform, or request delivery of any Restricted Restaurant Products through the FTR Product;
 - 6.2.4. it will not disclose any information related to a Customer to a third party (except as required to comply with Law or pursuant to a court order);
 - 6.2.5. it will comply with the guidelines FTR may publish that govern any Restaurant content; and
 - 6.2.6. it shall not use the FTR Products for any purpose that is detrimental to FTR or its Affiliates.
- 6.3. Disclaimers. EXCEPT AS EXPRESSLY SET FORTH IN CLAUSE 6.1, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FTR HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, REGARDING ANY FTR PRODUCTS OR SERVICES, AND DISCLAIMS ALL WARRANTIES, EXPRESS IMPLIED, OR STATUTORY RELATED TO EQUIPMENT OR SERVICES PROVIDED TO THE RESTAURANT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, SATISFACTORY QUALITY, RESULTS, FITNESS FOR A PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT.
- 6.4. Errors. The Restaurant acknowledges that the operation of the Services and the FTR Products may from time to time encounter technical or other problems and may not necessarily continue uninterrupted or without technical or other errors and FTR shall not be responsible to the Restaurant or others for any such interruptions, errors, or problems or an outright discontinuance

of the FTR Order Platform, Restaurant Platform or other FTR Product or Service. FTR does not give any guarantee of results with respect to the FTR Products or Services.

6.5. Future assurances. Both Parties acknowledge that neither party has any expectation or has received any assurances for future business or that any investment by a Party will be recovered or recouped or that such Party will obtain any anticipated amount of profits by virtue of the Agreement.

6.6. Compliance with Local Laws. Each Party agrees to comply with applicable local laws and guidelines (“Local Laws”) currently in effect or enacted in the future. It shall be each Party’s responsibility to identify and comply with any additional laws that apply to their operations.

7. INDEMNIFICATION.

7.1. Indemnification. The Restaurant will, at its own expense defend FTR, and its Affiliates, respective officers, directors, shareholders, Personnel, successors, and permitted assigns, to the fullest extent permitted by Law, and also indemnify FTR for any and all Losses arising out of any third-party claim that alleges or results from (each a “Claim”):

7.1.1. any breach of the Agreement by the Restaurant or its Personnel;

7.1.2. any negligence or more culpable act or omission of the Restaurant or Personnel (including any reckless misconduct) in connection with the performance of the Agreement;

7.1.3. any death or personal injury or damage to tangible or real property to the extent caused by the Restaurant or its Personnel;

7.1.4. any failure by the Restaurant to fulfil any Order or otherwise comply with its obligations to Customers;

7.1.5. Data Protection Losses and Damages arising out of or relating to the possession, use, disclosure, or transfer of Personal Data by the Restaurant, its Processors or sub-Processors (as each is defined in the GDPR), or its Personnel; and

7.1.6. any infringement or misappropriation of the intellectual property rights of any third party by the Restaurant’s services (including, the Restaurant content) or Marks.

7.2. Process. In the event of a Claim, FTR shall provide the Restaurant with:

7.2.1. prompt notice of the Claims, which in no event shall be later than thirty (30) calendar days after FTR knew that the Restaurant’s defense obligation had been triggered;

- 7.2.2. the option to assume control over defense of such Claim with counsel reasonably acceptable to FTR; and
- 7.2.3. reasonable assistance in connection with such defense and settlement of the Claim, at FTR's expense.
- 7.3. FTR may participate in the defense and settlement of a Claim at its own expense. The Restaurant shall not enter into any settlement agreement in relation to a Claim without FTR's express prior written consent.
- 7.4. Exclusions. Notwithstanding clause 7.1.6, the Restaurant shall have no duty to defend any third-party allegations of intellectual property infringement or misappropriation arising out of or related to the FTR Products.
8. INSURANCE AND LIMITATION OF LIABILITY.
- 8.1. Insurance. The Restaurant will maintain with financially sound and reputable insurers insurance with respect to its properties and business against such casualties and contingencies as shall be in accordance with general practices of businesses engaged in similar activities in similar geographic areas.
- 8.2. Liability. References to liability in this clause 8 include every kind of liability arising under or in connection with the Agreement including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 8.3. Direct Damages Only. Except with respect to the Restaurant's indemnification obligations under clause 7 which will not be subject to any limit or exclusion, neither Party will be liable to the other for consequential, special, incidental, punitive, exemplary, or indirect damages or for lost profits, lost revenues, harm to goodwill, or the costs of procuring replacement services, regardless of whether such damages were foreseeable.
- 8.4. Limitation. Except in the event of willful misconduct the total liability of FTR to the Restaurant under or in connection with the Agreement shall be limited to the lesser of the aggregate amount of Fees paid by the Restaurant over the preceding six month period or €10,000.
- 8.5. Exclusions. Nothing in this clause 8 shall limit the Restaurant's obligations to pay the Fees or either Party's liability which cannot legally be limited by Law including but not limited to liability for:
- 8.5.1. death or personal injury caused by negligence;
- 8.5.2. fraud or fraudulent misrepresentation; and

8.5.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

9. CONFIDENTIALITY.

9.1. Precedence. The terms of this clause 9 supersede any non-disclosure or confidentiality agreement entered into by the Parties prior to the Effective Date of the Agreement.

9.2. Confidential Information. Confidential Information includes information about the Discloser's business, including product designs, product plans, software and technology, financial information, marketing plans, business opportunities, pricing information, discounts, inventions, and know-how, to the extent disclosed to the Recipient hereunder, and all other information that the Recipient knew, or reasonably should have known, was Confidential Information of the Discloser. Confidential Information also includes the terms and conditions of the Agreement and the existence of the discussions between the Parties. Confidential Information includes trade secrets as defined under applicable law.

9.3. Exclusions. Confidential Information does not include information that: (a) is independently developed; (b) is or becomes public knowledge through no breach of the Agreement; or (c) is received from a third party who to the Recipient's knowledge did not have a duty of confidentiality.

9.4. Recipient Obligations. The Recipient shall: (a) use Confidential Information only as necessary to perform its obligations and/or exercise its rights under the Agreement; (b) hold Confidential Information in strict confidence and take reasonable precautions to protect such Confidential Information (including, without limitation, all precautions Recipient employs with respect to its own confidential materials); (c) not divulge any Confidential Information to any third party except as provided herein; and (d) not copy or reverse engineer any materials disclosed under the Agreement, or remove any proprietary markings from any Confidential Information.

9.5. Recipient Personnel. The Discloser acknowledges that the Recipient's Personnel may have access to the Discloser's Confidential Information. Any such Recipient Personnel given access to any Confidential Information must have a legitimate "need to know," and the Recipient shall remain responsible for Recipient Personnel's compliance with the terms of the Agreement.

9.6. Disclosure of Confidential Information. A Recipient may disclose Confidential Information as compelled by a court or regulator of competent authority, provided that the Recipient provides the Discloser with prompt written notice of such request, to the extent such notice is legally permissible and reasonably practicable.

10. DATA PRIVACY AND SECURITY.

10.1. Data Protection Provisions. The Parties agree to comply with the data protection provisions set out in Annex A of the Agreement.

10.2. Use; Access. Without prejudice to the terms set out in Annex A, the Restaurant agrees not to access, collect, store, retain, transfer, use, disclose, or otherwise process in any manner data or information made available by FTR, including without limitation Personal Data, (“**FTR Data**”) except as required to perform under the Agreement. The Restaurant shall keep FTR Data secure from unauthorized access and maintain the accuracy and integrity of FTR Data in Restaurant’s custody or control by using appropriate organizational, physical and technical safeguards. If the Restaurant becomes aware of any unauthorized access to FTR Data, the Restaurant will immediately notify FTR, consult and cooperate with investigations and potentially required notices, and provide any information reasonably requested by FTR. The Restaurant agrees to implement and use security procedures, protocols or access credentials as reasonably requested by FTR and will be responsible for damages resulting from the Restaurant’s failure to comply. The Restaurant will not allow any third party to use the FTR Product and will be responsible for damages resulting from sharing the Restaurant’s login credentials with unauthorized third parties or otherwise permitting unauthorized access to the Restaurant’s account. The Restaurants may not allow any third party to copy, modify, rent, lease, sell, distribute, reverse engineer, or otherwise attempt to gain access to the source code of the FTR Product; damage, destroy or impede the services provided through the FTR Product; transmit injurious code; or bypass or breach any security protection on the FTR Product. For purposes of clarity, FTR Data is the Confidential Information of FTR.

10.3. Obligations. The Restaurant will employ reasonable administrative, technical, organisational, and physical safeguards, that are designed to: (a) ensure the security and confidentiality of the FTR Data and any other Personal Data processed by the Restaurant in relation to the performance of the Agreement; (b) protect against threats or hazards to the security or integrity of such FTR Data and Personal Data; (c) protect against unauthorized access to or use of such FTR Data and Personal Data; and (d) ensure the proper disposal or destruction of such FTR Data and Personal

10.4. Data Protection Laws. Each Party shall at all times comply with applicable data privacy and security Laws. If the Recipient becomes aware of any unauthorized access to or loss of Personal Data, it shall promptly report such incident to the Discloser and take appropriate remedial actions.

10.5. Malware. Each Party agrees not to perform any action with the intent of introducing to the other Party’s systems, products or services any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature. Each Party further agrees it shall refrain from using the Services to carry out any fraudulent, criminal or illegal activity.

11. GOVERNING LAW & DISPUTE RESOLUTION.

PLEASE READ THE FOLLOWING CLAUSE 11 CAREFULLY. IT REQUIRES YOU TO ARBITRATE DISPUTES WITH US AND LIMITS THE MANNER IN WHICH YOU CAN SEEK

RELIEF. THIS CLAUSE OF THE AGREEMENT SHALL BE REFERRED TO AS THE “ARBITRATION AGREEMENT.”

- 11.1. Scope of Arbitration Agreement. Any dispute, claim or controversy arising out of, relating to, or in connection with the Agreement, including the breach, termination, enforcement, interpretation or validity thereof (as well as the determination of the formation, scope, or applicability of the Arbitration Agreement in clause 11) or the relationship between the Parties (“Dispute”) shall be finally resolved by binding arbitration except claims for injunctive relief arising out of the infringement or other misuse of intellectual property rights (such as a Party’s Marks or FTR IP) or confidential information (“**Injunctive Relief Claims**”), provided that good-faith, informal efforts, personally meeting and conferring, via telephone or videoconference, to resolve informally any claim covered by this mutual Arbitration Agreement (the “**Informal Dispute Resolution**”) does not manage to resolve the Dispute.
- 11.2. The Parties agree that, because both are business entities that mutually benefit from streamlined and confidential resolution, this Arbitration Agreement shall apply to all Disputes (excluding Injunctive Relief Claims) and shall be binding upon and enforceable by the Parties. This Arbitration Agreement shall apply, without limitation, to all Disputes that arose or were asserted, whether before or after the Effective Date of the Agreement.
- 11.3. The Parties agree that, before either Party demands arbitration against the other in relation to the Dispute, they will first try to resolve the Dispute by way of an Informal Dispute Resolution. The Party initiating the claim must give notice to the other Party in writing in accordance with clause 12.1 to initiate an Informal Dispute Resolution conference and must provide its name, telephone number, email address, and a description of the claim (“**IDR Notice**”). The Informal Dispute Resolution Conference will take place not later than ten (10) Business Days after the receipt of the IDR Notice. In the interval between FTR or the Restaurant receiving such IDR Notice and the Informal Dispute Resolution conference, the Parties shall be free to attempt to resolve the initiating party’s claims.
- 11.4. Mediation: Arbitration Rules and Forum. If in a period no longer than thirty (30) Business Days from the date of the IDR Notice (“**IDR Period**”) the Dispute has not been resolved, either Party may begin an arbitration proceeding. That Party must send notice in accordance with clause 12.1 of an intent to initiate arbitration and certifying expiry of the IDR Period.
- 11.5. All Disputes (other than Injunctive Relief Claims) arising out of or in connection with the Agreement, the parties agree to submit the matter to settlement proceedings under locally applicable mediation rules. If the dispute has not been settled pursuant to the said rules within thirty (30) Business Days following the filing of a request for mediation or within such other period as the parties may agree in writing, such dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with the said Rules of Arbitration. The proceedings will be heard in English in the city of Dublin, Ireland. The Emergency Arbitrator Provisions shall not apply. The parties agree to keep confidential the existence of the arbitration, the arbitral proceedings, the submissions

made by the parties and the decisions made by the arbitral tribunal, including its awards, except as required by applicable law and to the extent not already in the public domain.

11.6. Nothing in this clause 11 shall prevent a party from applying for injunctive relief arising out of the infringement or other misuse of intellectual property rights or confidential information.

11.7. Waiver of Class or Consolidated Actions; Severability. YOU AND FTR AGREE TO WAIVE ANY RIGHT TO RESOLVE CLAIMS WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT ON A CLASS, COLLECTIVE, OR REPRESENTATIVE BASIS. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE RESTAURANT CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER.

11.8. Governing Law. The Agreement shall be governed by and construed in accordance with the laws of Ireland, without regard to its conflict of laws principles.

12. NOTICES AND OTHER COMMUNICATIONS

12.1. Notices. Legal notices to either Party shall be sent in the case of the Restaurant, to the applicable address or email address on the Restaurant Portal, or in the case of FTR, to support@takeawaynow.com or From the Restaurant, S.L. c/o Regus Maria de Molina, 8th floor Maria de Molina 39, Madrid, Comunidad de Madrid, 28006, Spain or such other address or email address as the Party communicates in writing.

12.2. Communications from FTR. The Restaurant agrees to receive communications from FTR and its Affiliates, including via email, text message, calls, and push notifications to the mobile telephone number Restaurant provides to FTR. Restaurant also agrees that it may receive communications generated by automatic telephone dialing systems which may deliver pre-recorded messages. FTR acknowledges that it can opt out of promotional SMS at any time by texting "STOP." Message and data rates may apply.

13. OTHER PROVISIONS

13.1. Litigation Class Action Waiver. To the extent allowed by Law, separate and apart from the Arbitration Agreement found in clause 11, you agree that any proceeding to litigate in court any Dispute, whether because you opted out of the Arbitration Agreement or any other reason, will be conducted solely on an individual basis, and you agree not to seek to have any controversy, claim or Dispute heard as a class action, a representative action, a collective action, a private attorney-general action, or in any proceeding in which you act or propose to act in a representative capacity ("**Litigation Class Action Waiver**"). You further agree that no proceeding will be joined, consolidated, or combined with another proceeding, without the prior written consent of all Parties to any such proceeding. The enforceability of this Litigation Class

Action Waiver shall only be determined by a court of competent jurisdiction. If a court of competent jurisdiction determines that all or part of this Litigation Class Action Waiver is unenforceable, unconscionable, void, or voidable with respect to a particular claim or Dispute, then all such claims or Disputes will be resolved in court, after the conclusion of the arbitration of any arbitrable claims or Disputes, and the remainder of this Arbitration Agreement shall remain in full force and effect.

- 13.2. Relationship of the Parties. Notwithstanding any provision herein to the contrary, each Party is an independent contractor with respect to its performance of its obligations hereunder. Save for the appointed of FTR as agent of the Restaurant in accordance with the Agreement, nothing contained herein is deemed to create the relationship of partnership, principal, and agent, or joint venture between the Parties. Neither Party has any right or authority to incur obligations of any kind in the name of, or for the account of, the other Party nor to commit or bind the other Party to any contract or other obligation save that the Restaurant appoints FTR as its agent to accept Orders from Customers and to bind the Restaurant to such Orders. Save as set out in the Agreement, under no circumstances is either Party considered to be, nor will either Party hold itself out as, an employee, agent, franchisee, or joint venturer of the other Party.
- 13.3. Force majeure. FTR shall not be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 13.4. Third party rights. Unless it expressly states otherwise, the Agreement does not give rise to any third parties to enforce any term of the Agreement.
- 13.5. Entire Agreement. The Agreement and the attached Annex represents the entire agreement between FTR and Restaurant with respect to the subject matter hereof and supersedes all prior agreements with respect to the subject matter hereof.
- 13.6. Assignment. Neither Party may assign the Agreement, or any of its rights or obligations under the Agreement, without the prior written consent of the other Party, which consent may not be unreasonably withheld, and any attempted assignment without such consent will be void; provided that either Party may assign the Agreement without such consent, to an Affiliate, or in connection with any merger, consolidation, sale of all or substantially all of the assigning Party's assets, or any other similar transaction. Subject to the foregoing in this clause 13.6, the Agreement will be binding upon, and inure to the benefit of, the permitted successors and assigns of each Party. The Agreement will not confer any rights or remedies upon any person other than the Parties, their respective successors, and permitted assigns.
- 13.7. Severance. If any provision of the Agreement is held to be invalid, illegal, or unenforceable for any reason, such invalidity, illegality, or unenforceability will not affect any other provisions of the Agreement, and the Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

- 13.8. No waiver. Save for the waivers expressly stated in these Terms of Service, a waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a Party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 13.9. Variation. FTR may vary these Terms of Service from time to time by placing an updated version of the Restaurant Portal. The Terms of Service which will apply in relation to an Order or the provision of other Services under the Agreement will be the Terms of Service in force at the date of the Order is accepted or the Service is provided.

14. DEFINITIONS.

The following definitions apply to the Agreement:

- 14.1. “**Affiliate**” means an entity controlled by, controlling or under common control with a Party.
- 14.2. “**Business Day**” means any day (excluding Saturday and Sunday) on which banks are generally open for business in Ireland.
- 14.3. “**Change in Law**” means a material change in (or change in enforcement thereof) Law, labor standard or unionization pertaining to the Services.
- 14.4. “**Commission**” means the fee FTR charges Restaurant for an Order, which is calculated by multiplying (i) the applicable Commission Rate by (ii) the subtotal for the Restaurant Products ordered by the Customer, excluding all applicable taxes and other governmental fees and surcharges.
- 14.5. “**Commission Rate**” means the percentage indicated in the definition of Fee for the applicable FTR Product, that FTR shall charge Restaurant on each Order.
- 14.6. “**Confidential Information**” means all confidential, proprietary, or nonpublic information provided by the Discloser to the Recipient that a reasonable industry participant would deem to be confidential, as further described in clause 10.
- 14.7. “**Customer**” means the end user accessing the FTR Product to place an Order.
- 14.8. “**Discloser**” means the Party disclosing Confidential Information.
- 14.9. “**Dispute**” means any dispute, claim or controversy arising out of, relating to, or in connection with the Agreement, including the breach, termination, enforcement, interpretation or validity thereof (as well as the determination of the formation, scope, or applicability of the Arbitration Agreement in clause 11) or the relationship between the Parties.
- 14.10. “**FTR Data**” means any information that FTR provides or makes accessible to Restaurant, including Personal Data.
- 14.11. “**FTR IP**” includes all patents, patent applications, inventions, copyrights, trade secrets, Marks, ideas, images (including descriptions of such images), domain names, and any and all other works and materials developed by FTR (including all intellectual property rights therein and thereto), and similar rights owned by FTR that are embodied in the FTR Product or any other FTR technology or platform.

- 14.12. “**FTR Product**” means the FTR Order Portal, the Restaurant Portal and other FTR technology that Restaurant accesses or FTR provides, in each case, that will allow information to be exchanged between Restaurant (which may include Restaurant Applications and/or a Third Party Platform) and FTR. References to the “FTR Product” include the FTR Product Documentation.
- 14.13. “**FTR Product Documentation**” means documentation, specifications, and other materials (whether written or electronic) that describe the operation or function of a FTR Product.
- 14.14. “**FTR Order Portal**” has the meaning given in clause 1.2.
- 14.15. “**Fee**” means one of the following Commission Rates, exclusive of VAT: (a) online order service 15% (per order); (b) marketplace application 18% (per order); or (c) technology driven partnership 15% - 25% (per order); plus, as applicable, one or more of the following fees or Commission Rates: (x) relay 10% (per order), (y) marketing / management / rewards - \$9.99 (per statement period); and (z) broken Order Equipment if such equipment is not returned in a timely manner as set forth in clause 2.6 above. This may include separate fees for different Order types, if applicable.
- 14.16. “**including**” means “including without limitation”.
- 14.17. “**Informal Dispute Resolution**” means “good-faith, informal efforts, personally meeting and conferring, via telephone or videoconference, to resolve informally any claim covered by this mutual Arbitration Agreement.
- 14.18. “**Law**” means all laws, statutes, ordinances, rules, regulations, permits, certificates, judgments, decisions, decrees, or orders of any governmental authority applicable to the referenced Party.
- 14.19. “**Licensee**” means the Party receiving the license described in clause 4.
- 14.20. “**Licensor**” means the Party granting the license described in clause 4. As it pertains to FTR, an Affiliate of FTR may be considered a “Licensor” hereunder.
- 14.21. “**Losses**” means the resulting judgments, fines, settlements, court costs, and attorneys’ fees that are incurred by FTR, in each case finally awarded by a court of competent jurisdiction.
- 14.22. “**Marks**” means the corporate names, trade names, trademarks, service marks, and logos (including third-party marks to which the Licensor has rights and uses in its business).
- 14.23. “**Restaurant Application**” means the software and/or system(s) that are used by Restaurant (if any) to provide digital order solutions and services to Customers generally, including Restaurant’s website (being either New Website or an Existing Website).
- 14.24. “**Restaurant Content**” includes, without limitation, menus, photographs (either provided by Restaurant or on Restaurant’s website), business information and Restaurant Product descriptions (either provided by Restaurant or on Restaurant’s website), trademarks, logos, Restaurant name, location, url, phone number, and other materials provided by Restaurant to FTR.
- 14.25. “**Restaurant Data**” means any information that Restaurant provides or makes accessible to FTR, including Personal Data.
- 14.26. “**Restaurant Location**” means the Restaurant store, location, warehouse, or restaurant that are within the territory serviced by FTR and includes: (a) Restaurant Locations owned and operated by Restaurant and/or its affiliates, and/or (b) Restaurant Locations owned and operated by franchisees of Restaurant or its affiliates which have signed the Franchisee Agreement.

- 14.27. “**Restaurant Portal**” means the portal made available by FTR to Restaurant which provides Restaurant with Order sales information and other functionality in connection with Restaurant’s relationship with FTR. For purposes of the Agreement, the Restaurant Portal is a FTR Product.
- 14.28. “**Restaurant Product**” means the products (e.g., food, beverages) prepared, distributed, or sold by Restaurant.
- 14.29. “**Personnel**” means a Party’s employees, agents, contractors, or subcontractors.
- 14.30. “**Order**” means delivery orders and pick up orders collectively.
- 14.31. “**Order Equipment**” means any equipment reasonably required by FTR for a Restaurant to receive, process and accept Orders (including a tablet or other technology capable of receiving Orders and a receipt printer).
- 14.32. “**Party**” means FTR or Restaurant, as the context requires.
- 14.33. “**Personal Data**” means any information that (a) relates to an identified or identifiable natural person (including names, telephone numbers, addresses, signatures, email addresses, and/or other unique identifiers); or (b) that can reasonably be used to identify or authenticate an individual, directly or indirectly (including name, contact information, precise location information, access credentials, persistent identifiers, and any information that may be considered ‘personal data’ or ‘Personal Data’ under applicable law, including, if applicable, the General Data Protection Regulation (“GDPR”)), which is collected and/or handled by any of the Parties in connection with the Agreement.
- 14.34. “**Recipient**” means the Party receiving Confidential Information.
- 14.35. “**Term**” means the period from the Effective Date until the date of termination.
- 14.36. “**Third Party Platform**” means a third party’s technology interface, such as a middleware technology platform, other than the FTR Product and Restaurant Applications, that enables Restaurant to request delivery fulfillment and/or provide information necessary to enable such delivery fulfillment.

Annex A

Data Protection

There are two activities in connection with which FTR shares Personal Data with the Restaurant. The first consists of making it possible for the Restaurant to process and fulfill Orders, and the second consists of helping the Restaurant to offer a better experience as well as to resolve relevant complaints.

1. DEFINED TERMS

1.1 In this Annex:

“**Supervisory Authority**” means any agency, department, officer, parliament, public law person or any government or professional body, authority, council or other regulatory or supervisory body, local, national or multinational, responsible for the application of the Data Protection Regulations.

“**Data Protection Regulations**” means all applicable Laws imposing an obligation in relation to the collection, use, disclosure, storage or transmission of personal information (including health information), including any codes, principles or guidelines contained in or arising out of such Laws, including:

- (a) any laws or regulations implementing EU Directives 95/46/EC (Data Protection Directive) or 2002/58/EC (Data Protection Directive in the electronic communications sector);
- (b) the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) and all applicable laws of Member States giving effect to, or corresponding to, the GDPR, including the Law Data Protection Act 2018 in the United Kingdom;
- (c) any judicial or administrative interpretation of any of the above regulations, as well as any guidelines, instructions, code of practice, authorized code of conduct or approved certification mechanism that have been issued by any relevant Supervisory Authority, in each of the cases, as they are current and applicable.

“**Data Protection Losses and Damages**” means all liabilities and obligations, including: (a) costs (including legal costs), claims, demands, actions, settlements, charges, proceedings, expenses, losses and compensation for damages; and (b) to the extent permitted by the applicable legal system: (i) administrative sanctions, fines, penalties, obligations, liabilities and other remedial measures imposed by a Supervisory Authority or any other regulatory authority; (ii) compensation to an Interested Party imposed by a Supervisory Authority, a court or other jurisdictionally competent tribunal; and (iii) the costs of compliance with investigations by the Supervisory Authorities or any other competent regulatory authority.

“**Data Claim**” means a claim or request relating to the obligations of either party in accordance with the provisions of the Data Protection Regulations that are relevant to Personal Data, including any claim for compensation brought by an Interested Party or any notification, investigation or other action carried out by a Supervisory or Regulatory Authority.

“**Controller**”, “**Interested**”, and “**Processing**” will all have the meanings attributed to them in the Data Protection Regulations (and related cognate terms such as **treat or process** will have corresponding meanings accordingly).

“**Personal Data**” has the meaning set forth in the Terms of Service.

“**Personal Data Breach**” means a breach of security or other action or inaction that results in accidental or unlawful destruction, loss or alteration of, or unauthorized communication or access to, Personal Data.

2. OPERATION

2.1 FTR must provide the Restaurant with information about the Customer's Order that is sufficiently detailed so that the Restaurant can process and fulfill the Order.

2.2 If the Restaurant reasonably requests access to Personal Data after the date of the Agreement for lawful purposes in order to: process a Customer Data Claim; or respond to a Request Made by a Data Subject, FTR shall, upon written request, provide the Restaurant with access to the Personal Data to the extent necessary for the Purpose.

3. DATA PROCESSING OBLIGATIONS

3.1 The parties acknowledge and agree that, in relation to Personal Data, each of the parties is a joint Data Controller

3.2 Each of the Parties must comply with the Data Protection Regulations and the obligations incumbent on said party under the provisions of the Agreement in connection with the Processing of Personal Data. Where required under applicable Data Protection Regulations, each of the Parties shall enter into any agreements (*e.g.*, data processing agreements or joint controller arrangements) with third parties or subcontractors and/or notify data subjects about the essence of such arrangements.

3.3 The applicable Data Protection Regulations may change in the future, or may be scheduled to change, in a way that would cause either party to consider that the Agreement is no longer adequate for the purpose set forth herein. In such circumstances, and upon request by either party, the parties (acting reasonably and by mutual agreement) will meet without delay to negotiate, agree and document the corresponding changes to the Agreement.

3.4 Each party is separately responsible for answering requests it receives from a data subject and therefore may deal, at its discretion, with all data subject requests and Data Claims received directly from the data subject or the person making the Data Claim. FTR and Restaurant shall mutually assist each other with commercially reasonable means in case of any such request.

3.5 In relation to any Personal Data Breach (actual or suspected) relating to the Personal Data, the Restaurant shall notify FTR of the breach without undue delay (and in no event in a period exceeding 24 hours from the time you become aware of the Personal Data Breach) and must provide FTR, without undue delay (where possible, within 24 hours from the time you become aware of the breach) all details relating to the breach that FTR reasonably requires.

3.6 To the extent permitted by the applicable legal system, neither party shall notify the Supervisory Authority or the Data Subject of any Personal Data Breach; or issue any public statement or otherwise notify any Data Subject of any Personal Data Breach, without having previously consulted with, and obtained the consent of, the other party, which consent will not be unreasonably withheld or delayed. Restaurant and FTR are separately responsible for complying with applicable Data Protection Regulations regarding providing notification to the supervisory data protection authority and, where applicable, to the affected data subjects in the case of any breach of security leading to the destruction, loss, alteration, unauthorized disclosure of or access to personal data.

3.7 The Restaurant will not retain or process any Personal Data for a period longer than is necessary or, if longer, for the period necessary to fulfill its binding obligations under the law or by contract.

3.8 Each party shall provide reasonable assistance, information and cooperation in connection with the Personal Data to the other party, in order to help the other party ensure compliance with its obligations under the Data Protection Regulations of data protection.