



## KuulEats Ltd Terms of Service

Updated 05.02.20

KuulEats Ltd (“KuulEats”, “we”, “us” and terms of similar meaning) provides the KuulEats Application, its web site [www.KuulEats.com](http://www.KuulEats.com) (the “Site”), and all associated services and add-ons including third party services and hardware (collectively the “KuulEats Services”) to you subject to the Terms and conditions of use (the “Terms”). These Terms apply to: (i) your use of the KuulEats Services; (ii) the use of KuulEats Services by third parties authorised through your KuulEats account to use the KuulEats Services and your User Content (as defined below) through the KuulEats Services; and (iii) the use by such authorised users of any additional software, hardware or other services provided, referred, or recommended by us or third parties as part of or for use with the KuulEats Services.

**Please read the Terms carefully before using KuulEats Services. By accessing, using or continuing to use KuulEats Services you agree to be legally bound by the Terms and all terms, policies and guidelines incorporated by reference into the Terms. If you do not agree with the Terms in their entirety, you may not use KuulEats Services.**

In the Terms, our customers and their staff members to whom they give access to their KuulEats account are called “Subscribers”, and our customers’ customers who use KuulEats Services (for example, to view or use KuulEats Services designed for use by those parties) are called “Customers”. Users of KuulEats Services, whether they are Subscribers or Customers, are called “Users”.

KuulEats reserves the right to change or modify any of the terms and conditions contained in the Terms, or any policy or guideline applicable to KuulEats Services, at any time and in its sole discretion. If you do not agree with the changes, you can cancel your account with us by contacting [support@KuulEats.com](mailto:support@KuulEats.com) without further obligation effective upon termination or expiry of your current term and the prior KuulEats Terms of Use will remain in force. If you renew your services past your current term, then current KuulEats Terms of Use will apply. Subject to the foregoing and unless otherwise specified, any changes or modifications will be effective immediately upon posting of the revisions on the Site, and your continued use of KuulEats Services after such time will constitute your acceptance of such changes or modifications.

You should from time to time review the Terms and any policies and documents incorporated in them to understand the terms and conditions that apply to your use of KuulEats Services. The Terms will always show the ‘last updated’ date at the top. If you do not agree to any amended Terms, you must stop using KuulEats Services. If you have any questions about the Terms, please email us at [support@KuulEats.com](mailto:support@KuulEats.com).

KuulEats Services are for your own use only. You may not resell, host, publish, lease or provide them in any other way to anyone else, except as expressly permitted by KuulEats or under this Agreement.

### 1. Privacy Policy

Please refer to KuulEats’s Privacy Policy, available at [www.KuulEats.com/privacy](http://www.KuulEats.com/privacy) for information on how KuulEats collects, uses and discloses personally identifiable information from Users. By using KuulEats Services you agree to our use, collection and disclosure of personally identifiable information in accordance with the Privacy Policy. Furthermore, as a Subscriber, you agree to establish and maintain a privacy policy that complies with local laws in your jurisdiction and that is consistent with the KuulEats Privacy Policy. You agree that KuulEats may collect, maintain and use non-personally identifiable data including User Content in aggregated form for its business purposes, including the improvement and enhancement of its services and you grant KuulEats an irrevocable, perpetual, non-exclusive right to use such data for such purposes including the improvement and enhancement of its services and you grant KuulEats an irrevocable, perpetual, non-exclusive right to use such data for such purposes. You warrant that you will comply at all times with the applicable data protection legislation and you will maintain appropriate measures to ensure that the rights of the people to whom the personal data relates are protected. You will also implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to the risks presented by your processing of the personal data, and you must not transfer any personal data outside of the EEA without our consent. If you process any personal data pursuant to the Restaurant Agreement you will follow any instructions we give you in respect of that data which may include activities that assist and enable us to comply with our obligations under applicable data protection laws and you will immediately notify us on becoming aware of any actual or possible data breach. You will indemnify us for any loss, damage, dispute or third party claim incurred by us as a result of your breach.

### 2. Registration Data; Restaurant Data, Menu Item Data & Account Security

If you register for an account on KuulEats Services, you agree to (a) provide and maintain accurate, current and complete information as may be prompted by any registration forms on KuulEats Services (“Registration Data”); (b) maintain the security of your password/s; (c) maintain and promptly update the Registration Data, and any other information you provide to KuulEats, and to



keep it accurate, current and complete; and (d) accept all risks of unauthorised access to the Registration Data and any other information or data you provide to KuulEats or through the KuulEats Services. You are responsible for all activity on your KuulEats account, and for charges incurred by your KuulEats account.

You acknowledge that information about your dishes and products (including allergens and calories) will be reproduced verbatim within the KuulEats Software and KuulEats Diner App. You accept that responsibility for accuracy lies with you. We do not undertake to check, and are not liable for, checking this information on your behalf.

### **3. Fees; Charges; Taxes**

Fees and any other charges for the use of KuulEats Services are described in your Customer Agreement. They may change from time to time. If they do change, your continued use of KuulEats Services after the change indicates your agreement with the new fees and charges after the effective date of the change. Any change to fees and other charges will not be applicable to the billing period in which the change occurs but shall apply to any subsequent renewal.

You are responsible for all taxes applicable to the fees and charges in any applicable jurisdiction.

All pre-paid license, subscription, or other fees (including professional services such as installation and training) are non-refundable and subject to any additional payment or other terms or conditions provided for in the applicable Quotation or order documentation. Professional services must be booked 15 days in advance. Payment is required prior to booking professional services. Cancellation or rebooking must be made more than 3 days before professional services commence or will be subject to £100 change fee. If you cancel or change dates you will be given a credit (less change fee) for such services which must be used by the latest of 60 days from the Go Live Date, after which the credit expires and constitutes non-refundable payment to KuulEats.

### **4. Ownership, Copyright and Trademarks**

In the Terms the content available through KuulEats Services, including all information, content, data, logos, marks, interfaces, designs, graphics, pictures, sound files, other files, and their selection and arrangement, is called "KuulEats Content". Content provided by Users, whether they are Subscribers, Customers or other Users, is called "User Content". For example, data about its Customers and that a Subscriber provides to KuulEats is User Content of that Subscriber, data about its payments, menu, or operations that a Customer provides to KuulEats is User Content of that Customer, and Content that a User enters into any KuulEats database is User Content of the User.

User Content is that User's property. KuulEats's only right to that User Content is the limited licenses to it granted in the Terms and as necessary to provide support to end users or to ensure the security of KuulEats Services and technology.

Other than the User Content, all Content and all software available on KuulEats Services or used to create and operate KuulEats Services is the property of KuulEats or its licensors, and is protected by English and international patent, trademark, and copyright laws, and all rights to KuulEats Services, such Content and such software are expressly reserved. All trademarks, registered trademarks, product names and company names or logos mentioned in KuulEats Services are the property of their respective owners. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation of them by KuulEats.

KuulEats may use and shall be the exclusive owner of any feedback, suggestions, improvements or ideas ("Feedback") you provide or have provided to KuulEats regarding the KuulEats Services. This applies to Feedback provided to KuulEats at any time in any format. You assign all intellectual property rights in Feedback to KuulEats immediately upon communication of such Feedback to KuulEats or its representatives. KuulEats may use Feedback for any purpose without compensation or attribution to you and you forever waive and surrender any and all rights in Feedback.

If you authorise third parties to access your User Content through KuulEats Services, you agree that we are permitted to provide to them the User Content, and also agree that we have no responsibility or liability for their use of such User Content. Any such access shall be governed by any applicable end user or API agreements or terms applicable to such third party and may be subject to fees charged by such third party.

Without limiting the generality of the foregoing, you are responsible for all business continuity, data loss, business interruption, or other risks that may arise out of your use of KuulEats Services. KuulEats denies, disclaims, and waives any liability for any loss that may occur arising through use of KuulEats Services, including, but not limited to, loss of data, business interruption, incorrect calculation of any amount, including taxes or amounts due from your customers, or loss of customer goodwill.

KuulEats Services are provided on an "as is" basis. You acknowledge and accept all risks associated with using KuulEats Services and release KuulEats from any claim or liability in relation thereto.



Your data and User Content is your responsibility. We have no responsibility or liability for it, or for any loss or damage your User Content may cause to you or other people.

#### **5. Your Limited License of Your User Content to KuulEats**

We do not claim any ownership interest or rights in your User Content except as provided for under the Terms, but we do need the right to use your User Content to the extent necessary to provide KuulEats Services, now and in the future.

Therefore, by posting or distributing User Content to or through KuulEats Services, you (a) grant KuulEats and its affiliates and subsidiaries a non-exclusive, royalty-free, transferable right to use, display, perform, reproduce, distribute, publish, modify, adapt, translate, and create derivative works from such User Content, in the manner in and for the purposes for which KuulEats Services from time to time use such User Content; (b) represent and warrant that (i) you own and control all of the rights to the User Content that you post or otherwise distribute, or you otherwise have the lawful right to post and distribute that User Content, to or through KuulEats Services; and (ii) the use and posting or other transmission of such User Content does not violate the Terms and will not violate any rights of or cause injury to any person or entity.

If your User Content is intended for the use of other Users you also grant us and our affiliates and subsidiaries and partners a non-exclusive, royalty-free, transferable right to sublicense such User Content to such Users for their use in connection with their use of KuulEats Services in accordance with all applicable privacy laws and regulations.

These licenses from you are non-exclusive because you have the right to use your User Content elsewhere. They are royalty-free because we are not required to pay you for the use of your User Content on KuulEats Services. They are transferable because we need the right to transfer these licenses to any successor operator of KuulEats Services. Our rights to “modify, adapt, translate, and create derivative works from” are necessary because the normal operation of KuulEats Services does this to your User Content when it processes it for use in KuulEats Services.

#### **6. Our Limited License of Content to You**

KuulEats grants you a limited, revocable, non-exclusive, non-sublicensable, non-transferable license to access KuulEats Services and to view, copy and print the portions of the Content available to you through KuulEats Services for the limited purpose of using KuulEats Services as contemplated by this agreement. Such license is subject to the Terms, and specifically conditional upon the following: (i) you may only view, copy and print such portions of the Content for your own use as contemplated by KuulEats Services; (ii) you may not modify or otherwise make derivative works of the Content, or reproduce, distribute or display the Content except as expressly permitted in the Terms; (iii) you may not remove or modify any copyright, trademark, or other proprietary notices that have been placed in the Content; (iv) you may not use any data mining, robots or similar data gathering or extraction methods; and (v) you may not use KuulEats Services or the Content other than for their intended purpose. You may not assist any third party in carrying out these prohibited activities. When you use KuulEats services to publish any menu, online ordering or similar functionality, a KuulEats logo or similar attribution with link to KuulEats.com will be installed.

Except as expressly permitted above, any use of any portion of the Content without the prior written permission of its owner is strictly prohibited and may result in the termination of the license granted in this Section without notice, and immediate termination of this Agreement and your account with us. Any such unauthorised use may also violate applicable laws, including without limitation patent, copyright and trademark laws. Unless explicitly stated herein, nothing in the Terms may be construed as conferring any license to intellectual property rights, whether by estoppel, implication or otherwise. The license in this Section is revocable by KuulEats at any time without notice or warning.

You represent and warrant that your use of KuulEats Services and the Content will be consistent with this license and will not infringe or violate the rights of any other party or breach any contract or legal duty to any other parties, or violate any applicable law or regulation.

To request permission for uses of Content not included in this license, you may contact KuulEats at the address set out at the bottom of the Terms.

#### **7. Using the KuulEats Services and Marketing Services**

KuulEats Services may include services whereby you or developers or third-parties hired by you use the KuulEats Services to market your products and services. This Section contains terms and conditions applicable to your use of the KuulEats Services for that purpose, whether you are a Subscriber or other User, including a developer or operator of a website or application (a “KuulEats Marketing Initiative”) who wishes to use the KuulEats Services for the purpose of including Content in your KuulEats Marketing Initiative.



If you are a Subscriber and you procure a third-party to develop a KuulEats Marketing Initiative for you, this Section applies to your and their use of the KuulEats Services, and you are responsible for their compliance with this Section to the same extent as though you were developing the KuulEats Marketing Initiative yourself.

If you are a Services Developer and not otherwise a User, your use of the KuulEats Services constitutes your agreement to the Terms. We may change the Terms without notice to you by posting new Terms on the Site. It is your responsibility to review the Site for changes to the Terms. If you use KuulEats Services after new Terms are posted, your use of KuulEats Services constitutes your agreement to the new Terms. If you do not wish to be bound by the new Terms, cease your use of KuulEats Services.

If you are a services developer supporting a KuulEats Marketing Initiative and not otherwise a Subscriber or other User of KuulEats Services, the license set forth in this Section applies to your use of the KuulEats Services, and the license set forth in Section 6 does not apply to your use of the KuulEats Services. If you are also a Subscriber or other User, the license set forth in Section 6 applies to your use of Content other than the KuulEats Services, and this Section applies to your use of the KuulEats Services.

KuulEats grants you a limited, revocable, non-exclusive, non-sublicensable license to use the KuulEats Services as provided by KuulEats, in the manner permitted by the Terms. Such license does not license any other Content to you, including Subscriber Content. If you wish to use your KuulEats Marketing Initiative to display or deliver any Content provided to us by a Subscriber, you must obtain the prior agreement of that Subscriber to that use, by obtaining a license from the Subscriber, in terms of use governing the use by that Subscriber of your KuulEats Services Implementation, for your use of that Content. This limited license is subject to the usage restrictions set forth in Section 8, and any further restrictions set out in your terms of use and privacy policy agreed to by the Subscriber.

To minimise the risk of security breaches and technology malfunctions, you agree to use dedicated hardware for KuulEats Services. (For example, you will ensure that your employees do not install apps on the iPads; do not use the iPads to surf the web, and such). If you do not use dedicated hardware, we reserve the right to not support your KuulEats Services as the other applications may cause conflicts or performance issues with KuulEats Services.

## **8. Other Restrictions on Use of KuulEats Services**

Any party's use of the KuulEats Services is also subject to the following restrictions. You (alone or by assisting or enabling any other party) may not:

- Interfere or attempt to interfere in any manner with the proper workings of the KuulEats Services, or create or distribute any KuulEats Marketing Initiative that adversely affects the functionality or performance of KuulEats Services or adversely impacts the behavior of other applications using the KuulEats Services;
- Misrepresent your identity or intentions when communicating with us in relation to the KuulEats Services, use the developer credentials licensed to a different individual or entity, allow your credentials to be used by others, or mask your usage of the KuulEats Services;
- Use the KuulEats Services in association with, or as a component of, any website that in the sole discretion of KuulEats is determined to be obscene or otherwise commercially inappropriate;
- Use the KuulEats Services for any application that constitutes, promotes or is used in connection with spam, spyware, adware and other malicious programs or code;
- Use the KuulEats Services in any manner or for any purpose that violates any law or regulation, any right of any person, including but not limited to intellectual property rights, rights of privacy, or rights of personality, taxation or governmental reporting obligations or other regulatory obligations;
- Replicate, in whole or in part, the "look and feel" of KuulEats Services or portion of them;
- Use a combination of visual, design, or functional elements that could reasonably be expected to cause confusion between KuulEats Services and your KuulEats Marketing Initiative among users;
- Disparage or otherwise negatively represent KuulEats Services or do anything that could result in damage or dilution to the goodwill of KuulEats and its brand;
- Use the KuulEats Services for any application or service that attempts to replace or replicate the essential user experience or functionality of any or all KuulEats Services;
- Reverse engineer, decompile or otherwise attempt to extract the source code of KuulEats Services or any part thereof;
- Circumvent or render ineffective any IP address-based functionality or restriction imposed by KuulEats Services;
- Circumvent technological measures to prevent direct database access, nor manufacture tools or products to that effect;



- Build conversion functionality that converts Content from the Service to a competing or alternative product or service; or
- At any time you are operating your KuulEats Marketing Initiative, solicit, interfere with or endeavour to entice away from us any of our Subscribers or other Users.

You agree to carefully monitor your use of the KuulEats Services and ensure that it remains within reasonable operational limits for both your own server capacity and for ours, when applicable.

KuulEats has no responsibility to any person for any use or misuse of any Content obtained through the KuulEats Services. If you are a Subscriber, you should consider carefully whether you wish to give a KuulEats Marketing Initiative services developer access to your Content through the KuulEats Services. If you wish to revoke access to your Content through the KuulEats Services, you should change your KuulEats Services password or revoke authorization of the KuulEats Marketing Initiative to your Content. Please contact us at support@KuulEats.com if you need assistance doing this.

KuulEats may monitor your use of the KuulEats Services for any reason, including but not limited to: quality assurance, the improvement of KuulEats products and services, and for verification of your compliance with the Terms. You shall not interfere with such monitoring or otherwise obscure from KuulEats any aspect of your use of the KuulEats Services. You acknowledge that any use by us of your KuulEats Marketing Initiative for such purpose will not constitute our agreement to any terms of use you purport to require us to comply with in such use.

### **9. Use of Social Media Areas and KuulEats Services**

KuulEats Services may include discussion forums, location-based services, menu, pricing, and establishment information, bulletin boards, review services or other forums in which you or third parties may post reviews or other content, messages, materials or other items on KuulEats Services (“Social Media Areas”).

If KuulEats provides such Social Media Areas, you are solely responsible for your use of such Social Media Areas and use them at your own risk. User Content submitted to any public area of KuulEats Services will be considered non-confidential. You agree not to post, upload to, transmit, distribute, store, create or otherwise publish through KuulEats Services any of the following:

- Any message, data, information, text, music, sound, photos, graphics, code or other material that is unlawful, libelous, defamatory, obscene, pornographic, indecent, lewd, suggestive, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory, fraudulent or otherwise objectionable;
- Content that would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party, or that would otherwise create liability or violate any local, state, national or international law;
- Content that may infringe any patent, trademark, trade secret, copyright or other intellectual or proprietary right of any party;
- Content that impersonates any person or entity or otherwise misrepresents your affiliation with a person or entity;
- Unsolicited promotions, political campaigning, advertising or solicitations;
- Private information of any third party, including, without limitation, addresses, phone numbers, email addresses and credit card numbers, unless that third party has expressly consented to such use;
- Viruses, corrupted data or other harmful, disruptive or destructive files;
- Content that is inaccurate, misleading, or unrelated to the topic of the Interactive Area(s) in which such Content is posted; or
- Content that, in the sole judgment of KuulEats, is objectionable or which restricts or inhibits any other person from using or enjoying the Interactive Areas or KuulEats Services, or which may expose KuulEats or its affiliates or its users to any harm or liability of any type.

KuulEats has a “zero-tolerance” policy towards unauthorised marketing and spam: you may not use the Social Media Areas or KuulEats Services generally to send commercial or other messages to any third-party if those messages are not solicited, authorised or welcomed by the third-party, and in your use of KuulEats Services you must comply with all applicable laws, including laws that apply in any jurisdiction to spam and marketing practices, and with any applicable marketing association guidelines on ethical marketing practices.

Any use of the Social Media Areas or other portions of KuulEats Services in violation of the foregoing violates the Terms and may result in, among other things, termination or suspension of your rights to use the Social Media Areas and/or KuulEats Services.

### **10. Providing a Reliable and Secure Service**

We put a great deal of effort into ensuring that KuulEats Services operate on a reliable basis and where applicable provide a secure environment for your data. We use what we believe to be “best-of-class” infrastructure and hosting services and security technologies and services that we believe will provide you with a secure and safe environment.



However, no system is perfectly secure or reliable, the Internet, hardware, power sources, and local servers and associated technology are inherently unreliable at times and can be an insecure medium, and the reliability of hosting services, Internet intermediaries, your Internet service provider, servers, databases, access to or use of financial or business records, and other service providers cannot be assured or assumed.

When you use KuulEats Services, you acknowledge that you understand and accept these risks, and you accept sole responsibility for choosing to use a technology that does not provide perfect security or reliability. In particular, Subscribers who choose to store the credit card information of their Customers accept these risks to the security of that credit card information. KuulEats recommends that no credit card information is stored within KuulEats Services. Notwithstanding, when storing credit card information using the KuulEats Services directly or using third party services, Subscribers acknowledge that they are aware of, and accept as satisfactory, credit card protection procedures. Ultimately, credit card data is provided by Subscribers and their Customers, and they are responsible for its protection in compliance with all applicable laws and standards.

#### **11. No Responsibility for Third-Party Material**

KuulEats Services may contain links or references to third-party Web sites (“Third-Party Sites”) and third-party content (“Third-Party Content”) as a service to those interested in this information, including third party suppliers, payment processors and other payment intermediaries that you may use in connection with your use of KuulEats Services. You use links to Third-Party Sites and any Third-Party Content or service provided there, at your own risk.

KuulEats makes no claim or representation regarding Third-Party Content or Third-Party Sites, and provides them or links to them only as a convenience. Inclusion in KuulEats Services of a link to a Third-Party Site or Third-Party Content does not imply KuulEats’ endorsement, adoption or sponsorship of, or affiliation with, such Third-Party Site or Third-Party Content. KuulEats accepts no responsibility for reviewing changes or updates to, or the quality, content, policies, nature or reliability of, Third-Party Content, Third-Party Sites, or Web sites linking to KuulEats Services. When you leave KuulEats Services, our terms and policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Site, and should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

The provider of any third party service is solely responsible for that third party service, the content therein, any warranties to the extent that such warranties have not been disclaimed, any training, support or maintenance for the third party services, and any claims that you or any other party may have relating to that third party services or your use of that third party service. You acknowledge that you are purchasing the license to each third party service from the provider of that third party service; KuulEats is not acting as agent for the provider in providing each such third party services to you; KuulEats is not a party to the license between you and the provider with respect to that third party services; and KuulEats is not responsible for that third party services, the content therein, or any warranties or claims that you or any other party may have relating to that third party services or your use of that third party services.

You acknowledge and agree that KuulEats and its affiliates are third party beneficiaries of the End User License Agreement for each third party service, and that, upon your acceptance of the terms and conditions of the license to any such third party services, KuulEats will have the right (and will be deemed to have accepted the right) to enforce such license against you as a third party beneficiary thereof.

#### **12. Hardware Warranties, Limitation of Liabilities**

a) KuulEats hereby assigns the manufacturer’s warranty (if any) for the hardware to you to the extent such manufacturer’s warranty exists and is assignable.

b) The manufacturer’s warranty (if any, and if assignable) is the only warranty that shall be provided by the KuulEats with respect to the hardware product.

c) KuulEats makes no warranties for the hardware product. The hardware product is provided “as is” to the furthest extent permitted by law, except to the extent (if any) that a manufacturer’s warranty exists and is assignable. d) In any action under or related to this agreement, KuulEats shall not be liable to you for any of the following, even if informed of their possibility, whether arising in contract, tort (including negligence) or otherwise: 1) Third party claims for damages. 2) Loss of, or damage to, data; 3) special, incidental, indirect, punitive or consequential damages; or 4) loss of profits, business, revenue, goodwill or anticipated savings. As some jurisdictions do not allow the exclusion or limitation of some damages, the above exclusion or limitation may not apply to these Terms. Except for serious bodily injury (including death) in the event KuulEats is determined to be liable to you, its liability shall be limited to the lesser of a) the amount of actual direct damages suffered by the you; or b) the amount you paid to KuulEats for the hardware product. e) KuulEats makes no claim or representation regarding any point of sale equipment or supplies provided by third



parties or any changes or updates to it or its quality, nature or reliability. You must contact the manufacturer of the hardware product for any repairs or replacements and adhere to the manufacturer's merchandise return procedures.

### **13. Advertisements and Promotions**

KuulEats may run advertisements and promotions from third parties on KuulEats Services. Your business dealings or correspondence with, or participation in promotions of, advertisers other than KuulEats, and any terms, conditions, warranties or representations associated with such dealings, are solely between you and such third party. KuulEats is not responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of third-party advertisers on KuulEats Services.

### **14. Warranty Disclaimer**

KuulEats Services and any third party services and hardware are provided to you on an "as is" basis without any warranties from KuulEats of any kind, either express or implied. KuulEats expressly disclaims all other warranties, express or implied, including without limitation implied warranties of merchantability, fitness for a particular purpose, title and non-infringement. KuulEats does not represent or warrant that KuulEats Services are accurate, complete, reliable, current or error-free. KuulEats Services and access to data may be interrupted or unavailable at any time and you accept all risk associated with such unavailability or interruption. You should establish other systems to ensure business continuity and to ensure the accuracy or reliability of any business, financial or accounting data generated by the use of KuulEats Services or otherwise stored or accessed through KuulEats Services.

While KuulEats attempts to make your access to and use of KuulEats Services safe, KuulEats does not represent or warrant that the Content, the third party services and hardware and KuulEats Services are free of viruses or other harmful components or will be available without interruption or error.

### **15. Limitation of Liability; Indemnity**

You waive and shall not assert any claims or allegations of any nature whatsoever against KuulEats, its affiliates or subsidiaries, their sponsors, suppliers, contractors, advertisers, vendors or other partners, licensors, any of their successors or assigns, or any of their respective officers, directors, agents or employees (collectively, the "Released Parties") arising out of or in any way relating to your use of KuulEats Services or any third party services and hardware, including, without limitation, any claims or allegations relating to infringement of proprietary rights, or allegations that any Released Party has or should indemnify, defend or hold harmless you or any third party from any claim or allegation arising from your use or other exploitation of any third party services or KuulEats Services.

**You use KuulEats Services completely at your own risk. You agree that this is fair and reasonable.**

Without limiting the foregoing, neither KuulEats nor any other Released Party shall be liable for any direct, special, indirect or consequential damages, or any other damages of any kind, including but not limited to loss of use, loss of profits or loss of access to or use of data or loss of goodwill, whether in an action in contract, tort (including but not limited to negligence) or otherwise, arising out of or in any way connected with the use of or inability to use any or all KuulEats Services or any third party services and hardware, including without limitation any damages caused by or resulting from your reliance on KuulEats Services or any third party services and hardware or other information obtained from KuulEats or any other Released Party or accessible via KuulEats Services or any third party service and hardware, or that result from mistakes, errors, omissions, interruptions, deletion of files or data or email, defects, viruses, delays in operation or transmission or any failure of performance, whether or not resulting from acts of god, communications failure, theft, destruction or unauthorized access to KuulEats or any other Released Party's records, programs or services.

In no event shall the aggregate liability of KuulEats, whether in contract, warranty, tort (including negligence, whether active, passive or imputed), product liability, strict liability or other theory, arising out of or relating to the use of KuulEats Services or any third party services and hardware exceed any compensation paid by you for access to or use of KuulEats Services for the three months prior to the date of any claim.

You shall defend, indemnify and hold harmless KuulEats and the other Released Parties from any loss, damages, liabilities, costs, expenses, claims and proceedings arising out of your use of KuulEats Services, and if you are a Subscriber, from your Customers' use of KuulEats Services or any third party services and hardware and from the use KuulEats Services or any third party services and hardware by any person to whom you give access to your account (including staff), including any claims made by any person that any of your, and if you are a Subscriber, your Customers', User Content infringes the rights, including the intellectual property



rights, of any third party. Some jurisdictions limit the scope of limitations of liability in which event KuulEats claims the full scope of limitation of liability as may be allowed in any applicable jurisdiction.

## 16. Communications

Notices that we give you (other than notice of amendment of the Terms, which is discussed in the introduction of the Terms) may be provided in any number of ways, depending on the circumstances. For example, we may email you or telephone you at the contact information you provide in your Registration Data. Or we may post a notice to Subscribers and Customers in the dashboard area of your account on the Site, or post the notice elsewhere on the Site. When we post notices on the Site, we post them in the area of the Site suitable to the notice. It is your responsibility to periodically review the Site for notices. You agree to keep all Registration Data current and up to date which can be done by contacting [support@KuulEats.com](mailto:support@KuulEats.com).

Subject to the Privacy Policy, if you send to KuulEats or post on the KuulEats Services in any public area any information, ideas, inventions, concepts, techniques or know-how ("User Submissions"), for any purpose, including the developing, manufacturing and/or marketing or products or services incorporating such information, you acknowledge that KuulEats can use without limitation the User Submissions without acknowledgement or compensation to you, and you waive any claim of ownership or compensation or other rights you may have in relation to the User Submissions. We actively review User Submissions for new ideas. If you wish to preserve any interest you might have in your User Submissions, you should not post them or send them to us.

## 17. Applicable Law and Venue

KuulEats Services are controlled by KuulEats. You and KuulEats both benefit from establishing a predictable legal environment in regard to KuulEats Services. Therefore, you and KuulEats explicitly agree that all disputes, claims or other matters arising from or relating to your use of KuulEats Services or any third party services shall be exclusively governed by the laws of England.

If you choose to access KuulEats Services from locations other than the United Kingdom, you will be responsible for compliance with all local laws of such other jurisdiction and you agree to indemnify KuulEats and the other Released Parties for your failure to comply with any such laws.

## 18. Termination/Modification of License and Site Offerings

Notwithstanding any provision of the Terms, KuulEats reserves the right, without notice and in its sole discretion, without any notice or liability to you, to (a) terminate your license to use KuulEats Services, or any portion thereof (including any use of any third party services) and the rights of any third party to which you have granted access to your User Content through the KuulEats Services; (b) block or prevent your future access to and use of all or any portion of KuulEats Services or Content (including any use of any third party services) and the rights of any third party to which you have granted access to your User Content through the KuulEats Services; (c) change, suspend or discontinue any aspect of KuulEats Services or Content; and (d) impose limits on KuulEats Services or Content. Your sole remedy in such circumstances shall be limited to and not exceed the return of the pro rata amount of any pre-paid fees applicable to the balance of the term of your Customer Agreement.

## 19. Termination

KuulEats Services shall continue from the Go Live Date until termination of your Customer Agreement and the Terms. KuulEats may terminate your use of KuulEats Services if you are in breach of the terms of your Customer Agreement or the Terms and you must pay the fees applicable for the balance of the then current term including for any third party services and hardware you may be using. When your KuulEats account is terminated, your User Content will, shortly thereafter, not appear on KuulEats Services, except for User Content submitted to public areas of the Site such as the blog, forum, or product reviews, which may remain on the Site after termination. We may also retain an archival copy of your User Content after termination, and you hereby grant us a non-exclusive, perpetual, irrevocable license to maintain such archival copy for our internal business purposes.

## 20. Miscellaneous

If any provision of the Terms shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from the Terms and shall not affect the validity and enforceability of any remaining provisions. KuulEats may assign any or all of its rights hereunder to any party without your consent. You are not permitted to assign any of your rights or obligations hereunder without the prior written consent of KuulEats, and any such attempted assignment will be void and unenforceable. The Terms together with your Customer Agreement constitute the entire agreement between you and KuulEats regarding your use of KuulEats Services or any associated third party services and hardware, and supersede all prior or contemporaneous



communications whether electronic, oral or written between you and KuulEats regarding your use of them. The parties confirm that it is their wish that the Terms, as well as your Customer Agreement any other documents relating to the Terms, including notices, have been and shall be drawn up in the English language only.

**MAINTENANCE & SERVICE LEVEL RESPONSE TIMES**

Occasionally, KuulEats may need to carry out scheduled / unscheduled maintenance or upgrades to the KuulEats Services which may require their temporary suspension or affect the availability or quality of the KuulEats Services. KuulEats will use reasonable endeavours to keep disruption to a minimum and to provide reasonable notice to you and carry out work during periods of low activity.

<b>A: Critical. Major business impact</b>	
Hosted system defect (e.g. hosted system down) with most serious business-critical impact. Urgent resolution required. Workaround or Patch until permanent fix can be applied.	
Initial target response time	Target resolution time frame
Within 30 minutes	Within 2 hours thereafter
<b>B: Major. Significant business impact</b>	
Hosted system defect (e.g. major features are unavailable) with significant business-critical impact. Workaround or Patch until permanent fix can be applied.	
<b>Initial target response time</b>	<b>Target resolution time frame</b>
<b>Within 2 hours</b>	<b>Within 4 hours thereafter</b>
<b>C: Minor</b>	
Hosted system defect. Minor but not business critical impact that can be addressed via a workaround or in the next planned release.	
<b>Initial target response time</b>	<b>Target resolution time frame</b>
<b>Within 4 hours</b>	<b>Within 24 hours thereafter</b>
<b>D: Low</b>	
Hosted system defect. Some business impact (e.g. important features unavailable but can be resolved via a workaround or in a future release.	
<b>Initial target response time</b>	<b>Target resolution time frame</b>
<b>Within 8 hours</b>	<b>By agreement</b>

**21. Questions and Comments**

If you have any questions regarding the Terms or your use of KuulEats Services, please contact us here:

[support@KuulEats.com](mailto:support@KuulEats.com)