Restaurant365

Master Subscription Agreement

This Restaurant365 Master Subscription Agreement (this "**Agreement**") is entered into by and between R365, Inc., d/b/a Restaurant365 ("**Restaurant365**" or "**R365**"), and the customer identified on the signature page of the applicable Order Form (the "**Customer**" and, together with R365, each, a "**Party**" and collectively, the "**Parties**"). This Agreement hereby incorporates the Terms & Conditions set forth below and that certain Order Form executed by and between the Parties (the "**Order Form**"), and, together with the Order Form, sets forth the software components and services of Restaurant365 that Customer may use during the Term (as defined below), subject to and in accordance with this Agreement (collectively, the "**Services**"). Any documents and other terms incorporated herein by written reference (including, without limitation, any written reference to information contained in a referenced policy) form a part of this Agreement as if set forth herein.

By executing the Order Form, Customer has agreed to the terms and conditions of this Agreement and has caused this Agreement to be executed and delivered to Restaurant365. This Agreement was last updated on **November 1, 2026**, and is subject to updates from time to time, as made available at www.restaurant365.com/msa/.

Any ambiguity, conflict or inconsistency between this Agreement, the Order Form and/or a Scope of Work or other document incorporated herein by reference shall be resolved according to the following order of precedence: a) the Order Form or any amendment thereto; b) the R365 Payroll Service Addendum (or any other product-specific addendum); c) a Scope of Work; and d) this Agreement.

Terms & Conditions

1. **Contracting Parties**. This Agreement is binding between the Customer and Restaurant365.

2. **Products & Services**. Customer is entitled to use the Services, including the components and integrations thereto, purchased by the Customer as specified in the Order Form. Customer may purchase additional Subscriptions (as defined below) and other Services at any time upon execution of a subsequent Order Form and such additional Services shall become available to Customer subject to and in accordance with the pricing and other terms and conditions of such subsequent Order Form and this Agreement. For the avoidance of doubt, all components and integrations subscribed to or otherwise purchased by Customer subsequent to the Effective Date set forth in the Order Form are subject to the terms and conditions of this Agreement unless otherwise specified.

3. **System**. The use of the "**System**" herein, shall mean the Restaurant365 software system, the ExpandShare software system ("**ExpandShare**"), and all associated training materials, including any courses, checklists, videos, information, documents, software, products and services provided by Restaurant365 to Customer in connection with the Services. Customer acknowledges and agrees that the System may be updated and/or enhanced at any time during the Term, and, as such, the look, feel, usability and features may change during the course of the Term. Use of the System and any of the Services contemplated under this Agreement are also governed by Restaurant365's privacy policy, the current version of which can be found at www.restaurant365.com/privacy-policy, which is incorporated herein by reference (the "**Privacy Policy**"). The Parties understand that R365 may receive data and personal information from Customer regarding Customer's use of the System and will accordingly process or maintain such data pursuant to the terms of the Privacy Policy.

4. **Term and Termination; Subscriptions**.

    a. The term of this Agreement shall begin on the Effective Date (as defined in the Order Form) and shall continue (i) for the period specified in the Order Form (the "**Initial Period**") and (ii) automatically, upon the expiration of the Initial Period, for immediately successive one-year (1-year) periods thereafter (each, a "**Renewal Period**" and, together with the Initial Period, collectively, the "**Term**"), unless either Party provides written notice to the other Party of its intent not to renew the Agreement at least sixty (60) days prior to the end of the Initial Period or the then-current Renewal Period. In the event that Customer elects, in accordance with the foregoing sentence, to not renew this Agreement, then Customer shall notify R365 of such election by email to renewals@restaurant365.com, or the Agreement shall renew.

b. **Termination**.

i. This Agreement may not be terminated or cancelled, nor may Services be downgraded by the Customer prior to the end of the Initial Period or an applicable Renewal Period. R365 may terminate this Agreement, effective immediately upon written notice to Customer, if Customer: (a) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (b) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (c) makes, or seeks to make, a general assignment for the benefit of its creditors; (d) applies for, appoints, or has appointed, a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business; or (e) is in breach of any of its obligations hereunder, including, but not limited to, its payment obligations.

ii. Upon any termination of this Agreement, all of Customer's rights and licenses to use the System and any services contemplated hereunder shall terminate with immediate effect, and Customer will be responsible for exporting data out of the System prior to the effective date of such termination. Upon the first (1st) business day following the effective date of any such termination, Restaurant365 shall delete all of the Customer's information, with the exception of any Aggregated Data, from the System.

c. **Subscriptions**.

i. Certain Services and aspects of the System contemplated under this Agreement may be offered by R365 on a subscription basis (each, a "**Subscription**"). For each Subscription purchased by Customer hereunder, Customer will be automatically billed in accordance with the billing schedule set forth in the Order Form until the end of the Initial Period or Renewal Period, as applicable, during which such Subscription was purchased (such Initial Period or Renewal Period, a "**Subscription Term**"). Subscriptions may not be cancelled or downgraded, and Customer will be held responsible for full payment of the Fees (as defined below) for the entire Subscription Term. The Fees for each Subscription will become due and payable in their regular schedule until the end of the Subscription Term.

ii. Notwithstanding the foregoing, Customer may, upon 60 days' prior written notice to R365, terminate the portion of its Subscriptions attributable to the corresponding number of Customer's locations (each, a "**Location**") that have been permanently closed as of the date of such notice; provided that the number of such terminations in any Subscription Term shall not, individually or in the aggregate, constitute a material portion of Customer's total Subscriptions during such Subscription Term, and provided further, that upon R365's request, Customer shall provide R365 with documentation evidencing each such Location closure prior to the effective date of any such termination. Pursuant to Section 17(d) of this Agreement, Subscriptions are not cancellable upon the sale of a Location.

iii. Certain Services are provided and invoiced on a per-Location basis, as described in the Order Form. For any such Services, R365 reserves the right to monitor Customer's (and such Location's) use of Services. If such monitoring reveals usage by any Locations that has not been billed to, or otherwise paid by, Customer, then Customer shall pay the corresponding Fees within 10 days of receipt of R365's invoice for such usage. Such additional Services used shall be added to the Subscription and shall not terminate until the end of the Subscription Term.

5. Payment Terms

a. **Billing Commencement**. Customer's obligation to pay the fees for access to the System and for the Services (as described in the Order Form or the applicable Order Form Amendment, collectively, the "**Fees**") commences on the Effective Date, and all Fees shall become due and payable in accordance with the billing and payment terms set forth herein and as specified in the Order Form (or the applicable Order Form Amendment). Billing will begin on the applicable date (or dates), and in accordance with the terms, specified in the Order Form or Order Form Amendment, as applicable. For the purposes of clarity, and unless otherwise expressly stated in the Order Form, the Customer's "go-live" date is independent of and may not be the same as the Start Date (as defined in the Order Form).

b. **Fees Generally**. Except with respect to ExpandShare, each new location or integration that is added by the Customer, regardless of when it is added, requires an associated one-time Point of Sale ("**POS**") setup Fee and monthly Subscription Fee. For each Renewal Period, and with effect as of the commencement thereof,

R365 shall have the right to increase the price of any Subscription or Service (including, without limitation, any component or integration thereof) purchased by Customer; provided that no such price shall increase by more than 8% in any 12-month period.

c. **Payment**. Customer shall pay all Fees, including appropriate taxes charged by the city, county or state in which it resides or any federal tax imposed on the sale of the license and services provided by Restaurant365, to Restaurant365 on the same date every month based on the date of original purchase (i.e. if original purchase was made on the 14th, all subsequent payments are due on the 14th of each month), or as otherwise set forth in the Order Form. Payments that have not been made to R365 within fifteen (15) days after the billing date are considered past due and shall be subject to finance charges at a rate of the lower of ten percent (10%) per year or the maximum allowed under applicable law, calculated on a prorated basis as of the date due until the date paid. If Customer fails to pay any fee contemplated hereunder in a timely manner, R365 may, without limitation to any other rights and remedies available to it, suspend performance of any and all services by shutting off access to the System until it receives all amounts due. No such suspension of performance by R365 shall be deemed a breach by R365, and Customer shall not withhold any payments owed to Restaurant365 for any reason, including as a result of any such suspension. If any action is commenced by Restaurant365 to collect unpaid Fees or otherwise enforce the provisions of this Agreement, Customer shall pay all costs and expenses, including attorneys' fees, incurred by Restaurant365 in connection therewith. Unless otherwise specified in the Order Form, Customer's shipping address set forth in the Order Form will be used to determine the appropriate taxing jurisdiction of the products and services purchased. Fees due under this Agreement are net of any applicable taxes that are required by law.

d. **Refunds**. Customer shall not be eligible for any refunds for: (i) any cancellations or downgrades of any Services or Subscriptions, (ii) any election not to access or use any Service or Subscription, (iii) any Location closures (subject to Section 4(c)(ii)), or (iv) its failure to fulfill its obligations set forth in Section 6(c)(iii), unless, in each case such refund is legally required pursuant to applicable law.

6. **Setup and Support**.

a. **Technology Support**. Support services shall be provided Mon. – Fri. from 7:00 am Central Time to 7:00 pm Central Time. The Customer is entitled to unlimited product support with their normal monthly fee, which includes fixing and troubleshooting any defect or bug in the System itself, and does not include assistance in making or reconciling accounting entries and records. Upon written agreement between the Parties, further technology support may be purchased. Restaurant365 does not extend support to the maintenance of or troubleshooting issues with the Customer's point of sale system or other hardware and software products that are not provided by Restaurant365. It is the responsibility of the Customer to maintain its own hardware or other non-Restaurant365 software systems with its other vendors and service providers or internal IT staff.

b. **Training**. Customer shall receive unlimited access to the online training videos for each component and feature of the System. If the Customer has additional questions or clarifications regarding the System after watching the training videos, it may purchase additional remote (i.e. online) training services. It is not the responsibility of Restaurant365 to train all new users of the System when they are added to the System or to respond to all training requests.

c. **Setup and Setup Fees**. Setup of the System on behalf of Customer shall be performed by R365 or by a third party who is selected by Customer from a group of R365's approved providers (the "**Designated Service Partner**" or "**DSP**").

i. In cases where the setup of the System is performed by R365 (as opposed to by a Designated Service Partner), the provisions of this Section 6(c)(i) shall apply. Each new R365 instance requires an associated setup Fee, which shall be detailed on an Order Form or an Order Form Amendment. Such Order Form or Order Form Amendment, as applicable, must be signed by Customer, and Customer's payment of such setup Fee shall be due to R365 upon its execution thereof. The minimum required setup Fee is called the "Standard Implementation" service Fee and is based on activities that are defined in the applicable Scope of Work.

ii. In cases where the setup is performed by a Designated Service Partner (as opposed to by R365), the provisions of this Section 6(c)(ii) shall apply. Customer shall execute a service agreement with the applicable DSP as promptly as practicable, and, in any event, within 7 days of the Effective Date. The

setup of the System by a Designated Service Partner shall be subject to the terms of such DSP's service agreement, including pricing terms, whereby Customer shall pay DSP directly for such services. Customer acknowledges and agrees that the Designated Service Partner, and not R365, shall be solely responsible for setup of the System and that R365 shall not have any liability or responsibility to Customer or any other party in connection with the setup of the System, and Customer hereby expressly irrevocably and unconditionally releases and discharges R365 from any and all claims, liabilities, obligations, promises, causes of actions, actions, suits, or demands, of whatsoever kind or character, arising in connection with the setup of the System, as Customer's sole recourse for such matters shall be between Customer and the Designated Service Partner.

iii. **Implementation**. Customer shall contact, cooperate and actively engage with the R365 Services team, or with the DSP (as applicable), within 60 days after the Effective Date, in order to initiate the performance of any implementation, project, or other professional services to be performed pursuant to the Order Form, and shall timely complete all responsibilities assigned to Customer by the R365 Services team, or by the DSP (as applicable), in connection with the fulfillment of such services. Customer acknowledges and agrees that, if Customer fails to take any of the foregoing actions, R365, in its sole discretion, may accordingly (x) adjust the performance timeline(s) for any affected services, (y) charge Customer additional fees in connection with any affected services, or (z) suspend or cancel the performance of any affected services, as applicable.

7. Terms Related to Specific Products.

a. **ExpandShare**. The following terms shall apply to Customer's purchase of ExpandShare Services.

i. For the purposes of this Section 7(a), "**Custom Content**" shall mean any custom coursework on the ExpandShare system created by R365 specifically for Customer pursuant to an executed Scope of Work between the parties, in connection with the Services and explicitly identified by R365 as Custom Content. Custom Content not include: (i) software made or obtained by R365; (ii) trademarks, tradenames, and other designations and insignia of R365 that are displayed on any of the materials provided or created by R365; (iii) a limited amount of general-purpose or reusable images, graphics, formats, or other component created or obtained by R365 for purposes not unique to Customer; or (iv) any content, format, structure, templates, or components that are general know-how, ideas, techniques, and skills that R365 develops or applies in creating Custom Content.

ii. Customer shall own all Custom Content. Customer grants R365, its affiliates, and their respective service providers a non-exclusive, worldwide, royalty-free license during the Term to host, store, reproduce, encode, transmit, display, perform, modify (including edit, format, and translate), and otherwise use the Custom Content and any materials, scripts, logos, footage, music, images, and other content that Customer provides for inclusion in ExpandShare Content for the purposes of creating, hosting, delivering, supporting, securing, and improving the Services for Customer and its authorized users. This license includes the right to sublicense to R365's hosting, streaming, and other subprocessors solely to provide the Services. Custom Content shall be provided in hard copy to Customers and stored by R365 for a period no longer than 12 months.

iii. Customer acknowledges that the content of any video, course, training module, or other material made available through ExpandShare, whether Custom Content or other content provided or created by R365 (together, "**ExpandShare Content**"), is provided for general training and informational purposes only. R365 does not provide legal, employment, regulatory, safety, food-safety, or other professional advice through ExpandShare Content, and ExpandShare Content is not a substitute for Customer's own compliance program, policies, or professional advisors.

iv. **On-Site Filming**. When such services are purchased, Customer acknowledges that R365 and its designees may photograph, film, and audio-record at Customer's premises in connection with creating Custom Content, and that individuals, including Customer's employees, contractors, guests, and patrons, may appear or be heard, including incidentally or in the background. Customer is responsible for notifying all such individuals in advance and for obtaining any consents, releases, or authorizations required by applicable law or Customer policy, including by posting reasonable notice at the premises. Customer will exclude from filming, and notify R365 of, any individual who has not consented or who objects. Customer, on behalf of itself and its affiliates, releases R365, its affiliates, and their personnel and contractors from any claim arising from the filming, recording, or use of the likeness, image, voice,

or name of any individual or the appearance of Customer's premises in ExpandShare Content in accordance with this Agreement, including claims for invasion of privacy, right of publicity, or compensation. Customer will use commercially reasonable efforts to cause its employees and contractors to execute any release R365 reasonably requests. Customer will defend and indemnify R365 against third-party claims by any individual present at Customer's premises arising from filming conducted in accordance with this Section 7(a)(iv) or from Customer's failure to give the notice or obtain the consents required by this Section 7(a)(iv).

b. **Payroll**. The use of the R365 Payroll Services shall be subject to the terms and conditions found at https://www.restaurant365.com/master-agreements-and-addendums#payroll-service-terms.

c. **AI Products**

i. **Definitions.**

1. "**AI Features**" means any service, feature, or functionality that uses machine learning, large language models, automated decision-making, or other artificial intelligence technology to generate, recommend, select, or apply content or configurations. AI Features shall be included in the definition of Services hereunder.

2. "**AI Input**" means any input Customer or a User provides or makes available to an AI Feature.

3. "**AI Output**" means any output, recommendation, rule, configuration, or other content generated or applied by an AI Feature. AI Output shall be considered Customer Data.

ii. **Nature of AI Output.** Customer acknowledges that AI Features are probabilistic and may produce output that is incomplete, inaccurate, outdated, inconsistent, or unsuitable for Customer's circumstances, and that similar inputs may produce different outputs. AI Output is generated by artificial intelligence, including by using technology provided by third-party providers. Accordingly, AI Output, including recommendations regarding rules and laws for any state or locality, is provided for informational and operational convenience only. It is not legal, tax, accounting, HR, or other professional advice, and R365 is not providing legal advice or acting as Customer's counsel or employment advisor.

iii. **Customer Responsibility; Use at Customer's Own Risk.** Customer is solely responsible for its use of AI Features and AI Output, including (a) reviewing and independently verifying all AI Output before relying on or acting on it, (b) determining whether AI Output complies with the federal, state, and local laws, regulations, collective bargaining agreements, and Customer policies that apply to its business, workforce, and locations, and (c) all decisions made, and actions taken or not taken, based on AI Output. Customer's use of, and reliance on, AI Features and AI Output is at Customer's sole risk. Customer will consult its own legal and professional advisors as appropriate. R365 makes no warranty as to the accuracy, completeness or reliability of the AI Features or AI Output or that they do not violate third-party rights or applicable law.

iv. Customer shall not (and shall not permit anyone else to): (i) provide AI Input that either violates third-party rights or any applicable law or is intended, or would reasonably be expected, to generate AI Output that does so; (ii) provide AI Input that includes personal data of children under 13 or any age of digital consent under any applicable law or regulation; (iii) use AI Output in a manner that Customer knows, or reasonably should know, violates third-party rights or applicable law; or (iv) represent that AI Output is human generated or approved or endorsed by R365.

v. **Customer Controls.** Customer may disable the automated functionality of any AI Feature at any time through the settings in the Services. Customer acknowledges that (1) it is responsible for deciding whether to enable or disable AI Features, (2) if Customer leaves an AI Feature enabled, Customer accepts the risks described in this Section 7(c).

vi. **Changes and Third-Party Providers.** R365 may modify, improve, or discontinue AI Features, and may use third-party AI providers or models to deliver them, without liability to Customer.

vii. R365 will not use Customer Data to train third-party AI models, provided that R365 may use Aggregated

Data to train or improve the Services.

d. **Beta Features**. From time to time, R365 may include or make available pre-release and/or beta features, functionalities, or modules of the products or Services ("**Beta Features**") for Customers to use and evaluate during a trial period, without prior notice. Customer acknowledges and agrees that Beta Features: (i) are for evaluation purposes only and not for production use; (ii) are not considered part of the subscription or Services under the Agreement; (iii) are not supported or subject to Section 6(a) of this Agreement or any service level addendum between the parties; (iv) notwithstanding anything set forth in the Agreement, are provided "as is" with no warranties of any kind; and (v) may be subject to additional terms. R365 welcomes, but does not require, Customer to provide Feedback (as defined in the Agreement) regarding Beta Features. Any trial period will expire on the earliest of: (a) R365's discontinuation of the Beta Feature; (b) the date a version of the feature becomes generally available; or (c) as otherwise set forth in writing. R365 may discontinue any Beta Feature at any time in its sole discretion and may never make it generally available.

e. **3rd Party Integrations**. Integrations with third-party systems that may be made available to Customers, including, but not limited to, POS systems ("**3rd Party Integrations**") subject to this Section 7(e). Restaurant365 does not guarantee access to or quality of any 3rd Party Integrations, as Restaurant365 does not guaranty connectivity between Customer and any 3rd Party Integration. In the event that Restaurant365 is required to pay any fees to any 3rd Party Integrations provider on behalf of Customer, then Customer agrees that Restaurant365 may invoice Customer for such fees, along with a processing fee upon the execution of an Order Form detailing such fees. Restaurant365 may remove any 3rd Party Integration from the Services for any reason in its sole discretion, including but not limited to the following: (a) Restaurant365 determines that the Customer's use of such 3rd Party Integration violates any law, rule, regulation or court order; (b) Restaurant365 receives notice or demand from the 3rd Party Integration provider to end such use; or (c) the 3rd Party Integration becomes technically unavailable or inaccessible.

8. **Customer Responsibilities**.

a. Customer is solely responsible for: procuring, installing and operating the user computers, hardware, printers, communications lines and operating systems required for its use of the System; providing a proper environment and proper utilities for the Customer's computers on which the System operates; adopting procedures to ensure the accuracy of input data; examining and confirming results prior to use; Customer shall abide by all applicable local, state, national, and foreign, laws, treaties and regulations in connection with Customer's use of the Services and the System, including without limitation those related to data privacy, international communications, and the transmission of technical or personal data, and providing an authorized primary 'power user' and project manager who will coordinate communication and activities, making or facilitating the making of decisions during the implementation process and post- implementation. Customer shall deliver the information requested, as part of the implementation, in a timely manner. If Restaurant365 has not received the Customer's documents and desired System configurations on or before the agreed upon schedule, the Customer will be charged additional setup and configuration fees to complete the work. The Customer is responsible for ensuring that the operating software on each workstation is on a currently supported version from the maker. No support will be given to troubleshoot errors on workstations that are not on a currently supported version of software. The Restaurant365 platform and system is enabled to connect with many other systems and vendors. Restaurant365 is not responsible for any third-party fees for data access, APIs or any other connections. Customer is solely responsible for these fees.

b. Customer represents and warrants to R365 that: (i) it has the necessary power and authority to enter into this Agreement; (ii) the execution and performance of this Agreement have been authorized by all necessary corporate or institutional action; (iii) entry into and performance of this Agreement will not conflict with any provision of law or the certificate of incorporation, bylaws or comparable organizational documents of Customer or conflict with any contract or agreement to which it is a party or by which it is bound; (iv) it complies and will comply with all applicable laws and regulations pertaining to its use of the Services; and (v) it is the owner of, or maintains all rights necessary to use, the Customer Data provided to R365 and that Customer Data does not infringe on a third party's intellectual property rights.

9. **IP Rights; Grant of License, Authorized Use and Restrictions**.

a. **Intellectual Property Rights**. Except as provided herein (specifically relating to Customer Data and Custom Content), as between Restaurant365 and Customer, the System (including any services provided hereunder, including ExpandShare) and all of its components and contents (including without limitation any computer

code, pre-populated content, concepts, artwork, photographs, audio-visual effects, text contained within, improvements or modifications thereto and patent, copyright, trademark, trade secret and any other intellectual property rights therein) are owned by Restaurant365. The System and such services are protected by copyright, trademark and other laws of both the United States and foreign countries and may not be reproduced, duplicated, copied, sold, resold, visited or otherwise exploited for any unauthorized commercial purpose, or used in any manner other than as permitted under this Agreement, without Restaurant365's express prior written consent in each instance. Restaurant365 shall own all intellectual property developed or created during the Term, excluding Customer Data and Custom Content. Notwithstanding anything to the contrary in the Agreement, and in accordance with Section 9(e) of this Agreement, Customer authorizes and agrees that Restaurant365 may collect Aggregated Data and such Aggregated Data shall be the property of Restaurant365. Restaurant365 shall have the right to retain, distribute, sell, incorporate into products and otherwise use such Aggregated Data.

b. Restaurant365 hereby grants, and the Customer accepts on behalf of itself and its employees, a non-exclusive, non-transferable, revocable and limited right and license to use the System and any Services, as contemplated hereunder and in the Order Form, for the limited purpose of Customer's internal business operations during the Term. Customer shall cause all persons ("**Users**") obtaining access to the System to access the System solely in accordance with the terms hereof.

c. Customer may use the System and the Services only for Customer's internal business purposes and shall not:
   i. license, sublicense, sell, rent, resell, transfer, assign, distribute, publish or otherwise make available to any third party the System in any way;
   ii. copy, modify, or make derivative works or improvements of the System;
   iii. create internet "links" to the System or "frame" or "mirror" any part of the System on any other server or wireless or Internet-based device;
   iv. reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the System, in whole or in part;
   v. bypass or breach any security device or protection used by the System or access or use the System or the Services other than by the use of Customer's authorized means;
   vi. input, upload, transmit, or otherwise provide to or through the System, any information or materials that are unlawful or injurious, or contain, transmit, or activate any software, hardware, or other technology, device, or means, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data processed thereby ("**Harmful Code**");
   vii. damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the System or the Services, or R365's provision of services to any third party, in whole or in part;
   viii. remove, delete, alter, or obscure any copyright, trademark, patent, or other intellectual property or proprietary rights from any System;
   ix. access or use the System or the Services in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any third party or that violates any applicable law;
   x. access or use the System for purposes of competitive analysis of the System, the development, provision, or use of a competing software service or product, or any other purpose that is to R365's detriment or commercial disadvantage; or
   xi. otherwise access or use the System or the Services beyond the scope of the authorization expressly granted by R365 under this Agreement.

d. **Feedback**. In the event Customer provides Restaurant365 with any feedback about the System or any services contemplated hereunder or under any Order Form, including, without limitation, any errors, flaws, issues, suggestions or otherwise (collectively, "**Feedback**"), Customer hereby assigns to Restaurant365 any and all rights, title and interest in and to the Feedback, including, but not limited to, the right to use such Feedback in any manner Restaurant365 deems appropriate. To the extent any Feedback may not be assigned to Restaurant365, whether under any applicable law or otherwise, Customer agrees to provide Restaurant365 with an exclusive, royalty- free, fully paid-up, irrevocable, perpetual, transferable, worldwide license to use such Feedback in any manner Restaurant365 deems appropriate.

e. **Aggregated Data**. "**Aggregated Data**" means Customer Data and usage information from which all direct and known indirect identifiers have been removed, and on which technical, organizational and legal controls prevent employees, researchers or other third parties from re-identifying individuals. Aggregated Data therefore meets the standard of "protected de-identified," and therefore no longer constitutes Customer Data and, as provided in Section 9(a), shall not be subject to any restrictions on R365's ability to use, sell, distribute, incorporate into products (including competitive benchmarking), or disclose such Aggregated Data.

10. Customer Data.

a. Certain Definitions. As used herein:
   i. "**Customer Data**" shall mean any specific files, videos, documents, images, user records, reports, information, or materials provided or submitted by Customer to Restaurant365 or the System in the course of using the Services. Customer Data shall include AI Output.
   ii. "**Customer Systems**" shall mean Customer's information technology infrastructure, including computers, software, hardware, devices, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services.

b. Customer has and will retain sole responsibility for:
   i. all Customer Data, including its content and use;
   ii. all information, instructions, and materials provided by or on behalf of Customer and its users in connection with the System or the Services;
   iii. Customer Systems;
   iv. the security and use of Customer's and its users' access credentials; and
   v. all access to and use of the System and the Services directly or indirectly by or through the Customer Systems or its or its users' access credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions and actions based on, such access or use.

c. As between Customer and R365, Customer is and will remain the sole and exclusive owner of all right, title, and interest in and to all Customer Data, including all intellectual property rights relating thereto, subject to the rights and permissions granted in Section 10(d) and the provisions of Section 9(e).

d. Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data:
   i. to R365 as are necessary or useful to perform or provide the Services;
   ii. to R365 as are necessary or useful to enforce this Agreement and exercise its rights and perform its obligations hereunder; and
   iii. to R365 as are necessary to track and analyze Customer's use of the System and the Services, including but not limited to software performance analysis and compiling statistical information.

e. R365 SHALL HAVE NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION, OR RECOVERY OF CUSTOMER DATA, UNLESS SUCH LOSS, ALTERATION, DESTRUCTION, DAMAGE, OR CORRUPTION IS DIRECTLY AND SOLELY CAUSED BY R365'S GROSS NEGLIGENCE.

11. Confidentiality.

a. Confidential Information means non-public information that the disclosing Party designates as being confidential or which under the circumstances surrounding disclosure should be treated as confidential ("**Confidential Information**"). Confidential Information includes, without limitation: information relating to the disclosing Party's software or hardware products which may include source code, API data files, documentation, specifications, databases, networks, system design, file layouts, tool combinations and development methods as well as information relating to the disclosing Party's business or financial affairs, which may include business methods, marketing strategies, pricing, competitor information, product development strategies and methods, customer lists and financial results. Confidential Information also includes information received from others that the disclosing Party is obligated to treat as confidential and oral information that is identified by the disclosing Party as confidential. Confidential Information disclosed by a subsidiary of the disclosing Party and/or its agents is covered by this Agreement. Confidential

Information includes all tangible materials which contain Confidential Information whether written or printed documents, computer disks or tapes whether user or machine-readable.

b. Confidential Information shall not include any information that: (1) is already known to the receiving Party; (2) is or becomes publicly known through no wrongful act of the receiving Party; (3) is received by the receiving Party from a third party without any restriction on confidentiality; (4) is approved for release by prior written authorization of the disclosing Party; or (5) was independently developed by the receiving Party without the benefit of the Confidential Information as shown by documents and other competent evidence in receiving Party's possession.

c. The Parties agree to maintain the confidentiality of the Confidential Information and to protect as a trade secret any portion of the other Party's Confidential Information by preventing any unauthorized copying, use, distribution, installation or transfer of possession of such information. Without limiting the generality of the foregoing, neither Party shall permit any of its personnel to remove any proprietary or other legend or restrictive notice contained or included in any material provided by the disclosing Party and the receiving Party shall not permit its personnel to reproduce or copy any such material except as expressly authorized hereunder. Each Party may only use the Confidential Information of the other Party in order to fulfill its obligations under this Agreement.

d. In the event a recipient of Confidential Information is required by law or a valid and effective subpoena or order issued by either a court of competent jurisdiction or a governmental body to disclose any of the discloser's Confidential Information, the recipient shall be permitted to comply with such subpoena or order but furnish only that portion of the Confidential Information that is legally required and will exercise all reasonable efforts to obtain reliable assurances that such Confidential Information will be treated confidentially to the extent possible.

e. Both Parties acknowledge that any use or disclosure of the other Party's Confidential Information in a manner inconsistent with the provisions of this Agreement may cause the non-disclosing Party irreparable damage for which remedies other than injunctive relief may be inadequate, and both Parties agree that the non-disclosing Party may request injunctive or other equitable relief seeking to restrain such use or disclosure. The Parties agree that the disclosure of Confidential Information may cause irreparable harm to the Party whose information is disclosed.

f. The provisions of this Section 11 shall survive any termination of this Agreement for any reason.

12. **General Warranty Disclaimer**. RESTAURANT365 MAKES, AND THE CUSTOMER RECEIVES, NO WARRANTIES HEREUNDER, WHETHER EXPRESS, IMPLIED OR STATUTORY, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN. THE SYSTEM AND ALL SERVICES CONTEMPLATED HEREUNDER ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES CONCERNING THE AVAILABILITY, ACCURACY, USEFULNESS OR CONTENT OF INFORMATION, PRODUCTS OR SERVICES OR ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES THAT DATA TRANSMISSION AND STORAGE IS SUBJECT TO THE LIKELIHOOD OF HUMAN AND MACHINE ERRORS, OMISSIONS, DELAYS AND LOSSES, INCLUDING INADVERTENT LOSS OF DATA OR DAMAGE TO MEDIA, THAT MAY GIVE RISE TO LOSS OR DAMAGE. IN ADDITION, CUSTOMER AGREES THAT RESTAURANT365 DOES NOT REPRESENT THAT THE SYSTEM OR ANY SUCH SERVICES WILL BE UNINTERRUPTED, WITHOUT OMISSIONS OR ERROR FREE.

13. **Limitation of Liability**. Neither Restaurant365 nor any of its employees, agents, successors, assigns, affiliates, consultants or service providers shall be liable to the Customer or any third party for any indirect, incidental, special or consequential damages arising out of: use of the System, the performance of any services contemplated hereunder, the inability to gain access to or use the System or any breach of any warranty. The limitation of liability shall include, without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss arising out of this Agreement or the performance or failure to perform support or other services, even if Restaurant365 or Customer has been advised of the possibility of such damages. The cumulative liability of Restaurant365 to the Customer for any claims relating to the System or the services contemplated hereunder, whether arising in contract, tort or otherwise, shall not in any event exceed the amount of services fees paid hereunder, in the aggregate, in the twelve (12) month period preceding the event giving rise to the claim. The foregoing allocation of risk and limitation of liability has been negotiated and agreed by the Parties and forms the basis of their willingness to enter into this transaction.

14. **Indemnification**.

a. R365 shall indemnify, defend and hold Customer harmless from and against any judgments, settlements, costs and fees reasonably incurred (including reasonable and documented out-of-pocket costs and attorney's fees) resulting from any claim, demand, suit, or proceeding made or brought against Customer by a third party alleging that the authorized and proper use of the System hereunder infringes or misappropriates the valid intellectual property rights of a third party (an "**IP Claim**"); provided that Customer shall (i) promptly provide R365 with written notice upon becoming aware of such IP Claim; (ii) give R365 sole control of the defense and settlement of the IP Claim (provided that R365 may not settle any IP Claim unless the settlement unconditionally releases Customer of all liability); and (iii) provide to R365 all reasonable assistance, at R365's expense. In the event of an IP Claim, or if R365 reasonably believes the System may infringe or misappropriate the rights of a third party, R365 may, in R365's sole discretion and at no cost to Customer, (X) modify the System, so that it is no longer infringing or misappropriating, which shall not constitute breach of any of R365's warranties hereunder, (Y) obtain a license for Customer's continued use of the System in accordance with this Agreement, or (Z) terminate Customer's subscriptions for and access to the System and refund to Customer any prepaid Fees covering the remainder of the Term after the effective date of such termination.

b. Notwithstanding the foregoing, R365 will have no obligation under 14(a) to the extent an IP Claim arises from or is based on: (i) any modification of the Services that was not made or authorized in writing by R365; (ii) the combination, operation, or use of the Services with any software, hardware, data, process, or other technology not provided or approved in writing by R365, if the IP Claim would not have arisen but for that combination, operation, or use; (iii) Customer Data, Custom Content, or any specifications, instructions, designs, or materials provided or directed by Customer, including content Customer creates or uploads through the Services; (iv) use of the Services or in breach of this Agreement or applicable law, or outside the scope of the rights granted under this Agreement; (v) use of a superseded or altered release of the Services after R365 has made a non-infringing update, patch, or replacement available at no additional charge and has notified Customer; (vi) any third-party products, services, software, data, or content, including open-source software, integrations, or third-party platforms, that are not owned by R365, whether or not made available through or alongside the Services; (vii) use of the Services after R365 has notified Customer to discontinue use because of an actual or alleged infringement; (viii) any Beta Features or other trial, evaluation, free, or preview features or services provided without charge; or (ix) AI Output generated by AI Features, to the extent the IP Claim arises from Customer's prompts, inputs, or instructions, or from Customer's use of the AI Output.

c. R365 shall indemnify, defend and hold Customer harmless from and against any judgments, settlements, costs and fees reasonably incurred (including reasonable attorney's fees) resulting from any claim, demand, suit, or proceeding made or brought against Customer by a third party in connection with any failure of R365 to process or maintain Customer Data pursuant to the terms of the Privacy Policy.

d. Customer shall indemnify, defend and hold R365 harmless from and against any judgments, settlements, costs and fees reasonably incurred (including reasonable and documented out-of-pocket costs and attorney's fees) resulting from any claim, demand, suit, or proceeding made or brought against R365 by a third party in connection with (i) Customer's breach of this Agreement; (ii) any materials or information provided by or on behalf of Customer, or R365's compliance with any specifications or directions provided by or on behalf of Customer; or (iii) negligent or more culpable act or omission (including recklessness or willful misconduct) of Customer, or of any third party acting on behalf of Customer, in connection with this Agreement.

15. **Marketing Press Release**. Upon R365's request, Customer agrees to issue a mutually agreed upon press release announcing the partnership between the Parties. Additionally, Customer agrees to be listed as a customer on its website and in a quarterly Restaurant365 press release (quarter-end after the launch date) announcing new customer launches during the previous quarter and internal or external marketing collateral, and to permit R365 to display Customer's logo accordingly.

16. **Required Virtual Mediation prior to Virtual Arbitration**. Except as provided in Section 11(e), any unresolved dispute or controversy arising from or relating to this Agreement shall be mediated by both Parties prior to any Party pursuing any other legal or equitable remedy in any other forum whatsoever (the "**Mediation**"). All such Mediations shall be conducted through the platform provided by New Era ADR, Inc. (https://app.neweraadr.com/) (the "**New Era Platform**") in accordance with its rules and procedures by a professional neutral(s) with substantial experience in mediating and

resolving commercial disputes (the "**Neutral**"). The Neutral shall be chosen in accordance with the rules and procedures of the New Era Platform. If and only if any such unresolved dispute or controversy arising from or relating to this Agreement is not finally settled through Mediation, such unresolved dispute or controversy shall be finally resolved by binding arbitration through the New Era Platform in accordance with its rules and procedures for Virtual Expedited Arbitrations. The Neutral shall be chosen in accordance with the rules and procedures of the New Era Platform. Each Party shall bear its own costs of arbitration. Except for R365's rights to recover attorney's fees under Section 5(c), the prevailing Party may be entitled to receive reimbursement of its reasonable expenses (including reasonable attorneys' fees and all other expenses) incurred in connection therewith, at the Neutral's discretion.

17. General Terms.

a. **Force Majeure**. Restaurant365 shall not be responsible for failure to perform in a timely manner under this Agreement when its failure results from causes outside its reasonable control, including, without limitation, acts of God or public enemies, war, terrorism, insurrection or riots, embargoes, acts of civil or military authorities, fire, floods, explosions, earthquakes, serious accidents, strikes, labor trouble or work interruptions or any other cause beyond its reasonable control.

b. **Independent Contractor**. Restaurant365 and Customer are independent contractors. Neither Restaurant365 nor Customer are, or shall be deemed for any purpose to be, employees or agents of the other and neither Party shall have the power or authority to bind the other Party to any contract or obligation.

c. **Survival**. The provisions of this Agreement that by their nature should survive termination or expiration will survive and shall remain in effect, including, without limitation, provisions relating to ownership and intellectual property rights, payment obligations and any fees accrued or owed, confidentiality, disclaimers of warranties, limitations of liability, indemnification, severability, waivers, dispute resolution governing law and venue.

d. **Assignment**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns. Restaurant365 may assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part, to any person or entity at any time without Customer's consent. Customer shall not assign this Agreement or any of its rights and obligations hereunder without the prior written consent of Restaurant365, and any purported assignment in violation of this Section 17(d) shall be deemed null and void. This Agreement is not cancellable in the event of Customer's sale of its assets, merger with another restaurant or any other change of control.

e. **Entire Agreement; Amendments**. Each Party acknowledges that it has read this Agreement and agrees that this Agreement is the complete and exclusive statement of the Parties and supersedes and merges all prior proposals understandings and agreements, oral or written, between the Parties relating to the subject matter hereof, including without limitation, the terms of any Customer request for proposal or the standard printed terms on any Customer purchase order. Except for periodic updates to this Agreement, no modification, amendment, supplement to or waiver of this Agreement or any Order Form or Order Form Amendment shall be binding upon any party hereto unless made in writing and duly executed by both Parties.

f. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without reference to conflicts of laws principles. In addition to, and in no way limiting, each Party's obligation to comply with Section 16, Customer and Restaurant365 consent to the jurisdiction of the state and federal courts located in Delaware.

g. **Severability.** If any provision of this Agreement, or its application to any person or circumstance, is held by a court or arbitrator of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, that provision shall be enforced to the maximum extent permissible and, if necessary, reformed to the minimum extent required to make it enforceable in a manner that most closely reflects the Parties' original intent and economic bargain. The invalidity, illegality, or unenforceability of that provision shall not affect the remaining provisions of this Agreement (including any Order Form), which shall remain in full force and effect.

h. **Waiver; Remedies.** No failure or delay by either Party in exercising any right, power, or remedy under this Agreement shall operate as a waiver of that right, power, or remedy, nor shall any single or partial exercise preclude any other or further exercise of it or the exercise of any other right, power, or remedy. A waiver of any provision or of any breach shall be effective only if made in writing and signed by the waiving Party, and shall apply only to the specific instance and for the specific purpose stated. R365's acceptance of a late or

partial payment, or its continued provision of the Services following a Customer breach, shall not constitute a waiver of any past or subsequent breach or of any right to the full amount owed. Except as expressly provided in this Agreement, the rights and remedies provided herein are cumulative and not exclusive of any rights or remedies available at law or in equity.