# Restaurant Services Terms and Conditions

Texas | Part 2 of the EatFuti Restaurant Services Agreement

Version September 15, 2026

## Part 2. Terms and Conditions

Restaurant Services Agreement, terms version September 15, 2026 (Texas). These Terms and Conditions are Part 2 of the EatFuti Restaurant Services Agreement; Part 1 (Special Terms) is the document the Restaurant signs.

This Restaurant Services Agreement (this "Agreement") is entered into by and between EatFuti Inc., an Iowa corporation with its principal place of business at 700 Locust Street, Suite 304, Des Moines, Iowa 50309 ("EatFuti"), and the restaurant identified in Part 1 (Special Terms), for the location or locations listed in Part 1 (the "Restaurant"). EatFuti and the Restaurant are each a "Party" and are together the "Parties". This Agreement consists of Part 1 (Special Terms) and this Part 2 (Terms and Conditions); if Part 1 and Part 2 conflict, Part 1 controls. This Agreement is effective on the earlier of the date the Restaurant signs this Agreement and the date the Restaurant first uses or accesses the Services under it (the "Effective Date"). This Agreement sets forth the terms on which the Restaurant may use or access certain technology, setup services, and support services made available by EatFuti that power commission-free online ordering, an EatFuti-hosted website, customer messaging, and other functionality described in Section 3 (collectively, the "Platform"; and the Platform, together with any services provided to the Restaurant by or on behalf of EatFuti in connection with the Restaurant's use of the Platform, the "Services").

BY SIGNING THIS AGREEMENT, OR BY ACCESSING OR USING ANY PART OF THE SERVICES, YOU, THE INDIVIDUAL SIGNING OR ACCEPTING THIS AGREEMENT: (i) AGREE TO THIS AGREEMENT ON BEHALF OF THE ORGANIZATION, COMPANY, OR OTHER LEGAL ENTITY FOR WHICH YOU ACT (THE "RESTAURANT") AND (ii) REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND THE RESTAURANT TO THIS AGREEMENT. IF YOU DO NOT HAVE THAT AUTHORITY, OR YOU DO NOT AGREE WITH THE TERMS OF THIS AGREEMENT, YOU MUST NOT SIGN OR ACCEPT THIS AGREEMENT AND NEITHER YOU NOR THE RESTAURANT MAY USE OR ACCESS THE SERVICES.

**ARBITRATION NOTICE.** Except for certain kinds of disputes described in Section 23 (Dispute Resolution and Arbitration), the Restaurant agrees that disputes arising under this Agreement will be resolved by binding, individual arbitration, and **BY SIGNING OR ACCEPTING THIS AGREEMENT, THE RESTAURANT AND EATFUTI ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING.**

The Services enable patrons and prospective patrons of the Restaurant ("Customers") to access and use websites and mobile applications powered by the Platform (collectively, "Restaurant Websites") and to order and pay for items from the Restaurant. The Fees applicable to the Restaurant are set out in Part 1 (Special Terms). EatFuti's standard pricing (including the applicable Setup Fee, Subscription Fees for each package, and add-on module fees) is published on EatFuti's then-current pricing page at eatfuti.com/pricing (the "Pricing Page"); where Part 1 and the Pricing Page differ, Part 1 controls. The Services and Fees applicable to the Restaurant will also be shown in the Restaurant's EatFuti dashboard (the "Restaurant Portal").

## 1. Material Terms

Certain provisions of this Agreement have particular importance and the Restaurant should read them with care. By accepting this Agreement, the Restaurant acknowledges and agrees, among other things, that: (a) EatFuti provides the Services on a subscription basis and does not take a commission on the Restaurant's customer orders; (b) EatFuti processes customer payments through a third-party payment processor (Stripe) and neither EatFuti nor the Restaurant stores raw payment card data; (c) the Restaurant is the seller of record for every Customer Order and is responsible for collecting and remitting all sales and use taxes on Customer Orders as described in Sections 2.6 and 25.1; (d) Customer Data is owned jointly by EatFuti and the Restaurant, and EatFuti may use Customer Data for its own marketing, analytics, and business purposes as described in Section 14.2, but will not sell the personal information of the Restaurant or its Customers; (e) EatFuti may update this Agreement at any time on thirty (30) to ninety (90) days' notice, without a new signature, as described in Section 18; (f) the Services and any EatFuti-provided content are licensed and not sold to the Restaurant; (g) the Services are provided on an "as is" basis and EatFuti disclaims all warranties as described in Section 20; (h) EatFuti's aggregate liability under this Agreement is capped as described in Section 21; and (i) subject to the exceptions and opt-out described in Section 23, disputes arising under this Agreement are resolved through binding individual arbitration and both Parties waive the right to a jury trial and to participate in a class action.

## 2. Fees; Payment

For this Restaurant, the Setup Fee and the Subscription Fees are as set out in Part 1 (Special Terms). Where Part 1 and this Section 2 differ, Part 1 controls.

**2.1 Setup Fee** The Restaurant will pay EatFuti the setup fee identified on the Pricing Page and applicable to the Restaurant's account (the "Setup Fee"). The Setup Fee is a one-time charge for the initial buildout of the Services for the Restaurant and is charged to the Restaurant's payment method on file on the Effective Date. The Setup Fee is non-refundable after the Go-Live Date (defined in Section 2.2).

**2.2 Subscription Service; renewal** The recurring fees identified on the Pricing Page for the package and any add-on modules the Restaurant has selected in its account (each such recurring fee, a "Subscription Fee") begin to accrue on the earlier of (a) fourteen (14) days after the Signup Date (the "Signup Date" being the Effective Date) and (b) the date on which the package selected in this Agreement is first made available to the Restaurant and its Customers through the Services (the "Go-Live Date"), regardless of whether the Restaurant has started using every module by that date. If the Restaurant elected monthly billing in its account, the first Subscription Fee is billed in advance on the date it begins to accrue, and each subsequent Subscription Fee is billed in advance on the same day of each following month. If the Restaurant elected annual prepay, the first Subscription Fee is billed in advance on the date it begins to accrue, and each subsequent Subscription Fee is billed in advance on the same day of each following year; annual prepay entitles the Restaurant to receive twelve (12) months of Services for the price of ten (10) months. Subscription Fees apply separately to each location listed in Part 1. Where Part 1 waives the Subscription Fee for an initial period, no Subscription Fee accrues during that period, the first Subscription Fee is billed in advance on the first billing date stated in Part 1, and each subsequent Subscription Fee is billed in advance on the same day of each following month. This Agreement renews automatically for successive monthly or annual periods (as applicable) unless either Party cancels the Agreement in accordance with Section 17.

**2.3 Payment method** The Restaurant will maintain a valid payment method on file with the Payment Processor (defined in Section 2.5) for the duration of the Term and authorizes EatFuti and the Payment Processor to charge that payment method for all Fees (defined below) when due. "Fees" means the Setup Fee, the Subscription Fees, and any other amounts payable by the Restaurant as identified on the Pricing Page, in the Restaurant's account, or otherwise agreed by the Parties in writing. EatFuti bills through the Payment Processor. Subscription Fees are billed in advance

on the schedule described in Section 2.2. The Restaurant will keep its payment method current and will promptly update it if the payment method expires, is declined, or is otherwise unable to be charged.

**2.4 Delinquent accounts** If any Fee is not paid when due, EatFuti will notify the Restaurant and may retry the charge. If a Fee remains unpaid more than seven (7) days after notice of the first failed charge, EatFuti may (a) suspend part or all of the Services on additional written notice, (b) offset unpaid Fees against amounts otherwise payable by EatFuti to the Restaurant, and (c) recover its collection costs, including reasonable attorneys' fees and chargeback fees imposed by the Payment Processor. If the Restaurant's account remains delinquent for more than sixty (60) days, EatFuti may terminate this Agreement in accordance with Section 17.3 and may delete Restaurant Content associated with the account in accordance with Section 17.4.

**2.5 Customer Order transactions and Order Payments** EatFuti does not take a commission on Customer Orders paid to the Restaurant. An order placed by a Customer with the Restaurant through the Services is a "Customer Order". The Services are a direct ordering channel on the Restaurant's own website and application, not a marketplace, and the Restaurant is the seller of record for each Customer Order. Customer Orders paid through the Services are processed by a third-party payment processor engaged by EatFuti from time to time (currently Stripe, Inc.) (the "Payment Processor"). At checkout, EatFuti charges the Customer, in addition to the Restaurant's menu prices and any applicable taxes, a customer service fee equal to five percent (5%) of the pre-tax subtotal of the Customer Order, which is disclosed to the Customer before and at checkout and paid by the Customer to EatFuti (the "Customer Service Fee"). The Payment Processor remits to the Restaurant's connected account with the Payment Processor the amounts collected from Customers for the Restaurant's menu items and the sales tax charged on them, net of the Payment Processor's card processing fees and net of any refunds or chargebacks (the "Order Payments"), and remits the Customer Service Fee to EatFuti. The card processing fee is 2.9% plus $0.30 per transaction as of the Effective Date and is borne by the Restaurant; card processing fees are set by the card networks and the Payment Processor, and if the Payment Processor or the card networks increase them, the increased fee applies to the Restaurant's Customer Orders from the effective date of the increase, and EatFuti will notify the Restaurant of the change. The Restaurant is solely responsible for the accuracy of prices displayed to Customers through the Services, for any Customer refunds, credits, or chargebacks arising from Customer Orders, and for compliance with applicable pricing, disclosure, and consumer protection laws (including the Texas Deceptive Trade Practices-Consumer Protection Act, Texas Business and Commerce Code § 17.41 et seq., as described in Section 25.2).

**2.6 Taxes** All Fees are exclusive of taxes. The Restaurant is responsible for all sales, use, excise, and similar taxes and governmental charges arising from the Services or from Customer Orders, other than taxes based on EatFuti's net income. As the seller of record, the Restaurant is solely responsible for determining the correct Texas state and local sales and use tax rates (including any city, county, transit, and special-purpose district taxes) applicable to its Customer Orders, for instructing EatFuti to configure those rates in the Restaurant Portal and for verifying them, for collecting the tax from Customers through the Services, and for reporting and remitting the tax to the Texas Comptroller of Public Accounts and any other taxing authority, together with any interest or penalties. EatFuti does not file, report, or remit sales or use tax on the Restaurant's behalf. The Restaurant will provide EatFuti with its Texas sales and use tax permit number on or before the Effective Date and will keep it current, as described in Section 25.1. Texas treats remotely accessed software services such as the Services as a taxable data processing service (Texas Tax Code § 151.0035), with twenty percent (20%) of the charge exempt (Texas Tax Code § 151.351). Where EatFuti is required to collect Texas sales and use tax, EatFuti will add the tax on the taxable portion of the Fees to the Restaurant's invoice unless the Restaurant provides a valid exemption or resale certificate; otherwise the Restaurant is responsible for accruing and paying Texas use tax on the taxable portion of the Fees, as described in Section 25.8. If EatFuti is required by law to collect and remit any tax on its Fees, the tax will be added to the invoice or charge.

**2.7 Always-included changes at no cost** During the Term, EatFuti will make routine changes requested by the Restaurant at no additional charge, including menu changes, hours updates, loyalty program setup changes, and campaign setup changes. EatFuti will use commercially reasonable efforts to complete such changes within one (1) business day of the Restaurant's request.

**2.8 Price changes** EatFuti will not increase the Subscription Fees applicable to the Restaurant's account during the first twelve (12) months after the Effective Date. Changes in the Payment Processor's card processing fees passed through under Section 2.5 are not price increases for purposes of this Section 2.8. Thereafter, EatFuti may adjust Subscription Fees on at least thirty (30) days' prior written notice (which may be by email); the Restaurant may cancel this Agreement without penalty during that notice period if it does not accept the change, in which case the Restaurant's prior Fees will apply until the effective date of the cancellation.

## 3. The Services

Depending on the package the Restaurant has selected in its account, the Services may include EatFuti's core data platform (referred to in EatFuti's owner-facing materials as the "Base"), the Restaurant Website, commission-free online ordering, customer messaging, the Social Media Studio, Loyalty & Referral, Marketing CRM, a branded mobile application, the Phone Agent (when generally available), and one-time setup work. Each module includes every feature listed for that module in EatFuti's then-current owner materials. There are no feature tiers within a module. The only tiered item is the optional Marketing Manager add-on, which is priced separately on the Pricing Page and expressly enabled in the Restaurant's account.

**3.1 Privacy Policy** EatFuti's privacy practices are described in the EatFuti Privacy Policy made available to the Restaurant at eatfuti.com/legal/privacy (the "Privacy Policy"), which is incorporated by reference. The Restaurant acknowledges the Privacy Policy and agrees that EatFuti may collect, use, disclose, and retain data about the Restaurant, the Restaurant's use of the Services, and Customer Data (defined in Section 14.2) in accordance with this Agreement and the Privacy Policy. Section 7 of the Privacy Policy lists the material sub-processors EatFuti uses to deliver the Services.

**3.2 Restaurant account** The Restaurant will provide EatFuti with accurate and current information about the Restaurant, its authorized owner or manager, its location, its tax registration, and its billing contact, and will promptly update that information whenever it changes. The Restaurant is responsible for maintaining the confidentiality of its account credentials and for all activity that occurs under its account.

**3.3 Support** EatFuti may provide the Restaurant with support in connection with the Services in EatFuti's sole discretion. Where offered, support is available in Vietnamese, English, and Spanish through the support channels published on the Restaurant's EatFuti dashboard or at eatfuti.com/support.

**3.4 Third-party services** The Services rely on third-party services, including the Payment Processor for payment processing, third-party SMS and email delivery providers for customer messaging, and Delivery Partners (defined in Section 4.2) where the Restaurant enables delivery. The Restaurant's use of those third-party services is governed by their respective terms of service, including, in the case of the Payment Processor, the Stripe Connected Account Agreement. EatFuti is not responsible for outages, acts, or omissions of third-party providers, but will use commercially reasonable efforts to notify the Restaurant of material third-party issues and to work with the third parties to resolve them.

## 4. Customer Orders

**4.1 Fulfillment** The Restaurant will treat Customer Orders received through the Services with at least the same care, priority, and quality it applies to orders received through any other channel. The Restaurant will prepare each Customer Order promptly and will notify EatFuti if the Restaurant needs to pause receipt of Customer Orders because

of capacity constraints, staffing issues, or an equipment failure; EatFuti will use commercially reasonable efforts to accommodate the requested pause. A pause does not affect Customer Orders already accepted by the Restaurant.

**4.2 Deliveries** The Restaurant will specify its pickup and delivery options through the Services, including whether the Restaurant offers delivery, the delivery radius, and the applicable delivery fee. Delivery is performed either by the Restaurant's own staff or by a third-party delivery marketplace or courier service selected by the Restaurant (for example, DoorDash or Uber Eats) (each, a "Delivery Partner"); EatFuti does not itself deliver Customer Orders. The Restaurant bears the risk of loss for each Customer Order in transit to the extent applicable law does not allocate that risk to the Delivery Partner.

**4.3 Food and safety** The Restaurant and its employees, agents, and contractors will prepare, handle, package, and (where applicable) deliver Customer Orders in accordance with generally accepted industry food-handling practices, including, where applicable, the guidelines of the United States Department of Agriculture Food Safety and Inspection Service (USDA FSIS), the Texas Food Establishment Rules (25 Texas Administrative Code chapter 228) and Texas Health and Safety Code chapter 437, and comparable state and local health-department requirements, and with all applicable food safety laws, regulations, and licenses. The Restaurant is solely responsible for the quality, safety, and legal compliance of the food and beverage products it sells through the Services.

**4.4 Tobacco and alcohol** The Restaurant will not offer tobacco or tobacco products through the Services. The Restaurant will not offer alcoholic beverages through the Services unless the Restaurant holds all licenses required by applicable law for the sale and delivery of alcoholic beverages and has separately obtained EatFuti's written agreement to enable alcohol sales for the Restaurant on the Services, in which case additional terms (including terms required by any Delivery Partner used to deliver alcohol) will apply.

## 5. Restaurant Content

**5.1 EatFuti Claims No Ownership** The Services may provide the Restaurant with the ability to create or post content ("Restaurant Content") (for example, menus, prices, photographs, hours, addresses, telephone numbers, story, logos, marketing copy, and promotional offers). EatFuti claims no ownership over Restaurant Content. The Restaurant and its third-party licensors, as appropriate, retain all copyright, patent, and trademark rights to Restaurant Content. The Restaurant is solely responsible for protecting those rights and acknowledges that Restaurant Content is non-confidential and non-proprietary. Customer Data is not Restaurant Content and is governed by Section 14.

**5.2 EatFuti's use of Restaurant Content** The Restaurant grants EatFuti a worldwide, non-exclusive, royalty-free, sublicensable license (a) to host, reproduce, adapt, publish, translate, display, distribute, and otherwise use Restaurant Content as necessary to provide, support, and improve the Services, (b) to use the Restaurant's trade name, logo, and public description of its business to identify the Restaurant as an EatFuti customer in EatFuti's customer lists, on EatFuti's website and consumer app, and in EatFuti's marketing and investor materials during the Term, and (c) to produce anonymized or aggregated analytics from Restaurant Content that do not identify the Restaurant or any Customer. Except as set forth in clause (b), EatFuti will not use the Restaurant's trade name or logo in advertising without the Restaurant's prior consent (which may be by email). EatFuti may, in its sole reasonable discretion, refuse to accept or display any specific Restaurant Content that EatFuti believes may violate applicable law, infringe a third party's rights, contain malicious code, or damage the reputation of EatFuti or the Restaurant. If the Restaurant objects to a specific alteration EatFuti makes to Restaurant Content in the course of providing the Services (for example, an automatic translation), EatFuti will consider reasonable requests to modify or remove the alteration. After termination of this Agreement, EatFuti will discontinue new uses of Restaurant Content within a commercially reasonable period, subject to (i) uses reasonably necessary to complete transactions in progress, (ii) EatFuti's continued reference to the Restaurant's name in historical customer lists, and (iii) EatFuti's continued use of aggregated or anonymized analytics derived from Restaurant Content.

**5.3 Third-party services enabled by the Restaurant** If the Restaurant enables an integration between the Services and a third-party service (for example, a Delivery Partner, an accounting tool, or a review platform), the Restaurant authorizes EatFuti to transmit Restaurant Content and Customer Data to that third-party service as necessary to make the integration work. The Restaurant is responsible for obtaining any Customer consents required by applicable law for those transfers. EatFuti is not responsible for the acts or omissions of third-party services enabled by the Restaurant, and the Restaurant's use of any linked third-party website or service is governed by that third party's own terms and privacy policy.

**5.4 Americans With Disabilities Act; accessibility** EatFuti has invested significant resources to design the EatFuti-hosted website and mobile ordering flows to substantially conform to widely accepted accessibility standards, including the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA as applicable. The Restaurant is responsible for ensuring that Restaurant Content it provides (including logos, brand colors, photographs, menu descriptions, and story text) and any design choices the Restaurant configures (including font, color, and image choices) do not themselves defeat the accessibility of the Restaurant Website. EatFuti is not responsible for accessibility failures caused by Restaurant-selected design choices, Restaurant Content, or by third-party services the Restaurant enables under Section 5.3. The Restaurant should consult its own tax and legal advisors regarding compliance with the Americans with Disabilities Act, the Communications and Video Accessibility Act, the Texas accessibility laws (Texas Human Resources Code chapter 121), and comparable state laws. As one example of a potential benefit, small businesses that spend money to improve accessibility (including on accessible websites) may be eligible for the Disabled Access Credit (IRS Form 8826); EatFuti does not represent or warrant that any Restaurant will qualify, that any specific amount will be creditable, or that the Restaurant's use of the Services alone satisfies any legal accessibility requirement. EatFuti does not provide legal or tax advice.

## 6. EatFuti Content

**6.1 EatFuti Content** The Services and all designs, text, graphics, images, video, information, logos, software, source and object code, documentation, templates, and other materials provided or made available by EatFuti to the Restaurant, other than Restaurant Content and Third Party Content (defined in Section 6.3), are collectively "EatFuti Content". Subject to the Restaurant's compliance with this Agreement and payment of Fees when due, EatFuti grants the Restaurant a limited, non-exclusive, non-transferable, non-sublicensable license during the Term to access and use EatFuti Content solely to receive the Services for the Restaurant's own internal business purposes. All other uses of EatFuti Content are prohibited.

**6.2 All EatFuti Rights Reserved** EatFuti (or its licensors) owns and retains all right, title, and interest in and to EatFuti Content and the Services, including all copyrights, trademarks, patents, trade secrets, and other intellectual property rights. This Agreement grants no ownership right in EatFuti Content or the Services and is not a sale. All rights not expressly granted to the Restaurant in this Agreement are reserved to EatFuti and its licensors. No implied licenses are granted.

**6.3 Third Party Content** The Services may make available content, information, materials, ratings, reviews, or communications submitted, generated, or provided by EatFuti's licensors or by other users of the Services, including Customers (collectively, "Third Party Content"). As between the Restaurant and EatFuti, the Restaurant obtains no right, title, or interest in or to Third Party Content, and no license or other intellectual property right is granted to the Restaurant by virtue of the Restaurant's access to Third Party Content through the Services. The Restaurant will not copy, modify, translate, publish, broadcast, transmit, distribute, perform, display, or sell Third Party Content except as expressly permitted by this Agreement or by the applicable owner of the Third Party Content.

## 7. Marketing and Publicity

**7.1 Marketing Materials** EatFuti may, from time to time, provide the Restaurant with marketing materials, which may include fliers, door decals, signs, or other materials ("Marketing Materials"). Subject to Section 7.2 below, the Restaurant may use the Marketing Materials that the Restaurant finds acceptable in its reasonable discretion. The Restaurant may not modify any Marketing Materials without EatFuti's prior written consent. EatFuti will, as between EatFuti and the Restaurant, retain all right, title, and interest in and to all Marketing Materials provided to the Restaurant under this Agreement.

**7.2 Marketing Efforts** The Restaurant shall use commercially reasonable efforts to conduct the following marketing activities during the term of this Agreement: (i) hand out fliers or other Marketing Materials, as applicable, to Customers or other patrons of the Restaurant promoting the Services, (ii) refer Customers who call the Restaurant to place an order to place an order online via the Services instead, (iii) promote the Services by emailing or SMS messaging Customers, and (iv) keep the EatFuti-built Restaurant Website listed as the main website link on the Restaurant's Google Business Profile for each location listed in Part 1, in each case, conducted in compliance with all applicable law.

**7.3 Website** Within 30 days from the date the Restaurant first uses the Services, and thereafter at all times during the term of the Agreement, the Restaurant will feature on each Restaurant Website EatFuti's company name and logo, a narrative description of the Services as they apply to the relationship contemplated hereunder, and a hyperlink to EatFuti's website ("EatFuti Reference"). The Restaurant and EatFuti will agree upon placement, appearance, and content of the EatFuti Reference prior to making the EatFuti Reference public. The Restaurant will remove any EatFuti Reference promptly upon EatFuti's request.

**7.4 Publicity** EatFuti may use the Restaurant's name and logo in its marketing materials, press releases, consumer app and website solely to identify the Restaurant as a user of the Services and to promote the Restaurant to Customers.

## 8. Tablets

**8.1 Generally** All tablets provided by EatFuti to the Restaurant, whether pre-existing at the Effective Date or later delivered, are and at all times remain the sole and exclusive property of EatFuti. Title to each Tablet does not pass to the Restaurant under any circumstance, and the Restaurant acquires no ownership interest in any Tablet by virtue of paying any fee, using the Tablet, or otherwise. EatFuti may make available to the Restaurant one or more tablets configured and optimized for the Services (each, a "Tablet"). The firmware, operating system, and application software preinstalled on each Tablet by or on behalf of EatFuti are EatFuti Content and are licensed to the Restaurant subject to Section 6. EatFuti may provide support for Tablets in EatFuti's sole discretion.

**8.2 Loan and Return** EatFuti may loan (and not sell) Tablets to the Restaurant on the terms set forth in this Section 8.2 and at the fees identified on the Pricing Page (each, a "Loaned Tablet"). The Restaurant will use each Loaned Tablet carefully, lawfully, and only for its intended use with the Services. The Restaurant will not make any alterations, additions, or improvements to any Loaned Tablet without EatFuti's prior written consent. The Restaurant will maintain each Loaned Tablet in a safe and secure manner. The Restaurant bears the entire cost of replacement for the loss, theft, or damage of any Loaned Tablet and will notify EatFuti immediately of any such loss, theft, or damage. On the termination of this Agreement, the Restaurant will return each Loaned Tablet to EatFuti within five (5) business days (the "Tablet Return Period"). If the Restaurant fails to return any Loaned Tablet within the Tablet Return Period, EatFuti may charge the Restaurant the then-current replacement cost of the Loaned Tablet as identified on the Pricing Page. Loaned Tablets are loaned, and not sold, to the Restaurant, and title to Loaned Tablets does not pass to the Restaurant. The Restaurant will keep each Loaned Tablet free of all security interests, liens, and encumbrances.

**8.3 Pass-Through Warranty** The Restaurant acknowledges that Tablets are manufactured by third parties. To the extent transferable, EatFuti passes through to the Restaurant any warranty provided by the applicable manufacturer of a Tablet. Except for such pass-through warranties, EatFuti makes no warranty of any kind with respect to Tablets, and Tablets are provided on an "as is" basis, subject to Section 20.

## 9. Printers

**9.1 Generally** All printers provided by EatFuti to the Restaurant, whether pre-existing at the Effective Date or later delivered, are and at all times remain the sole and exclusive property of EatFuti. Title to each Printer does not pass to the Restaurant under any circumstance, and the Restaurant acquires no ownership interest in any Printer by virtue of paying any fee, using the Printer, or otherwise. EatFuti may make available to the Restaurant one or more printers configured and optimized for the Services (each, a "Printer"). The firmware and software preinstalled on each Printer by or on behalf of EatFuti are EatFuti Content and are licensed to the Restaurant subject to Section 6. EatFuti may provide support for Printers in EatFuti's sole discretion.

**9.2 Loan and Return** EatFuti may loan (and not sell) Printers to the Restaurant on the terms set forth in this Section 9.2 and at the fees identified on the Pricing Page (each, a "Loaned Printer"). The Restaurant will use each Loaned Printer carefully, lawfully, and only for its intended use with the Services. The Restaurant will not make any alterations, additions, or improvements to any Loaned Printer without EatFuti's prior written consent. The Restaurant will maintain each Loaned Printer in a safe and secure manner. The Restaurant bears the entire cost of replacement for the loss, theft, or damage of any Loaned Printer and will notify EatFuti immediately of any such loss, theft, or damage. On the termination of this Agreement, the Restaurant will return each Loaned Printer to EatFuti within five (5) business days (the "Printer Return Period"). If the Restaurant fails to return any Loaned Printer within the Printer Return Period, EatFuti may charge the Restaurant the then-current replacement cost of the Loaned Printer as identified on the Pricing Page. Loaned Printers are loaned, and not sold, to the Restaurant, and title to Loaned Printers does not pass to the Restaurant. The Restaurant will keep each Loaned Printer free of all security interests, liens, and encumbrances.

**9.3 Pass-Through Warranty** The Restaurant acknowledges that Printers are manufactured by third parties. To the extent transferable, EatFuti passes through to the Restaurant any warranty provided by the applicable manufacturer of a Printer. Except for such pass-through warranties, EatFuti makes no warranty of any kind with respect to Printers, and Printers are provided on an "as is" basis, subject to Section 20.

## 10. Loyalty Programs and Promotions

**10.1 Loyalty Programs** The Services may enable the Restaurant to configure and operate a program under which Customers earn loyalty points, rewards, credits, or other benefits based on Customer Orders (a "Loyalty Program"). The Restaurant is solely responsible for the lawful operation of each Loyalty Program it enables through the Services, including the terms and conditions of the Loyalty Program, all required disclosures, compliance with applicable law (including gift card, unclaimed property, and consumer protection laws), and the fulfillment and honoring of all rewards, credits, and benefits it offers.

**10.2 Promotions** The Services may enable the Restaurant to configure and run contests, sweepstakes, giveaways, discount codes, or similar promotional activities (each, a "Promotion"). The Restaurant is fully responsible for each Promotion, including without limitation (a) the official rules and offer terms; (b) eligibility, disclosure, and identification requirements; (c) compliance with all applicable federal, state, and local laws and regulations governing promotions (including registration, bonding, and required approvals); and (d) the fulfillment of any prize, refund, or benefit offered. Each Promotion the Restaurant runs through the Services must include a complete release of EatFuti, its affiliates, and its and their respective officers, directors, employees, contractors, and agents from liability arising from or in connection with the Promotion, and must clearly state that the Promotion is not sponsored, endorsed, or

administered by EatFuti. EatFuti provides no support for Promotions. Use of the Services for Promotions is at the Restaurant's own risk.

## 11. Gift Cards

**11.1 Gift Cards** The Services may enable the Restaurant to offer to Customers electronic gift cards or gift certificates to a specified Restaurant (each, a "Gift Card"). EatFuti provides to the Restaurant a service by which the Restaurant can offer and manage such Gift Cards and EatFuti processes the related payments. The Restaurant, and not EatFuti, is the issuer of Gift Cards. The Restaurant may not issue a Gift Card with a value in excess of $2,000, add value to a previously issued Gift Card so that the total funds loaded on a Gift Card in any single day exceed $2,000, or issue more than $10,000 in Gift Cards to any single person in any one day. The Restaurant may not impose an expiration date or a service, dormancy, or inactivity fee on Gift Cards (consistent with the federal Credit CARD Act, 15 U.S.C. § 1693l-1, and the disclosure requirements of Texas Business and Commerce Code chapter 604), and any unused balance of a Gift Card must remain available to the holder of the Gift Card until fully redeemed. The Restaurant may not provide a cash refund from or cash back on Gift Cards except to the extent required by applicable law (and, if required by law, will refund any amount due from a Gift Card balance). The Restaurant is solely responsible for complying with all laws related to the sale, issuance, and acceptance of Gift Cards, including notice and disclosure requirements, expiration dates and fees, refunds, unclaimed property or escheat requirements (such as tracking, reporting, and remittance of unclaimed property balances in all states), and customer service for buyers and holders of Gift Cards. The Restaurant represents and warrants that it will provide clear and conspicuous disclosure of, and bind Customers to, applicable Gift Card terms. The Restaurant represents and warrants that it is and will remain knowledgeable of the applicable laws and regulations related to the sale, issuance, and acceptance of Gift Cards and will comply with the same, including as they may evolve, even after the termination of this Agreement.

**11.2 Fees; Payment** For each purchase of a Gift Card, EatFuti will process the entire transaction for the value of the Gift Card and will retain 5% of the total sale amount (the "Gift Card Fee") as a processing and services fee. EatFuti will use commercially reasonable efforts to remit the remaining balance of the total sale amount, minus third-party processing fees and Taxes (the "Gift Card Payment"), to the Restaurant within 7 days from the date on which EatFuti receives the Gift Card Fee. EatFuti may offset chargebacks, refunds, or adjustments against any Gift Card Payment before remittance.

**11.3 Liability; indemnification** The Restaurant is solely responsible for handling all Customer inquiries, complaints, and claims relating to Gift Cards it issues through the Services and will not refer any such matters to EatFuti. The Restaurant will defend and indemnify EatFuti and the Released Parties (as defined in Section 19) from and against any third-party claim, suit, or proceeding, and any damages or amounts in settlement, arising out of or relating to (a) the terms or sale of any Gift Card, (b) any violation of applicable law in connection with any Gift Card, or (c) any Customer or third-party claim relating to any Gift Card, in each case in accordance with Section 19.

## 12. Prohibited Service Uses

The Restaurant will only use the Services for their intended purpose. The Restaurant must use the Services in compliance with all privacy, data protection, intellectual property, and other applicable laws. The Restaurant will not (and will not permit, enable, or assist others to): (i) aggregate, copy, or duplicate any EatFuti Content; (ii) use data mining, robots, or other data gathering devices on the Services; (iii) remove, disable, damage, circumvent, or otherwise interfere with the security of the Services; (iv) interfere or attempt to interfere with the proper working of the Services; (v) gain or attempt to gain unauthorized access to the Services or computers linked to the Services; (vi) reverse engineer or attempt to reverse engineer the Services; (vii) frame or link to the Services without permission; (viii) attempt to submit or submit a virus to the Services; (ix) take any action imposing an unreasonable or disproportionately large load on EatFuti's infrastructure; (x) obtain or attempt to obtain unauthorized access to other

users' accounts; (xi) sell, transfer, or assign any of its rights to use the Services to a third party without EatFuti's express written consent; (xii) use the Services in a manner that results in or may result in complaints, disputes, claims, fines, penalties, and other liability to EatFuti or others; (xiii) use the Services in an illegal way or to commit an illegal act; (xiv) access the Services from a jurisdiction where it is illegal, unauthorized, or penalized; or (xv) attempt to do any of the foregoing. The Restaurant further agrees that it will not use Customer Data (as defined below) in any manner other than in accordance with Section 14 and the Privacy Policy.

## 13. Third-Party Software

The Services may include or make available software or services licensed by third parties, including open-source software. Those components are governed by their own license terms. EatFuti will make the applicable third-party license terms available to the Restaurant on request. To the extent of a conflict between a third-party license and this Agreement, the third-party license controls for that component.

## 14. Data

**14.1 Consent to use of Restaurant's data; SMS, call and email marketing** EatFuti and its service providers collect and use technical, device, session, configuration, and usage data about the Restaurant's use of the Services (for example, device identifiers, session logs, and dashboard interactions) for software updates, product support, tracking and reporting Restaurant activity, security, analytics, and product development purposes. The Restaurant consents to this collection and use and to the sharing described in the Privacy Policy. The Services include the ability for the Restaurant to send text messages and emails to Customers on the Restaurant's customer list. The Restaurant may provide its existing customer phone and email list to EatFuti during onboarding and thereafter. The Restaurant represents and warrants that, for every phone number and email address it provides to EatFuti or uses through the Services, (a) it has obtained, or will obtain before sending any message, the express prior consent required by the Telephone Consumer Protection Act (47 U.S.C. § 227) and its implementing regulations, the CAN-SPAM Act, the CTIA Messaging Principles and Best Practices, the Texas telephone solicitation laws (Texas Business and Commerce Code chapters 302, 304, and 305) and the Texas Deceptive Trade Practices-Consumer Protection Act (Texas Business and Commerce Code § 17.41 et seq.), and any comparable state or federal law, for each recipient and each channel (SMS, MMS, voice, and email), and (b) it maintains records of consent sufficient to prove compliance. EatFuti will include an easy opt-out mechanism (for example, "Reply STOP to opt out") in every text sent through the Services, will honor STOP replies automatically, and will not send marketing calls or texts before 8:00 a.m. or after 9:00 p.m. in the recipient's local time. Message frequency varies by Restaurant. EatFuti expressly disclaims liability under the Telephone Consumer Protection Act and comparable laws for the Restaurant's failure to obtain lawful consent for any Customer phone number or email address the Restaurant provides to EatFuti or uses through the Services.

**14.2 Customer Data; joint ownership; EatFuti's marketing use** Names, phone numbers, email addresses, delivery addresses, order history, loyalty and referral activity, messaging preferences, and other information about a Customer that is collected by, or entered into, the Services in connection with the Restaurant (including any customer list the Restaurant provides to EatFuti) is "Customer Data". As between the Parties, Customer Data is owned jointly by EatFuti and the Restaurant, and each Party may use Customer Data for its own business purposes without accounting to the other, subject to this Section 14, the Privacy Policy, and applicable law. Without limiting the foregoing, the Restaurant agrees that EatFuti may use Customer Data (a) to operate, support, secure, and improve the Services; (b) to market the Restaurant to Customers, including loyalty rewards, come-back offers, and campaigns sent on the Restaurant's behalf; (c) to market EatFuti, the EatFuti consumer website and app, and other restaurants, products, and offers available through the EatFuti network to Customers, by any channel for which the required consent has been obtained; (d) to analyze Customer Data, together with data about the Restaurant's activity on the Services (orders, menu, hours, response times, campaign results, and similar operating data), using smart technology, including

machine learning and artificial intelligence, in order to understand customer and restaurant behavior, improve and develop the Services, and generate insights, forecasts, and recommendations for the Restaurant and for EatFuti's business; (e) to create anonymized, aggregated, or de-identified data sets and analytics, which EatFuti may use and disclose for any purpose; and (f) for any other lawful purpose described in the Privacy Policy. EatFuti's rights in Customer Data are perpetual and survive the termination of this Agreement. The Restaurant will use Customer Data only in connection with its own business, only for purposes disclosed to and consented to by Customers, and in accordance with the Privacy Policy and applicable law. The Restaurant will not sell Customer Data or share it with other restaurants or with another online ordering platform for marketing purposes. **No sale of personal information.** EatFuti will not sell to any third party the personal information of the Restaurant, its owners or staff, or its Customers, including names, telephone numbers, email addresses, physical addresses, payment card data, and order histories tied to an identifiable person, and will not provide the Restaurant's customer list to another restaurant. Payment card data is handled by the Payment Processor and is not stored by EatFuti or the Restaurant. EatFuti may share Customer Data with third parties (i) as necessary to provide the Services and to carry out the uses described in this Section 14.2 (for example, messaging, advertising, and analytics providers acting on EatFuti's instructions), (ii) with the Restaurant's written direction, (iii) in aggregated, anonymized, or de-identified form, or (iv) as required by law, in which case EatFuti will use reasonable efforts to notify the Restaurant first if permitted by law. On the Restaurant's written request during the Term, and automatically on cancellation, EatFuti will provide the Restaurant with an export of Customer Data as described in Section 17.4.

**14.3 Privacy law compliance; consents** Each Party is an independent controller of Customer Data for the purposes for which it uses Customer Data under Section 14.2, and each Party is responsible for its own compliance with applicable privacy and data protection laws, including, to the extent applicable to that Party, the Texas Data Privacy and Security Act (Texas Business and Commerce Code chapter 541) (the "TDPSA"). EatFuti will post the Privacy Policy on each Restaurant Website and in the Restaurant's branded mobile application and will obtain, through the Services' checkout and account-creation flows, the notices and consents required for EatFuti's own marketing communications to Customers. The Restaurant is responsible for the notices and consents required for any Customer Data it collects outside the Services and provides to EatFuti, and represents that it has the right to share that data with EatFuti for the uses described in Section 14.2. Neither Party will use the Services to collect sensitive data (as defined in the TDPSA) about Customers, and neither Party will sell a Customer's sensitive data. To the extent EatFuti processes Customer Data solely on the Restaurant's behalf and at its direction (for example, when sending a campaign the Restaurant configures), EatFuti acts as the Restaurant's processor and this Agreement is the Parties' processing contract for that processing: the processing instructions are to provide the Services as described in this Agreement; the nature and purpose of the processing, the types of data, and the duration are as described in this Agreement and the Privacy Policy; EatFuti will ensure that persons processing Customer Data are bound by confidentiality obligations; EatFuti will engage sub-processors under written contracts that impose equivalent obligations and will list its material sub-processors in the Privacy Policy; EatFuti will return or delete Customer Data processed in that capacity at the end of the Services as described in Section 17.4 (without limiting EatFuti's own rights under Section 14.2); and EatFuti will make available the information reasonably necessary to demonstrate its compliance and will cooperate with reasonable assessments, no more than once per year, at the Restaurant's expense. Each Party will promptly inform the other of any Customer request to access, correct, delete, or opt out of the processing of that Customer's data that concerns the other Party, and each Party will cooperate in good faith to honor such requests where required by law.

## 15. Ownership

The Services and the EatFuti Content, including all intellectual property rights therein, are the sole and exclusive property of EatFuti and its licensors, including other users of the Services, provided that the Restaurant retains ownership of any intellectual property rights it may have in any Restaurant Content that the Restaurant uploads to the

Services. Ownership of Customer Data is addressed in Section 14.2. Except for the limited licenses expressly granted by and to the Restaurant under this Agreement, no other rights, licenses, or immunities are granted or will be deemed to be granted under this Agreement, either expressly, or by implication, estoppel, or otherwise. All rights not expressly granted by a Party hereunder are expressly reserved.

## 16. Creative Ideas

If the Restaurant provides EatFuti with any suggestions, comments, ideas, or other feedback about the Services (collectively, "Creative Ideas"), the Restaurant grants EatFuti a perpetual, irrevocable, worldwide, royalty-free, sublicensable license to use and exploit the Creative Ideas for any purpose without obligation or attribution to the Restaurant. Creative Ideas are provided voluntarily and without expectation of confidentiality.

## 17. Term and Termination

**17.1 Term** This Agreement begins on the Effective Date and continues on a month-to-month or (if annual prepay is elected) year-to-year basis, renewing automatically at the end of each subscription period, until cancelled in accordance with this Section 17 (the "Term").

**17.2 Cancellation for convenience by the Restaurant** The Restaurant may cancel this Agreement at any time by giving EatFuti notice through any reasonable channel, including a text message, email, telephone call to a support number published by EatFuti, or the cancellation form available on the Restaurant's EatFuti dashboard. No written letter is required. The notice must be given at least thirty (30) days before the cancellation date, and the Restaurant may designate any cancellation date from thirty (30) to ninety (90) days after the date of its notice. If the notice designates no date, cancellation is effective thirty (30) days after the notice; if it designates a date more than ninety (90) days out, cancellation is effective ninety (90) days after the notice. Fees continue to accrue through the cancellation date.

**17.3 Suspension or termination by EatFuti** EatFuti may terminate this Agreement (a) at any time on thirty (30) days' written notice to the Restaurant for convenience, in which case EatFuti will refund any prepaid unused Subscription Fees, (b) immediately on written notice if the Restaurant materially breaches this Agreement and fails to cure the breach within fifteen (15) days after written notice describing the breach (or immediately, without a cure period, if the breach is not reasonably capable of being cured within that period or involves violation of Section 4.3, 4.4, 10.2, 11, 12, 14, or 25.1), (c) immediately on written notice if any Fee remains unpaid more than sixty (60) days after its due date, or (d) immediately on written notice if the Restaurant becomes insolvent, makes an assignment for the benefit of creditors, or becomes the subject of a bankruptcy proceeding that is not dismissed within sixty (60) days. EatFuti may suspend the Services in whole or in part on written notice pending investigation of a suspected breach or unlawful activity.

**17.4 Effect of termination** On termination of this Agreement: (a) the Restaurant's right to access and use the Services ends; (b) the Restaurant will pay EatFuti all Fees accrued through the effective date of termination; (c) the Setup Fee remains non-refundable after the Go-Live Date; (d) EatFuti will refund any prepaid but unused whole months on an annual plan upon the Restaurant's written request; (e) EatFuti will maintain a courtesy redirect on the Restaurant's prior EatFuti-hosted ordering link for thirty (30) days after the effective date of termination and then remove it; and (f) on the Restaurant's written request during the Term, and automatically on cancellation of this Agreement, EatFuti will provide the Restaurant with a machine-readable export (for example, a CSV) of the Restaurant's Customer Data and order history within five (5) business days of the request or cancellation. EatFuti will delete Restaurant Content from its production systems within ninety (90) days after termination, subject to standard backup retention cycles and any legal preservation obligations. EatFuti may retain and continue to use Customer Data after termination in accordance with Section 14.2 and the Privacy Policy.

**17.5 Survival** The following provisions survive termination of this Agreement in accordance with their terms: Sections 2.3 (as to accrued Fees), 2.4 (delinquent accounts), 2.5 (as to refunds and chargebacks on Customer Orders received before termination), 2.6 (as to taxes on Customer Orders received before termination), 5.2 (as to residual anonymized analytics and post-termination discontinuation), 6.2, 11.3, 12, 14.2, 14.3, 15, 16, 17.4, 17.5, 19, 20, 21, 22, 23, 24, and 25.1.

## 18. Revisions

EatFuti may update this Agreement, including this Part 2, the Pricing Page, and the Privacy Policy, at any time by giving the Restaurant not less than thirty (30) and not more than ninety (90) days' prior notice by email to the address on file for the Restaurant, by text message to the number on file, or by a notice in the Restaurant Portal. The updated Agreement takes effect on the date stated in the notice (or, if no date is stated, thirty (30) days after the notice is sent) without any further signature, click-through, or other action by the Restaurant, and the Restaurant's continued use of the Services after that date constitutes acceptance of the updated Agreement. If the Restaurant does not accept an update, its remedy is to cancel this Agreement in accordance with Section 17.2 before the effective date of the update, in which case the version of this Agreement in effect before the update will apply until the effective date of the cancellation. Increases to the Subscription Fees are governed by Section 2.8 and the price lock in Part 1, and no update will shorten the price lock stated in Part 1. EatFuti will not apply a material change to Section 23 (Dispute Resolution and Arbitration) to a dispute of which EatFuti had actual notice before the change was made.

## 19. Indemnity

The Restaurant agrees to indemnify and hold EatFuti, its officers, directors, employees, agents, service providers, and licensors (the "Released Parties") harmless from and against any claims, liabilities, damages, losses, and expenses, including reasonable legal and accounting fees, arising out of or in any way connected to (i) the Restaurant Content or any other material or information provided by the Restaurant to EatFuti, including the names or other identifying information of the Restaurant's employees, (ii) the Restaurant's access, use, or misuse of the Services or EatFuti Content, (iii) the Restaurant's violation of this Agreement, (iv) the Restaurant's Loyalty Programs or Promotions, (v) claims for personal injury or death caused by the Restaurant's products or services, (vi) the Restaurant's sale, issuance or acceptance of Gift Cards, including claims related to violations of applicable law by the Restaurant and claims by Customers related to Gift Cards, (vii) the Restaurant's: failure to collect, report, or remit any sales, use, or similar tax on Customer Orders, or provision of incorrect or insufficient tax information to EatFuti (Sections 2.6 and 25.1), violation of a consumer protection law related to pricing (Sections 2.5 and 25.2), failure to obtain lawful consent for a transfer of information to a third-party service (Section 5.3), violation or alleged violation of the ADA or similar state laws (Section 5.4), or failure to obtain consent for SMS, call, or email marketing (Section 14.1), or (viii) the Restaurant's dealings with any Customer. EatFuti will use reasonable efforts to notify the Restaurant of any such claim, action, or proceeding upon becoming aware of it but if EatFuti is unable to communicate with the Restaurant in a timely manner because of an inactive email address, the Restaurant's indemnification obligation will continue notwithstanding EatFuti's inability to contact the Restaurant in a timely manner.

## 20. NO WARRANTY

THE RESTAURANT'S USE OF THE SERVICES IS AT THE RESTAURANT'S SOLE RISK. THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH THE RESTAURANT. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND EATFUTI CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND EATFUTI HEREBY DISCLAIMS, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR LICENSORS AND SERVICE PROVIDERS, ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SERVICES AND EATFUTI CONTENT, WHETHER EXPRESS, IMPLIED, OR STATUTORY,

INCLUDING THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, QUIET ENJOYMENT, TITLE, AND NON-INFRINGEMENT, AND WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, EATFUTI DOES NOT WARRANT AGAINST INTERFERENCE WITH THE RESTAURANT'S ENJOYMENT OF THE SERVICES; THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, THE SERVICES WILL MEET THE RESTAURANT'S REQUIREMENTS; THAT THE OPERATION OF THE SERVICES OR EATFUTI CONTENT WILL BE UNINTERRUPTED, SECURE, OR ERROR-FREE; OR THAT DEFECTS IN THE SERVICES OR EATFUTI CONTENT WILL BE CORRECTED. EATFUTI EXPRESSLY DISCLAIMS LIABILITY FOR ANY FAILURE TO OBTAIN CONSENT FROM CUSTOMERS FOR TRANSFERS OF INFORMATION AS DESCRIBED IN SECTION 5.3, AND FOR ANY FAILURE TO OBTAIN CONSENT FROM CUSTOMERS FOR SMS OR EMAIL MARKETING AS DESCRIBED IN SECTION 14.1. EATFUTI DOES NOT PROVIDE TAX ADVICE AND MAKES NO WARRANTY THAT THE TAX RATES CONFIGURED AT THE RESTAURANT'S DIRECTION ARE CORRECT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY EATFUTI OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE SERVICES OR EATFUTI CONTENT PROVE DEFECTIVE, THE RESTAURANT ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO THE RESTAURANT.

## 21. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR (A) THE RESTAURANT'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 19, (B) THE RESTAURANT'S PAYMENT AND TAX OBLIGATIONS UNDER SECTION 2, (C) A PARTY'S BREACH OF SECTION 14 (DATA), OR (D) A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR (I) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS, LOST REVENUE, LOST DATA, LOSS OF GOODWILL, OR BUSINESS INTERRUPTION, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (II) DIRECT DAMAGES IN AN AGGREGATE AMOUNT EXCEEDING THE AMOUNTS ACTUALLY PAID BY THE RESTAURANT TO EATFUTI UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS BEFORE THE EVENT GIVING RISE TO THE LIABILITY. THE LIMITATIONS IN THIS SECTION APPLY REGARDLESS OF THE FORM OR THEORY OF ACTION (WHETHER CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE) AND APPLY EVEN IF A LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## 22. Third-Party Disputes

EatFuti is not responsible for disputes between the Restaurant and any third party, including any Customer, employee, contractor, Delivery Partner, landlord, taxing authority, or other governmental authority. The Restaurant will resolve all such disputes directly with the applicable third party and releases EatFuti and its personnel from any claim, demand, or damages (actual and consequential, of every kind and nature, known and unknown) arising out of or in any way connected with such disputes.

## 23. Dispute Resolution and Arbitration

PLEASE READ CAREFULLY. This Section requires the Parties to arbitrate certain disputes and limits how the Parties can seek relief from each other. Both the Restaurant and EatFuti waive the right to a trial by jury and the right to participate in a class action, except as expressly permitted below. There is no right to opt out of arbitration under this Agreement, and in Section 23.3 the Restaurant agrees not to sue EatFuti in court.

**23.1 Informal resolution** Before commencing any formal proceeding, the Parties will first try in good faith to resolve any dispute arising out of or relating to this Agreement or the Services through informal discussion. Either Party may initiate that discussion by written notice to the other describing the dispute and the relief sought (a "Dispute Notice").

If the Parties cannot resolve the dispute within thirty (30) days after receipt of the Dispute Notice, either Party may commence arbitration in accordance with this Section 23 (subject to the exceptions in Section 23.2 and the covenant not to sue in Section 23.3).

**23.2 Exceptions** Nothing in this Section 23 prevents either Party from (a) bringing an individual action in small claims court in a jurisdiction of competent authority, (b) seeking injunctive or other equitable relief in a court of competent jurisdiction to protect its intellectual property rights or Confidential Information pending arbitration, (c) filing suit for a claim of actual or threatened infringement of intellectual property rights, or (d) reporting a matter to a governmental authority with jurisdiction.

**23.3 Covenant not to sue; sole remedies; no opt-out** The Restaurant agrees that it will not bring, and will not assist or authorize any other person to bring, any lawsuit, action, or other proceeding against EatFuti or its affiliates, officers, directors, employees, contractors, or agents (together, the "EatFuti Parties") in any court, and that any claim it may have against an EatFuti Party arising out of or relating to this Agreement or the Services, whether in contract, tort, statute, or otherwise, may be pursued only in individual arbitration under this Section 23 or in small claims court as permitted by Section 23.2. To the fullest extent permitted by applicable law, the Restaurant further agrees that: (a) its sole and exclusive remedies for any dissatisfaction with the Services, or for any act or omission of an EatFuti Party, are to stop using the Services and to cancel this Agreement under Section 17.2, together with any refund expressly provided in Section 17; (b) it releases and waives, and covenants not to assert, any other claim against an EatFuti Party, other than a claim for an EatFuti Party's willful misconduct or fraud or a claim that cannot be waived under applicable law, and any such claim remains subject to Section 21 and to arbitration under this Section 23; and (c) any claim it is permitted to bring must be commenced within one (1) year after the claim arises, or it is permanently barred. The Restaurant acknowledges that this Section 23.3 is a material inducement for EatFuti to enter into this Agreement at the pricing in Part 1, that there is no right to opt out of arbitration under this Agreement, and that if the Restaurant breaches this Section 23.3 it will reimburse the EatFuti Parties for the reasonable attorneys' fees and costs they incur in enforcing it. Nothing in this Section 23.3 limits either Party's obligations under Section 19 (Indemnification) or EatFuti's right to pursue any claim against the Restaurant.

**23.4 Arbitrator and rules** Arbitration will be administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules and, where applicable, its Consumer Arbitration Rules (together, the "AAA Rules"), as modified by this Agreement. The AAA Rules are available at www.adr.org, by calling +1-800-778-7879, or by contacting EatFuti. The Federal Arbitration Act (9 U.S.C. §§ 1 et seq.) governs the interpretation and enforcement of this Section 23.

**23.5 Commencing arbitration; notice format** A Party wishing to commence arbitration must first send to the other Party, by certified United States Mail or by Federal Express (signature required) (or, if the sending Party does not have a physical address on file for the other Party, by email), a written Notice of Arbitration. The Notice of Arbitration must (a) identify the name, address, and account number (if any) of the Party demanding arbitration, (b) describe the nature and basis of the claim or dispute, and (c) set forth the specific relief sought (the "Demand"). Notices of Arbitration to EatFuti must be sent to EatFuti Inc., Attention: Legal, 700 Locust Street, Suite 304, Des Moines, Iowa 50309. If EatFuti is the party sending, the Notice of Arbitration will be sent to the Restaurant's address on file with EatFuti. If the Parties do not reach agreement on how to resolve the claim within thirty (30) days after the Notice of Arbitration is received, either Party may commence arbitration by filing a demand for arbitration with the AAA in accordance with the AAA Rules and sending a copy of the demand to the other Party at the same address. EatFuti will reimburse the Restaurant's AAA filing fee for a claim not exceeding ten thousand U.S. dollars ($10,000) that is not frivolous (as measured by Federal Rule of Civil Procedure 11(b)), unless the AAA finds the claim frivolous or the AAA has received twenty-five (25) or more similar demands from the Restaurant.

**23.6 Arbitration proceedings** The arbitration will be conducted by a single arbitrator selected in accordance with the AAA Rules. The arbitrator will have authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this Agreement, including whether any provision of this Section 23 is void or voidable. The seat of arbitration will be Polk County, Iowa. For any claim of ten thousand U.S. dollars ($10,000) or less that does not seek injunctive relief, the Restaurant may elect to conduct the arbitration by documents only, by telephone or video conference, or in person; for any other claim, the arbitrator will decide the format after consultation with the Parties. Any settlement offer made before the arbitrator is selected will not be disclosed to the arbitrator until the arbitrator has issued a final decision and award. The arbitrator will issue a reasoned written decision explaining the essential findings and conclusions on which the award is based.

**23.7 Relief; enhanced award** The arbitrator may grant any relief that a court of competent jurisdiction could grant, including monetary damages, declaratory relief, and injunctive relief on an individual basis. Any award may be entered as a judgment in any court of competent jurisdiction. The arbitrator's decision is final and binding except as permitted by the Federal Arbitration Act. If the arbitrator awards the Restaurant an amount greater than the value of EatFuti's last written settlement offer made before the arbitrator was selected (or, if EatFuti did not make a written settlement offer before the arbitrator was selected, greater than zero), then EatFuti will pay the Restaurant the greater of (i) the amount awarded by the arbitrator and (ii) ten thousand U.S. dollars ($10,000).

**23.8 No class actions** THE PARTIES AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS AND MAY NOT PRESIDE OVER ANY FORM OF REPRESENTATIVE OR CLASS PROCEEDING.

**23.9 Modifications; enforceability** If any provision of this Section 23 is held to be unenforceable, the unenforceable provision will be severed to the extent necessary, and the remainder of Section 23 will remain in full force and effect; provided that if Section 23.8 (No class actions) is held to be unenforceable, then this Section 23 will be void in its entirety and disputes will be resolved in accordance with Section 24.1. EatFuti will not apply any material change to this Section 23 to a dispute of which EatFuti had actual notice before the change was made.

## 24. General Terms

**24.1 Governing law and venue** This Agreement is governed by, and will be construed in accordance with, the laws of the State of Iowa, without regard to its conflict-of-laws principles. Subject to Section 23, the state and federal courts sitting in Polk County, Iowa have exclusive jurisdiction over any action arising out of or relating to this Agreement, and each Party consents to personal jurisdiction and venue in those courts and waives any objection to inconvenient forum. Each Party waives any right to a jury trial to the maximum extent permitted by law. Nothing in this Section 24.1 limits any right of the Restaurant under Texas law that cannot be waived by contract, and Section 25 sets out additional provisions that apply because the Restaurant is located in Texas.

**24.2 Assignment** The Restaurant may not assign this Agreement or any of its rights or obligations under it, by operation of law or otherwise, without EatFuti's prior written consent. EatFuti may assign this Agreement without the Restaurant's consent to an affiliate or in connection with a merger, reorganization, or sale of all or substantially all of EatFuti's assets or equity. Any assignment in violation of this Section is void. Subject to the foregoing, this Agreement binds and inures to the benefit of the Parties and their permitted successors and assigns.

**24.3 Electronic communications and electronic signatures** The Restaurant consents to receive communications from EatFuti electronically, including at the email address the Restaurant provides in its account. All notices, disclosures, and other communications that EatFuti provides electronically satisfy any legal requirement that they be in writing. This Agreement may be executed by electronic signature and in counterparts, each of which is an original and all of

which together constitute one Agreement, consistent with the federal E-SIGN Act and the Texas Uniform Electronic Transactions Act (Texas Business and Commerce Code chapter 322).

**24.4 Consent to contact by phone and text** The Restaurant confirms it has authority to provide the mobile telephone numbers on file with EatFuti and consents to receive operational, transactional, and account-related calls and text messages from EatFuti at those numbers, including automated calls and messages. Standard message and data rates may apply. This consent is separate from any consent required to send marketing messages to Customers under Section 14.1.

**24.5 Jurisdictional matters** The Services are controlled and operated from the United States. EatFuti makes no representation that the Services are appropriate or available for use outside the United States. The Restaurant is responsible for compliance with local laws to the extent applicable.

**24.6 Entire agreement** This Agreement (including Part 1 (Special Terms), the Pricing Page, and the Privacy Policy incorporated by reference) constitutes the entire agreement between the Parties on its subject matter and supersedes all prior or contemporaneous communications, proposals, and understandings (whether oral or written) on that subject, including any earlier restaurant, partner, or merchant agreement between the Restaurant and EatFuti or any of EatFuti's predecessor or affiliated entities. Any purchase order, invoice, or similar document issued by the Restaurant is for administrative convenience only, and any additional or conflicting terms in it have no effect. This Agreement may be amended only by a written instrument signed by an authorized representative of each Party, except for revisions made in accordance with Section 18.

**24.7 Interpretation** Section headings are for convenience only and do not affect interpretation. "Including" and its variants mean "including without limitation." "Or" is inclusive unless the context clearly requires otherwise. Singular includes plural and vice versa. References to "$" or "dollars" mean U.S. dollars. References to a statute include any successor or amended version. Each Party has had the opportunity to review this Agreement with counsel of its choosing, and no rule of construction against the drafter applies.

**24.8 Notices** Notices under this Agreement must be in writing. Notices to EatFuti will be sent to EatFuti Inc., Attention: Legal, 700 Locust Street, Suite 304, Des Moines, Iowa 50309, with a copy by email to legal@eatfuti.com. Notices to the Restaurant will be sent to the owner name and email address on file for the Restaurant. Routine operational communications (support requests, menu updates, cancellations for convenience under Section 17.2) may be sent through the ordinary channels described elsewhere in this Agreement.

**24.9 Force majeure** Neither Party is liable for any failure or delay in performance (other than the Restaurant's payment obligations) caused by events outside its reasonable control, including natural disasters, pandemics, war, civil unrest, labor action, internet or utility outages, third-party service failures, or acts of governmental authority. The affected Party will use commercially reasonable efforts to mitigate the impact and to resume performance.

**24.10 Independent contractors** The Parties are independent contractors. This Agreement does not create a partnership, joint venture, agency, franchise, or employment relationship, and neither Party has authority to bind the other. The Restaurant operates under its own trade name and does not pay any fee for the right to use an EatFuti trademark, and the Parties do not intend this Agreement to be a franchise under the Texas Business Opportunity Act (Texas Business and Commerce Code chapter 51) or any similar law.

**24.11 Severability and waiver** If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions will remain in full force and effect, and the invalid or unenforceable provision will be modified to the minimum extent necessary to make it valid and enforceable. A Party's failure to enforce a provision on one occasion does not waive the Party's right to enforce it on another occasion.

**24.12 Contacting EatFuti** Legal notices: legal@eatfuti.com. General support and account questions: through the support channels published on the Restaurant's EatFuti dashboard or at eatfuti.com/support. Mailing address: 700 Locust Street, Suite 304, Des Moines, Iowa 50309. Questions? Call EatFuti at (515) 493-0243 or email hello@eatfuti.com.

## 25. Texas Provisions

This Section 25 applies because the Restaurant is located in, and sells to Customers in, the State of Texas. If this Section 25 conflicts with another provision of Part 2, this Section 25 controls for the matter it addresses.

**25.1 Direct ordering; sales and use tax** The Services provide direct online ordering on the Restaurant's own website and branded mobile application. The Restaurant is the seller of record for every Customer Order: EatFuti does not sell the Restaurant's products, does not take title to them, and does not list them on a multi-vendor marketplace, and Order Payments, including the sales tax charged to Customers, are settled to the Restaurant's own connected account with the Payment Processor. The Restaurant holds, or will hold on or before the Effective Date, a Texas sales and use tax permit, and will provide EatFuti with it on or before the Effective Date and again whenever it changes. The Restaurant, and not EatFuti, will collect and remit all Texas state and local sales and use taxes on every Customer Order placed through the Services, and will (a) determine the correct combined rate for its location and for each Customer Order (the 6.25% state rate plus any city, county, transit, and special-purpose district taxes, up to a combined rate of 8.25%), (b) instruct EatFuti in writing of the rate to configure and verify the configured rate in the Restaurant Portal before and after each change, (c) report and remit the tax it collects to the Texas Comptroller of Public Accounts when due, and (d) keep the records required by law. EatFuti's role is limited to charging Customers the rate the Restaurant instructs and passing the collected amount to the Restaurant in the Order Payments. The Parties intend this Section 25.1 to record that the Restaurant is the retailer responsible for the tax on its own sales and that EatFuti is a software and services provider to the Restaurant, not a marketplace facilitator or marketplace provider under Texas Tax Code § 151.0242 (marketplace providers). If, notwithstanding the foregoing, a taxing authority ever determines that EatFuti must collect and remit tax on Customer Orders, then (i) EatFuti may collect the tax from Customers and remit it, and the Restaurant will stop collecting it, (ii) any tax, interest, or penalty assessed against EatFuti for Customer Orders on which the Restaurant received the tax, or that results from incorrect or insufficient information from the Restaurant, will be reimbursed by the Restaurant and may be offset by EatFuti against Order Payments and other amounts payable to the Restaurant, and (iii) the Restaurant will cooperate with EatFuti in responding to any audit or inquiry. Any sales or use tax on the Services themselves is addressed in Section 25.8.

**25.2 Pricing and fee disclosure** The Texas Deceptive Trade Practices-Consumer Protection Act (Texas Business and Commerce Code § 17.41 et seq.) prohibits false, misleading, or deceptive acts in the sale of goods and services, and federal law (Section 5 of the FTC Act) prohibits misleading price and fee disclosures. EatFuti will display the Customer Service Fee percentage clearly on the Restaurant Website and in the Restaurant's branded mobile application before checkout and will show an itemized subtotal, including tax and the Customer Service Fee, before the Customer pays. The Restaurant is responsible for ensuring that its menu prices, any delivery fee it sets under Section 4.2, and any mandatory fee or automatic gratuity the Restaurant itself chooses to charge are accurately and clearly disclosed to Customers in compliance with those laws and with Section 2.5.

**25.3 Consumer data privacy** Section 14.3 sets out each Party's responsibilities under the TDPSA. The Restaurant represents that it is a small business as defined by the United States Small Business Administration, and acknowledges that under Texas Business and Commerce Code § 541.107 a small business must nonetheless not sell a consumer's sensitive data without the consumer's prior consent. Each Party will notify the other promptly if it determines that it has become subject to the TDPSA's full requirements, and the Parties will cooperate in good faith to update their practices and, if needed, this Agreement.

**25.4 Calls, text messages, and email** In addition to Section 14.1, each Party will comply, for its own marketing communications to Customers, with Texas Business and Commerce Code chapter 302 (telephone solicitation registration, or an applicable exemption), chapter 304 (the Texas no-call list), and chapter 305 (private remedies for unlawful telephone solicitation), and will honor opt-out requests promptly. EatFuti will maintain suppression of opted-out numbers and addresses across the Services.

**25.5 Gift cards** Gift Cards sold to Texas Customers through the Services will carry no expiration date and no service, dormancy, or inactivity fee, which satisfies the federal Credit CARD Act (15 U.S.C. § 1693l-1) and the disclosure requirements of Texas Business and Commerce Code chapter 604. The Restaurant is responsible for any unclaimed property reporting that Texas law may require for unredeemed Gift Card balances.

**25.6 Renewal and cancellation** The Restaurant confirms that it is acquiring the Services for business purposes and not for personal, family, or household purposes. EatFuti will present the renewal and cancellation terms of this Agreement clearly, will allow the Restaurant to cancel by any of the channels described in Section 17.2, and will notify the Restaurant before implementing any material change to the terms of the subscription as provided in Section 18.

**25.7 Business registrations and licenses** The Restaurant represents that it holds, and will maintain, all business registrations, food establishment permits, and, where applicable, Texas Alcoholic Beverage Commission permits required by the State of Texas and by the county and city in which each of its locations operates, to operate the Restaurant and to sell the items it offers through the Services. The Restaurant will not offer alcoholic beverages for pickup or delivery through the Services unless it holds the permits required by the Texas Alcoholic Beverage Code for that sale and follows all age-verification requirements.

**25.8 Texas sales tax on the Services** Texas treats remotely accessed software services such as the Services as a taxable data processing service (Texas Tax Code § 151.0035), and exempts twenty percent (20%) of the charge (Texas Tax Code § 151.351). Where EatFuti is required to collect Texas sales and use tax, EatFuti will add the tax on the taxable eighty percent (80%) of the Subscription Fees and other taxable Fees to the Restaurant's invoice at the rate for the Restaurant's location, unless the Restaurant provides a valid Texas resale or exemption certificate. Where EatFuti is not required to collect, the Restaurant is responsible for accruing and paying Texas use tax on the taxable portion of the Fees directly to the Texas Comptroller.

**25.9 Third-party food delivery services** Texas Business and Commerce Code chapter 118 prohibits a third-party food delivery service from arranging the delivery of an order from a restaurant without the restaurant's agreement. The Services are direct ordering on the Restaurant's own website and application, and any delivery is performed by the Restaurant or by a Delivery Partner the Restaurant selects under Section 4.2. To the extent EatFuti's consumer application or any Delivery Partner integration is ever treated as a third-party food delivery service under chapter 118, this Agreement constitutes the Restaurant's written agreement for that purpose, and EatFuti will comply with the requirements of chapter 118, including removing the Restaurant from any such listing within the time the statute requires after the Restaurant's request.

**Questions?** Call EatFuti at (515) 493-0243 or email hello@eatfuti.com.