



## STANDARD VENDOR TERMS AND CONDITIONS

These Standard Vendor Terms and Conditions are entered into by and between EAT Club Inc., having a business address of 1400A Seaport Boulevard, Ste. 400, Redwood City, CA 94063 (“**EAT Club**”) and the Vendor specified in the Vendor Agreement by and between EAT Club and Vendor, as of the Effective Date set forth in the Vendor Agreement. These Standard Vendor Terms and Conditions and the Vendor Agreement are collectively the “**Agreement.**” Terms used but not defined in these Standard Vendor Terms and Conditions have the meaning given them in the Vendor Agreement.

EAT Club and Vendor agree as follows:

1. **Service and Compensation of Vendor.** Vendor will provide food production for EAT Club and deliver packaged meals (or meal components) (“**Meals**”) as designated by EAT Club, and EAT Club will pay Vendor for such services, all as provided the Agreement.
2. **Meal Fees.** Vendor will procure and pay for all food, supplies, and labor used to create the Meals it provides to EAT Club hereunder. The amounts charged by Vendor for Meals ordered by EAT Club hereunder (“**Meal Fees**”) and a description of the Meals (as further described in Section 4 below) will be specified in one or more schedules that are attached to the Vendor Agreement and/or will be mutually agreed in writing (email acceptable) by the parties after the Effective Date (each, a “**Meal Description and Pricing Schedule**”); all Meal Description and Pricing Schedules are incorporated by reference in the Agreement and may be modified or updated only as mutually agreed by the parties in writing (email acceptable).
3. **Payment; Taxes.** EAT Club will remit to Vendor all Meal Fees according to the applicable Meal Description and Pricing Schedule for the quantity of Meals ordered from Vendor. Except as otherwise provided herein, EAT Club acknowledges that any discounts or rebates provided to customers will be the sole responsibility of EAT Club, and any such discounts or rebates will not affect the Meal Fees to be remitted to Vendor. EAT Club will remit to Vendor payment of the Meal Fees for a particular day within 30 business days from the day of receipt of the Meals or, if mutually agreed in writing (email acceptable) by the parties, 30 days from receipt of the invoice; batched payments will be sent to Vendor via debit card, direct deposit or check, according to the preference of EAT Club, on an approximately weekly basis. EAT Club will invoice and collect from customers any applicable sales taxes, and remit such taxes to the applicable tax authorities.
4. **Meal Descriptions.** EAT Club may offer to its customers Meals that Vendor has listed and described (“**Meal Descriptions**”) in the Meal Description and Pricing Schedules. For each Meal listed in the Meal Description, Vendor shall complete an EAT Club Allergy Matrix (“**Allergy Matrix**”) which will include a high-level description of the dish and its preparation, a complete ingredient list (in descending order of predominance by weight), allergen list, weight of key components, and total weight. Vendor will provide brand names of any items that are used in the preparation of the meals. Vendor represents, warrants, and covenants that the EAT Club Allergy Matrix and the Meal Descriptions (including any changes referenced in this sentence or otherwise mutually agreed by the parties in writing) are accurate, and it will notify EAT Club at least two (2) weeks in advance in writing of any changes to such information.
5. **Packaging.** Packaging will be provided as set forth in the Vendor Agreement.
6. **Order Communications.** Order communications will be made by the parties by email or through the EAT Club partner portal (the “**Portal**”), as determined by EAT Club. Orders for a given day will be communicated by EAT Club to Vendor on a consolidated basis and not customer-by-customer. Vendor will acknowledge

each order communication upon receipt, and will confirm all orders via email or the Portal (as applicable), including confirmation of quantity ordered and the location where Vendor will deliver the order to EAT Club (each an “**Order Confirmation**”).

- EAT Club will provide an estimated schedule to Vendor via email or the Portal (as applicable) of items it plans to offer on what days, 10 to 14 days in advance of the date it expects to begin offering the Meals to customers.
- An estimated order quantity forecast will be provided by EAT Club by no later than 5 pm one business day prior to the date on which Meals are to be delivered and final order quantities will be provided by EAT Club via email or the Portal (as applicable) by no later than 9 am on the date on which Meals are to be delivered. Vendor will confirm the estimated and final order quantities via email or the Portal (as applicable) within 30 minutes of such information being sent by EAT Club.

If Vendor cancels all or part of an order within 48 to 24 hours prior to 8:01 am on the Meal service date, EAT Club may charge Vendor for, and Vendor will promptly pay EAT Club, 25% of the projected cancelled order value (calculated as the price at which EAT Club would have sold all cancelled Meals), and if it cancels all or part of an order less than 24 hours prior to 8:01 am on the Meal service date, EAT Club may charge Vendor for, and Vendor will promptly pay EAT Club, 100% of the cancelled order value; at its option, EAT Club may instead offset any such amounts owed to Vendor.

## 7. **Meal Preparation.**

Unless otherwise specified in the Vendor Agreement:

For Meals intended to be served cold, the Meal must remain refrigerated at lower than 41F — whether within Vendor’s or (if previously arranged by the parties) EAT Club’s facility – at least until 9 am the day of delivery as specified in California Retail Food Code section 113996(a).

For Meals intended to be served hot, the Meal must be either prepared or removed from a hot-holding oven, and remain at a temperature greater than 140 F — whether at the Vendor’s or (if previously arranged by the parties) EAT Club’s facility — at least until 9am on the day of delivery as specified in California Retail Food Code section 113996(a).

Meals not controlled by the above temperature requirements must be prepared or removed from temperature control no earlier than 9 am the day of delivery.

Vendor will ensure that all Meals are marked with a ‘consume or refrigerate by’ time of 1 pm; meals are controlled under Time and the Public Health Control requirements specified in California Retail Food Code section 114000 (a).

Vendor is solely responsible for identifying and implementing all necessary and recommended measures to ensure food quality and food safety until delivered to or picked up by (as applicable) EAT Club. Vendor has identified and disclosed to EAT Club, in advance and in writing, any controls (e.g., time/temperature controls) needed or recommended to ensure food quality and safety and protect against deterioration in the safety or quality of Meals during EAT Club’s storage or transportation of Meals.

8. **Container Labeling.** Each individual Meal provided by Vendor will be packaged and sealed by Vendor. EAT Club will create Meal labels that are consistent with the Meal Descriptions and the information Vendor is required by EAT Club to provide pursuant to the Agreement, including ingredients, allergens, food safety handling instructions, and ‘consume by’ time of 1 pm the same day (“**Meal Labels**”); Vendor represents, warrants, and covenants that all such information required to be provided by Vendor to EAT Club pursuant to the Agreement, including without limitation, the Meal Description and Pricing Schedule and the Allergy Matrix, will at all times be true, complete, and correct and in compliance with the EAT Club requirements. In addition, EAT Club will provide Vendor with both the electronic file and paper material needed to print the Meal labels. Vendor is responsible for printing and affixing labels to the correct Meals prior to delivery

to EAT Club. For each Meal delivered without, or with incorrect, Meal Labels, EAT Club may, in addition to other rights and remedies, decrease the Meal Fees to be remitted to Vendor by 25%.

9. **Delivery; Pickup.** Certain delivery and pickup timing specifications and requirements are set forth in the Vendor Agreement.

10. **Nonconforming and Late Meals.**

*Late Meals.* For each Meal that Vendor delivers late to EAT Club or that is not ready for pickup by EAT Club at the specified time on a particular day, EAT Club may reduce the Meal Fees remitted to Vendor for such Meals by the following percentages:

- 10-20 minutes late: 25% reduction
- 21-30 minutes late: 35% reduction
- 31-45 minutes: 50% reduction
- >45 minutes: 100% reduction

*Nonconforming Meals.* For those Meals that are either: a) inconsistent with the Meal Description, b) determined to be a food safety risk, or c) delivered or not ready for pickup (as applicable) more than 45 minutes late, EAT Club will, without waiving other rights and remedies, reduce the Meal Fees it is required to remit to Vendor for such Meals by 100% and Vendor shall additionally pay EAT Club 200% of the Meal Fees to cover the costs associated with sourcing a last-minute replacement Meal and customer refunds.

11. **Compliance; Noncompliance.** Vendor will immediately (and in all cases within 24 hours) notify EAT Club of incidents impacting availability, timing, and/or portioning of Meals and correct such incident. Without limiting rights and remedies available to EAT Club, Vendor will explain to EAT Club the cause of the incident and how it will be prevented in the future.

Vendor will immediately (and in all cases within 12 hours) notify EAT Club of: any issues that do or may negatively impact food quality or safety (including a failure in hazard control or other condition that may have rendered Meals provided or intended to be provided unsafe), noncompliance with Laws (defined below) by Vendor or its suppliers, a failure to pass an audit or inspection conducted by an accredited third party or Health Authority (defined as any regulatory authority that enforces, administers, interprets, promulgates or issues Food Laws (defined below), including the FDA, USDA, and state and local departments of health, agriculture, human safety, food safety and food services), or receipt of a Health Notice (defined below) that may affect Meals (each, a “**Major Incident**”). Such notice shall be provided in writing by email and over the telephone to Vendor’s EAT Club representative. Vendor will not deliver the affected or potentially affected Meals (or, if requested by EAT Club, any other Meals) unless and until instructed by EAT Club in writing to do so. Vendor will pay EAT Club for any meals not delivered pursuant to this provision as provided in Section 10. “**Health Notice**” means any (i) written communication from a Health Authority that provides Vendor with notice of actual or suspected non-compliance or non-conformance with Food Laws, (ii) Establishment Inspection Report score of less than A or <86, a temporary pass, or substantially similar written findings, (iii) notice of violation, (iv) FDA Form 483 or substantially similar written observations, (v) warning letter, (vi) “Dear Manufacturer” Letter”, (vii) written notification of conditions at a facility or in vehicles owned or operated by, or on behalf of, Vendor that are not in compliance with Food Laws, (viii) written communication from a Health Authority that imposes or threatens to impose an enforcement action on Vendor, or (ix) written communication from a Health Authority that notifies Vendor of any investigation of it, or a facility or vehicles owned or operated by it or on its behalf, or of its food, for non-conformance to or non-compliance with any Food Law. For the avoidance of doubt, if any of the preceding types of communications is received by Vendor in reference to a facility, equipment, or vehicle owned or operated by it or on its behalf, and the facility, equipment or vehicle is used for processing, production, preparation, packaging, labeling, storage, distribution, transportation, handling, sale, or service of any food product intended for human food consumption in the U.S., the communication shall be considered a Health Notice, even if food was not present in the facility, equipment, or vehicle during the period that gave rise to the communication and/or food was not cited as , or was explicitly disclaimed as, a reason that the communication was issued.

In addition to, and without limiting, any other rights and remedies available to EAT Club, in the event of a Major Incident: (i) EAT Club may perform an onsite audit, including to ensure remediation, (ii) EAT Club may terminate the Agreement immediately with the option of canceling future scheduled orders without penalty, and (iii) Vendor will explain to EAT Club the cause of the Major Incident and how it will be prevented in the future.

EAT Club has the right to inspect Meals for quality and safety including temperature requirements.

In addition to the requirements above, at EAT Club's request, Vendor will provide EAT Club with a full list of its food and packaging vendors. EAT Club has the right to inspect Vendor's food preparation and packaging facility, during normal business hours, to ensure compliance with the Agreement and any applicable health and/or safety standards and Laws. Vendor shall correct any deficiencies, within a reasonable timeframe, at its cost. In the event that the parties determine that a Meal recall or withdrawal is necessary, Vendor will pay all reasonable costs associated with such recall.

Vendor will maintain adequate records and record-retrieval systems during the Term (defined below) and for one year thereafter that enable it to isolate and trace contamination or non-compliance with a Meal Description within 24 hours of a request by EAT Club.

12. **Representations and Warranties.** Vendor represents, warrants, and covenants that at all times during the Term: (i) it has, will maintain in force, and will provide EAT Club a copy of, all Facility Permits, Servsafe Certificates, Health Inspection reports, and any other permissions and documentation required by county or state or other applicable regulatory bodies in connection with the Meals, the operation of its business, and the Agreement, and it has all other rights, licenses, permits, qualifications and consents necessary to perform its obligations hereunder; Vendor will provide copies of any audit or inspection conducted by a third-party or Health Authority to EAT Club within 48 hours; (ii) it is a validly existing business entity, duly licensed and qualified to carry on its business/operations and perform its obligations hereunder; (iii) it does and will comply with all applicable federal, state and local statutes, codes, laws, rules, regulations and ordinances, generally accepted industry standards and best practices (including laws, regulations, guidance and policies with respect to food safety, production, preparation, processing, packaging, labeling, storage, distribution, transportation, handling, sale or service of any food product intended for human consumption in the U.S., and including those relating to the conditions of facilities, equipment, and vehicles used therefor "**Food Laws**"), and guidance issued by applicable authorities (collectively, "**Laws**") relating to the Meals, its business, its performance of the Agreement, and the premises where Meals are prepared and packed; such premises will be maintained in a clean and sanitary condition; (iv) all Meals will be prepared, packed, stored and provided to EAT Club in accordance with all applicable Laws; (v) all Meals will be delivered or ready for pickup on time; (vi) the Meals comprising each shipment provided by Vendor to EAT Club are guaranteed, as of the date of such delivery, to be, on such date, not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act ("**FD&CA**"), and not an article which may not, under the provisions of section 404, 505, or 512 of the FD&CA, be introduced into interstate commerce; and (vii) it will immediately notify EAT Club of any ingredient recalls or food safety concerns relating to Meals, and respond within 2 business hours (or within 24 hours if not during normal business hours, whichever is sooner), to communications from EAT Club regarding such notifications, recalls, or concerns.
13. **Insurance.** Vendor will maintain during the Term and for one year thereafter at its expense commercial general liability (including product liability) insurance with a limit of at least \$2 million dollars per occurrence/\$4 million aggregate and add EAT Club as an additional insured, as well as worker's compensation and employer liability insurance as required by Law. Vendor will provide EAT Club with evidence of coverage upon request. All coverage shall be on an occurrence basis which is primary and non-contributory as to any insurance maintained by EAT Club, with insurance companies maintaining an A.M. Best rating of A or better. Except where prohibited by law, Vendor will require its insurer to waive all rights of subrogation against EAT Club's insurers and EAT Club or the Indemnitees.
14. **Indemnification.** Vendor will indemnify, defend, and hold harmless EAT Club and its affiliates, officers, directors, employees, and agents (collectively, the "**Indemnitees**") from and against any and all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs,

expenses, and any other liabilities of whatever kind, including reasonable attorneys' fees (collectively, "Losses") incurred by the Indemnitees arising from third-party claims, demands, allegations, or proceedings arising in connection with Vendor's performance of the Agreement, including: (i) Vendor's breach of the Agreement, negligence, willful misconduct, or violation of applicable Laws; and (ii) bodily injury, death or personal injury to any person or destruction or damage to any real, personal, tangible, or intangible property arising out of, caused by, or alleged to have been caused by, Vendor's acts or omissions, including any food provided or prepared by Vendor (collectively, "Claims"). Vendor will be solely responsible for defending any Claim against the Indemnitee, subject to the Indemnitee's right to participate with counsel of its own choosing at its expense, and for payment of all Losses resulting from all Claims against the Indemnitee, provided that Vendor will not agree to any settlement that imposes any obligation or liability on the Indemnitee without its prior express written consent. The Indemnitee will give Vendor prompt written notice of the Claim (except to the extent prohibited by law), provided that a failure or delay to give such notice will not relieve the indemnifying party of its obligations under this section except to the extent prejudiced by such failure or delay.

15. **Term.** The relationship between EAT Club and the Vendor is at will. The Agreement will start on the Effective Date and, except as otherwise provided in the Agreement, either party may terminate the Agreement for any reason or no reason, upon at least fourteen (14) days written notice (email acceptable) to the other party, which notice will specify the termination date (the "Term"). Sections 4 (last sentence), 7 (last paragraph), 8, and 10 through 17 of these Standard Vendor Terms and Conditions will survive termination of the Agreement.
16. **Limitation of Liability; Disclaimer.** NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IN NO EVENT WILL EAT CLUB BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, AND IN NO EVENT WILL EAT CLUB'S TOTAL LIABILITY UNDER THE AGREEMENT EXCEED \$5,000. EAT CLUB MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE AGREEMENT, AND SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE.
17. **Miscellaneous.** The Agreement, including all schedules, addenda, and exhibits, constitutes the entire agreement and understanding between the parties regarding the subject matter contained herein and supersedes all proposals, representations, claims, and communications in all forms regarding the subject matter contained herein. Only a written instrument specifically waiving compliance that is executed by the waiving party may waive any term(s) and/or condition(s) of the Agreement. No waiver by a party of a breach of any provision hereof will be deemed a waiver of any other breach of such provision or a waiver of the provision. These Standard Vendor Terms and Conditions may be amended or modified by EAT Club at any time upon posting such amendment or modification to this page and without additional notice. Any (a) Order Confirmation by Vendor or (b) provision of any Meals by Vendor after such revision will be deemed to be acceptance by Vendor of the revised Standard Vendor Terms and Conditions. If, prior to taking the actions described in clauses (a) or (b) of this paragraph 17, Vendor does not agree to such changes, it may terminate the Agreement upon written notice to EAT Club provided within 10 days of posting of the modified or amended terms. In case of a conflict between these Standard Vendor Terms and Conditions and the Vendor Agreement, the Vendor Agreement will control. If any provision of the Agreement is held or made invalid or unenforceable for any reason, such invalidity will not affect the remainder of the Agreement, and the invalid or unenforceable provision will be replaced by a valid provision that has a similar economic effect. As used herein, "include" and "including" means "including, without limitation". Neither party will have any liability under the Agreement by reason of a failure or delay in the performance of its obligations on account of any cause that is beyond its reasonable control without such party's fault or negligence and that by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable; the party whose performance is impacted will use all diligent efforts to end the event and resume full performance. The relationship between the parties is that of independent contractors. Nothing in the Agreement will be construed as creating any partnership, agency, franchise, business opportunity, joint

venture, or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner. Vendor may not assign, sublicense, or transfer the Agreement or any right or duty under the Agreement. The Agreement and any dispute relating to it will be governed by the laws of the State of California, without regard to conflict/choice of law principles. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the Agreement. Each party agrees to submit to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California. The Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement; signed copies delivered by electronic transmission have the same legal effect as delivery of an original signed copy. Notices must be provided in writing and addressed to the other party at the address set forth above (cc to Legal Counsel in the case of notice to EAT Club).

