

LUNCHBOX TECHNOLOGIES INC.

CLIENT SERVICES AGREEMENT

Last Updated Date: July, 2022.

This Client Services Agreement (including each Service Order (as defined below), Service Specific Terms (as defined below) and any and all exhibits, documents and policies attached or referenced herein or therein, this “**Agreement**”) is between Lunchbox Technologies Inc., a Delaware corporation (“**Lunchbox**”) and the person or entity listed on the signature page of the applicable Service Order (“**Customer**”).

By accepting this Agreement, either by clicking a box indicating your acceptance, executing a Service Order, or other document that references this Agreement, by using (or making any payment for) the Services, or by otherwise indicating your acceptance of this Agreement, you: (1) agree to this Agreement on behalf of the Customer; and (2) represent that you have the authority to bind Customer to this Agreement. If you do not have such authority, or if you do not agree with this Agreement, you must not accept this Agreement and may not use the Services.

This Agreement is subject to change by Lunchbox from time to time, provided that the terms and conditions of this Agreement in effect as of the effective date or, if subsequently renewed, the most recent renewal date of a Service Order will apply for the performance of that Service Order and that any such changes will not apply retroactively to any Service Order.

The parties agree as follows:

1. **Definitions.**

A. “**Applicable Law**” means all international, federal, state, provincial, and local laws, regulations, binding regulatory guidance, directives, and governmental requirements applicable to the Services, or either party’s performance under this Agreement.

B. “**Authorized Users**” means Customer’s employees, consultants, contractors, and agents (i) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement and (ii) for whom access to the Services has been purchased under a Service Order.

C. “**Confidential Information**” means information or data that either party (“**Discloser**”) discloses to the other party (“**Recipient**”) under this Agreement, and that is marked as confidential or identified in writing as confidential within thirty (30) days of disclosure to Recipient or would normally be considered confidential information under the circumstances; provided, however, that (1) information or data related to or regarding the Services, Documentation, Usage Data or Lunchbox’s business plans, strategies, technology, research and development, billing records and products or services, and related features, functionality and performance, will be deemed Confidential Information of Lunchbox and (2) Customer Data will be deemed Confidential Information of Customer; in each case even if not so marked or identified, unless such information is the subject of any of the exceptions set forth in the following sentence. “Confidential Information” does not include information that Recipient can document: (1) is independently developed by Recipient without

reference to Discloser's Confidential Information; (2) is known to Recipient prior to receipt from the Discloser directly or indirectly from a source other than one having an obligation of confidentiality to Discloser; (3) is rightfully given to Recipient directly or indirectly by a third party source without confidentiality obligations to Discloser; or (4) becomes public through no fault of Recipient. Lunchbox's

D. **"Customer Data"** means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, from Customer or an Authorized User by or through the Services. "Customer Data" also includes any data provided in the duration of this partnership that includes usage data from another platform as well any guest migration information. For the avoidance of any doubt, any information disclosed to the other party containing payment or financial data, personally identifiable information, biographical information, or in the case of information disclosed by Customer, information provided to Customer by its customers or clients, shall be considered Confidential Information or "customer data"

E. **"Documentation"** means any manuals, handbooks, and guides relating to the Services provided by Lunchbox to Customer either electronically or in hard copy form/end user documentation relating to the Services and may be requested from Lunchbox.

F. **"Implementation Services"** means any implementation, configuration, design, onboarding, training, or consulting services relating to the Services that are specified in a Service Order or otherwise provided by Lunchbox to Customer.

G. **"Intellectual Property Rights"** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

H. **"Order Term"** means the Service Order term length specified in the contract term within the applicable Service Order.

I. **"Scope Limitations"** means any limitations on Customer's use of the Services specified in a Service Order, such as number of restaurant locations.

J. **"Service Order"** or **"License Agreement"** means an ordering document or online order specifying the Services to be provided under this Agreement that is entered into between Customer and Lunchbox, including any addenda and supplements thereto.

K. **"Service Specific Terms"** means the additional terms and conditions set forth at <https://www.lunchbox.io/service-terms>, which are hereby incorporated into this Agreement by reference.

L. **"Services"** means Lunchbox's software-as-a-service platform and any related applications; in each case, identified in the applicable Service Order.

M. **"Third-Party Materials"** means materials and information, in any form or medium, including any open-source or other software, documents, data, content, specifications, products, equipment, or components of or relating to the Services that are not proprietary to Lunchbox.

N. **"Usage Data"** means data relating to the Authorized Users' use of the Services or Lunchbox's other products and services that is aggregated in such a way that it is not associated with Customer.

2. **Services.**

A. **Service Orders.** Each Service Order is subject to, and hereby incorporated into, this

Agreement. If there is a conflict between this Agreement and a Service Order, this Agreement will control unless the Service Order states that a specific provision of this Agreement will be superseded by a specific provision of the Service Order, in which case such provision of such Service Order will control with respect to such Service Order.

B. **Changes to Service Orders.** Either party may, at any time, reasonably request a change to any Service Order. Any requested change that the parties mutually accept (a “**Change**”) will be described in a written change order prepared by Lunchbox and signed by both parties.

C. **Access to the Services.** Subject to Customer’s payment of all fees and compliance with this Agreement, Lunchbox grants to Customer a worldwide, non-exclusive, non-transferable (except as expressly permitted by Section 16.D below), non-sublicensable right during the Order Term to use the Services by its Authorized Users solely in connection with Customer’s internal business purposes in accordance with any Scope Limitations and the Documentation. Some older POS systems may require an agent to be installed on the local POS system.

D. **Documentation.** Subject to Customer’s payment of all fees and compliance with this Agreement, Lunchbox grants to Customer a worldwide, non-exclusive, non-transferable (except as expressly permitted by Section 16.D below), non-sublicensable license during the Order Term to internally use the Documentation solely for the purpose of enabling Customer’s authorized use of the Services.

E. **Support.** Subject to Customer’s payment of all Fees and compliance with this Agreement, Lunchbox will use commercially reasonable efforts to provide support in accordance with the Service Levels set forth in **Exhibit A**.

F. **Subcontractors.** Lunchbox may use subcontractors or other third parties to perform its obligations under this Agreement, but Lunchbox will remain responsible for all such obligations.

3. **Implementation Services**

A. **Customer Obligations and Responsibilities.**

(1) Customer will: (a) cooperate with and assist Lunchbox in the performance of Implementation Services; (b) provide the resources specified in the Service Order; and (c) perform all obligations required by Customer under the terms of the Service Order. Lunchbox is not responsible or liable for any delay or failure of performance arising in whole or in part by Customer’s delay in performing, or failure to perform, any of its obligations under this Agreement.

(2) Without limiting the foregoing, Customer will ensure that the following responsibilities are met:

(i) All data required to perform the Implementation Services under a Service Order will be supplied by Customer and is assumed to be accurate and publishable and must be provided in a consistent format as agreed with Lunchbox.

(ii) Such data will be supplied by Customer as soon as possible after the effective date of a Service Order but in all cases within five (5) days after such effective date. Should Customer not be in a position to deliver such data within this timeframe, then Lunchbox may at its sole discretion place a hold on the Implementation Services until such time Customer provides all such data and Lunchbox has resources available to resume such Implementation Services.

(iii) All users and entitlements shall be administered and maintained by Customer as applicable.

(iv) Management of any required third parties.

(v) Timely review of and feedback on deliverables, including user acceptance testing (“UAT”) during the Implementation Services.

(vi) Procurement of any photography, fonts and any media should this be

required.

(vii) Provision of any required language translations, document generation, and data calculations, as applicable.

(viii) Provision of information required to generate certificate signing requests and certificates required for the website, unless fees are expressly included in the Service Order for Lunchbox to obtain and maintain certificates on behalf of Customer.

(3) Lunchbox does not white-label last-mile delivery services (e.g Doordash Drive, Postmates, Relay etc). Customer is responsible for maintaining all relationships with the last-mile delivery provider including any legal engagements for integration with Lunchbox.

B. Customer Acceptance. For Final UAT sign-off, Customer will have up to five (5) business days to test the Services under a Service Order and confirm in writing that the Implementation Services meet the acceptance criteria and all requirements set out in the Service Order. If Customer does not reject any specific deliverables of the Services in writing within this review period, the Services are deemed accepted. In addition, the Services are deemed accepted if at any time it is used for commercial purposes, is approved for production deployment or is used by Customer's end customers. Once accepted, the Services will be made available on production basis for Customer use. Any revisions to completed work beyond the revision period specified by Lunchbox may be subject to the prevailing Lunchbox day rate. Both parties must agree to any additional changes and out-of-scope work by providing written sign-off.

C. Performance; Delays. Lunchbox will use commercially reasonable efforts to provide the Implementation Services to Customer as described in the applicable Service Order. The ability of Lunchbox to perform its responsibilities depends on the fulfillment of the assumptions and the Customer and third party responsibilities described in a Service Order or otherwise in this Agreement. To the extent any assumptions are unmet or delays in the Implementation Services arise as a result of Customer's or a third party's delay, or if Customer fails to perform any of its obligations under this Agreement or any Service Order, including any payment obligations then, without prejudice to its other rights and remedies, Lunchbox may extend the performance schedule under any Service Order and charge additional amounts in respect to incremental effort or expense incurred, provided that Lunchbox first provides prior notice to Customer regarding the potential schedule or fee impact as soon as such an impact is reasonably foreseeable. Lunchbox reserves the right to reassign resources due to Customer delays, and Lunchbox will determine when resources can resume after Customer has satisfied its obligations, which will also result in extensions to project timelines. Lunchbox will have no liability for any costs or expenses resulting from such delays.

D. Estimated Project Timeline There is generally a two-week lead time for Implementation Services to be scheduled once a Service Order has been signed. Any and all schedules or dates provided by Lunchbox with respect to Implementation Services or otherwise are estimates only. Configuration begins when the Customer has signed off on the completion of "Planning and Analysis" which includes the agreement on the scope of requirements and the receipt of all data, style guides and/or documents as applicable. Failure of Customer to provide deliverables as per agreed schedule will result in project delays; continued failure to provide deliverables will result in the project being put on hold.

E. Implementation with Third-Party Company. If Customer requests Lunchbox to perform Implementation Services on or with respect to any Third-Party Materials, Customer represents and warrants to Lunchbox that Customer has all necessary rights to allow Lunchbox to do so. Customer will ensure that while Lunchbox employees, agents, or subcontractors are on Customer's premises, all proper and legal health and safety precautions are in place and fully operational to protect such persons.

F. **App Store Publishing and Attribution Requirements.** All mobile applications configured by Lunchbox in connection with the Services will be published exclusively under Lunchbox's developer account with the applicable mobile application store, unless otherwise required by such mobile application store's terms and conditions. If a mobile application store requires publication under Customer's own account, Customer will provide Lunchbox with admin-level access to its account to enable Lunchbox to perform the Services and Customer hereby appoints Lunchbox as its agent for the limited purpose of [establishing, maintaining and (upon expiration or termination of this Agreement) terminating such account] with such mobile application store in Customer's name. The Services will at all times include the phrase "powered by Lunchbox" (or other attribution notice if required by Lunchbox) in the placement, size, and format identified by Lunchbox from time to time.

G. **Mutual Trademark License.** During the term of this Agreement, each party ("**Licensor**") grants to the other ("**Licensee**") the right to use the trademarks, logos, and trade names that Licensor may adopt from time to time ("**Marks**") solely in connection with the performance of the activities that are permitted by this Agreement. Licensee will use such Marks only in a manner that complies in all material respects with Licensor's trademark usage policies in effect from time to time. Licensee will submit to Licensor all representations of the Marks that Licensee intends to use for Licensor's approval of design, color, and other details. All goodwill arising out of Licensee's use of Licensor's Marks will automatically vest in Licensor, and Licensee agrees to take all such actions necessary to effect such vesting.

4. **Restrictions and Responsibilities.**

A. **Use Restrictions.** Except as expressly permitted in this Agreement, Customer will not, and will not permit or authorize third parties to: (1) rent, lease, or otherwise permit third parties to use the Services or Documentation; (2) use the Services or Documentation to provide services to third parties (e.g., as a service bureau); (3) use Services or Documentation in any way that would violate the Scope Limitations or this Agreement; (4) circumvent or disable any security or other technological features of the Services; (5) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, know-how, or algorithms related to the Services; (6) modify, translate, or create derivative works based on the Services or Documentation; (7) remove any proprietary notices or labels from the Services or Documentation (such as "powered by Lunchbox"); (8) copy, modify, or create derivative works or improvements of the Services or Documentation; (9) access or use the Services or Documentation for purposes of competitive analysis of the Services or Documentation, the development, provision, or use of a competing software service or product or any other purpose that is to the Lunchbox's detriment or commercial disadvantage or (10) use the Services in a manner that violates or attempts to circumvent Applicable Law. This Section 4.A will apply solely to the extent permitted by Applicable Law.

B. **No Circumvention.** Customer will process online orders exclusively through its ordering system powered by Lunchbox and may not circumvent the Lunchbox platform when processing online orders. All third party marketplace ordering platforms like Grubhub, UberEats, Doordash are excluded from this restriction.

C. **Authorized Users; Accounts.** Customer is responsible and liable for all actions and inactions by its Authorized Users or by any third party that Customer or an Authorized User permits to access or use the Services, as if such action or inaction were an action or inaction of Customer. Customer is responsible for maintaining control over Customer's account, including the confidentiality of any login credentials, and is responsible for all activities that occur on or through Customer's account and its Authorized Users' accounts.

D. **Customer Systems and Back-Ups.** Customer shall obtain and operate all systems and

equipment needed to connect to, access or otherwise use the Services, and provide all corresponding back-up, recovery, and maintenance services. Customer shall ensure that all systems and equipment are compatible with the Services. Customer is solely responsible for maintaining the integrity and security of its systems and equipment (physical, electronic, and otherwise). Lunchbox is not responsible for performing, and is not liable for any failure to perform, any back-up of any Customer Data in or through the Services. Lunchbox recommends that Customer perform regular exports and back-ups of Customer Data

E. **Changes.** Lunchbox reserves the right, in its sole discretion, to make any changes to the Services and Documentation that it deems necessary or useful to: (a) maintain or enhance: (1) the quality or delivery of Lunchbox's services to its customers; (2) the competitive strength of or market for Lunchbox's services; or (3) the Services' cost efficiency or performance; or (b) to comply with applicable Law. Without limiting the foregoing, either party may, at any time during the Term, request in writing changes to the Services. The parties shall evaluate and, if agreed, implement all such requested changes in accordance with the change procedure set forth in Exhibit D. No requested changes will be effective unless and until memorialized in a written change order signed by both parties.

5. **Third-Party Services; Third-Party Hardware.**

A. **Third-Party Services.** Lunchbox and third parties may make available third-party products or services, including plugins, mobile applications, integrations, and related services ("**Third-Party Services**") that Customer may elect to purchase or use. Any use by Customer of such Third-Party Services and any exchange of data between Customer and any Third-Party Service or Third-Party Service provider is solely between Customer and the applicable Third-Party Service provider. Lunchbox does not warrant or provide support for Third-Party Services, whether or not they are designated by Lunchbox as "recommended," "certified," or otherwise. Lunchbox is not responsible for any violations of Applicable Law relating to Third-Party Services, or arising from Customer's use of Third-Party Services. If Customer uses any Third-Party Services with the Services, Customer grants Lunchbox permission to allow the Third-Party Service and its provider to access Customer Data as required for the interoperation of that Third-Party Service with the Services. Lunchbox is not responsible for any disclosure, modification, or deletion of Customer Data resulting from access by such Third-Party Service or its provider. Customer is responsible for negotiating any limits on the use of Customer Data by the Third-Party Services directly with the Third-Party Service provider. Lunchbox does not guarantee the continued availability of any Third-Party Services (or any integration with Third-Party Services or related Services features), and if such Third-Party Services or related features are discontinued, Customer will not be entitled to any refund, credit, or other compensation.

B. **Third-Party Hardware.** Customer may choose to purchase third-party hardware from Lunchbox ("**Hardware**"). Subject to Customer's payment of all applicable fees, Lunchbox will supply any Hardware specified in a Service Order. Lunchbox does not warrant or provide support for Hardware, whether or not such Hardware is designated by Lunchbox as "recommended," "certified," or otherwise. Lunchbox is not responsible for any violations of Applicable Law relating to the Hardware, or arising from Customer's use of the Hardware. Title and risk of loss in the Hardware passes to Customer upon Lunchbox's delivery to the shipping carrier.

6. **Ownership.**

A. **Lunchbox IP.** Lunchbox and its licensors own (a) the Services, Documentation and Usage Data, all improvements, enhancements or modifications thereto, whether or not developed based on Customer's suggestions or other feedback, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all

Intellectual Property Rights in or associated with, and any derivatives of, the foregoing (the “**Lunchbox IP**”). The Lunchbox IP is protected by copyright law and other Intellectual Property Rights and Applicable Law. No ownership rights are transferred to Customer by this Agreement. Customer does not have any rights in or to the Lunchbox IP except for the limited express rights granted in this Agreement.

B. **Customer Data.** Customer owns all right, title, and interest in and to the Customer Data. No ownership rights in the Customer Data are transferred to Lunchbox by this Agreement. Lunchbox does not have any rights to the Customer Data except for the limited express rights granted in this Agreement.

C. **Feedback.** Customer may elect from time to time to provide Lunchbox with feedback, comments, or suggestions concerning the Services or Implementation Services or other actual or proposed Lunchbox technology or services (collectively, “**Feedback**”). Lunchbox will have full discretion to determine whether or not or how to proceed with the Feedback. Customer hereby assigns to Lunchbox all right, title, and interest in and to the Feedback and all Intellectual Property Rights in or associated with the Feedback, and acknowledges that Lunchbox is free to use the Feedback without payment, attribution, or restriction.

7. **Data.**

A. **License.** Customer hereby grants Lunchbox a worldwide, for so long as Lunchbox is providing the services to Customer, non-exclusive, irrevocable, royalty-free, fully-paid, sublicensable (directly and indirectly through multiple tiers) license to host, store, transfer, display, perform, reproduce, modify, create derivative works of, and distribute Customer Data, in any media or distribution methods now known or later developed, in accordance with the settings on Customer’s account and the features of the Services that Customer elects to utilize.

B. **Usage Data.** Lunchbox may collect and analyze Usage Data and other information relating to the provision, use, and performance of various aspects of the Service and related systems and technologies (including information provided by third-party analytical tools). Lunchbox may analyze, copy, process, collect, use, disclose, and reproduce Usage Data for any purpose, including for the purposes of: (1) complying with a regulatory inquiry or judicial action of a governmental body; and (2) improving the Services and developing new products, services, features, and functionality.

8. **Confidentiality.** Each party as Recipient will take reasonable precautions to protect Discloser’s Confidential Information, and will not use (except as expressly permitted in this Agreement) or divulge to any third party any Confidential Information except to those employees, consultants, contractors, service providers and representatives of Recipient who have a need to know the Confidential Information to enable Recipient to perform its obligations under this Agreement. Recipient is responsible and liable for its employees’, consultants’, contractors’, service providers’ and representatives’ compliance with this Section 8, as if their actions or inactions were an action or inaction of Recipient. The foregoing will not apply with respect to any Confidential Information five years after the disclosure thereof (or, with respect to trade secrets, for so long as such Confidential Information constitutes a trade secret under Applicable Law), or any Confidential Information that is required to be disclosed by Applicable Law.

9. **Fees and Payment.**

A. **Fees and Payment.**

(1) Customer will pay Lunchbox all fees described in all Service Orders (the “**Fees**”) in accordance with the terms therein. Unless otherwise agreed in a Service Order, Lunchbox will bill via ACH monthly in advance. Unpaid amounts are subject to a finance charge of 1.5% per month on

any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of the Implementation Services or access to the Services. All amounts paid under this Agreement will be paid in U.S. Dollars. At its discretion, Lunchbox may increase the pricing stated on any Service Order for any Renewal Term (as defined below) upon giving Customer at least ninety (90) days' notice (which may be sent by email) prior to the end of the then-current Term.

(2) Travel and related expenses will be fully reimbursed to Lunchbox subject to pre-approval by Customer.

(3) If Customer believes that Lunchbox has billed Customer incorrectly, Customer must contact Lunchbox no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit, otherwise the dispute is waived.

B. **Taxes.** Other than federal and state income taxes imposed on Lunchbox, Customer will bear, and invoices are subject to, all and all taxes, duties, and other governmental charges relating to the Services, Implementation Services, and any Hardware.

C. **Payment Processing.** ACH payment information is required upon execution of the Service Order and Customer hereby consents to having its ACH account be charged automatically for any and all fees due hereunder. Lunchbox uses Stripe, Inc. ("**Stripe**") to process payments made via the Services. The processing of payments relating to Customer's use of the Services will be subject to the [Stripe Connected Account Agreement](https://stripe.com/connect-account/legal) made available at <https://stripe.com/connect-account/legal>, which includes the [Stripe Terms of Service](https://stripe.com/legal) made available at <https://stripe.com/legal> (collectively, the "**Stripe Services Agreement**"). Customer hereby agrees to be bound by the Stripe Services Agreement, which may be modified by Stripe from time to time as set forth therein. As a condition of Lunchbox enabling payment processing services through Stripe, Customer agrees to provide Lunchbox accurate and complete information about Customer, and Customer authorizes Lunchbox to share it and transaction information related to Customer's use of the payment processing services provided by Stripe.

10. **Term and Termination.**

A. **Term.** The term of this Agreement will commence on the effective date of the first Service Order between the parties and will continue until terminated in accordance with this Agreement (the "**Term**"). Upon expiration of a Service Order, the Order Term thereof will automatically renew for a term equivalent to the initial Order Term (each, a "**Renewal Term**"), unless otherwise specified in such Service Order or if either party notifies the other in writing of its desire to terminate the applicable Service Order at least sixty (60) days before the expiration of the then-current Order Term.

B. **Termination for Breach, Insolvency, or Illegality.** (1) Either party may terminate this Agreement, or any Service Order effective upon written notice to the other party, if the other party materially breaches this Agreement (or the Service Order or SOW) and such breach is incapable of cure, or (if such breach capable of cure) the breaching party does not cure such breach within 30 days of receiving notice of it. (2) Lunchbox may terminate or suspend this Agreement or any part of it immediately upon written notice to Customer without a cure period if Customer breaches any of the terms of this Agreement relating to Lunchbox's Intellectual Property Rights or Lunchbox's Confidential Information. (3) Either party may terminate this Agreement, effective immediately upon written notice, if the other party files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors, or applies for, or consents to, the appointment of a trustee, receiver, or custodian for

a substantial part of its property. (4) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Services involved in this Agreement.

C. **Effect of Termination.** Termination of this Agreement will automatically terminate all active Service Orders, but termination of a single Service Order will not result in termination of this Agreement or any other Service Orders. Upon the termination of this Agreement, or a Service Order, all rights and licenses granted by Lunchbox to Customer under this Agreement or the applicable Service Order will terminate. Either party's termination of this Agreement is without prejudice to any other remedies it may have at law or in equity, and does not relieve either party of liability for breaches occurring prior to the effective date of termination.

D. **Post-Termination Obligations.** Upon any termination of this Agreement, or any Service Order, Lunchbox will make all Customer Data then held on Customer's behalf by Lunchbox pursuant to this Agreement or the applicable Service Order available to Customer for electronic retrieval for a period of 30 days. After such period, Lunchbox may, but is not obligated to, delete any such Customer Data. If Customer terminates this Agreement for material breach, Customer will pay a pro rata amount of the Fees for any terminated Services and Implementation Services up to and including the last day on which the Services or Implementation Services are provided. If this Agreement is terminated for any other reason, Lunchbox will not refund Customer any Fees paid in advance of such termination, and within 10 days after such termination, Customer will pay Lunchbox all remaining Fees owed under any terminated Service Orders. The following sections of this Agreement will survive any expiration or termination of this Agreement: Sections 1 (Definitions), 3 (Restrictions and Responsibilities), 6 (Ownership), 7 (Data), 8 (Confidentiality), 9 (Fees and Payment), 10.C (Effect of Termination), 10.D (Post-Termination Obligations), 11 (Warranties and Disclaimer), 12 (Indemnification), 13 (Limitations of Liability), 15 (Compliance with Applicable Law; Export), and 16 (Miscellaneous).

11. **Warranties and Disclaimer.**

A. **Mutual Warranties.** Each party represents and warrants to the other that: (1) this Agreement has been duly executed and delivered and constitutes a binding agreement enforceable against the executing party in accordance with its terms; (2) no authorization or approval from any third party is required in connection with the execution, delivery, or performance of this Agreement by the executing party; (3) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party and (4) the execution, delivery, and performance of this Agreement by the executing party do not violate the laws of any jurisdiction or the terms of any other agreement to which it is a party or by which it is otherwise bound.

B. **Lunchbox Warranties.** Lunchbox represents and warrants to Customer that Lunchbox will perform the Services and the Implementation Services in a good and workmanlike manner in accordance with industry standards.

C. **Customer Warranties.** Customer represents and warrants to Lunchbox that: (1) Customer has the necessary rights to authorize Lunchbox to use the Customer Data in accordance with this Agreement; and (2) Customer will use the Services in compliance with the Documentation and Applicable Law.

D. **Disclaimer.** EXCEPT FOR THE LIMITED WARRANTIES DESCRIBED IN THIS SECTION 11 (WARRANTIES AND DISCLAIMER), LUNCHBOX MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE SERVICES, HARDWARE, IMPLEMENTATION SERVICES, DOCUMENTATION, USAGE DATA, OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS,

IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY, SATISFACTORY QUALITY, ACCURACY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTIES DESCRIBED IN THIS SECTION 11 (WARRANTIES AND DISCLAIMER), THE SERVICES, HARDWARE, IMPLEMENTATION SERVICES, AND DOCUMENTATION ARE PROVIDED "AS IS." LUNCHBOX DOES NOT WARRANT THAT THE SERVICES, HARDWARE, IMPLEMENTATION SERVICES, OR DOCUMENTATION WILL SATISFY CUSTOMER'S REQUIREMENTS, ARE WITHOUT DEFECT OR ERROR, OR THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF WARRANTIES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO CUSTOMER.

12. **Indemnification.**

A. ***Customer Indemnification.***

(1) **Defense.** At Lunchbox's option and request, Customer will defend Lunchbox from any actual or threatened third-party claim, proceeding, or suit arising out of or based on any Customer Data, any breach of the Applicable Law, or Customer's use of the Services (each, a "**Claim**"). If Lunchbox requests Customer to defend it from any Claim, Lunchbox will: (1) give Customer prompt written notice of the Claim; (2) grant Customer full and complete control over the defense and settlement of the Claim; (3) provide assistance in connection with the defense and settlement of the Claim as Customer may reasonably request; and (4) comply with any settlement or court order made in connection with the Claim. Notwithstanding the previous sentence, Customer will not enter into any settlement that involves an admission of guilt or liability of Lunchbox without Lunchbox's prior written consent. Lunchbox may participate in the defense of a Claim at its own expense and with counsel of its own choosing.

(2) **Customer Indemnification.** Customer will indemnify Lunchbox from and pay: (1) all damages, costs, and attorneys' fees finally awarded against Lunchbox in any Claim; (2) all out-of-pocket costs (including attorneys' fees) reasonably incurred by Lunchbox in connection with the defense of a Claim (other than attorneys' fees and costs incurred without Customer's consent after Customer has accepted defense of the Claim); and (3) all amounts that Customer agrees to pay to any third party to settle any Claim.

B. ***Lunchbox Indemnification.***

(1) **IP Infringement Defense.** Lunchbox will defend Customer from any actual third-party claim, proceeding, or suit arising out of or based on an allegation that Customer's use of the Services infringes any third-party Intellectual Property Rights (a "**Lunchbox Claim**"). Customer will: (a) give Lunchbox prompt written notice of the Lunchbox Claim; (b) grant Lunchbox full and complete control over the defense and settlement of the Lunchbox Claim; (c) provide assistance in connection with the defense and settlement of the Lunchbox Claim as Lunchbox may reasonably request; and (d) comply with any settlement or court order made in connection with the Lunchbox Claim. Notwithstanding the previous sentence, Lunchbox will not enter into any settlement that involves an admission of guilt or liability of Customer without Customer's prior written consent. Customer may participate in the defense of a Lunchbox Claim at its own expense and with counsel of its own choosing.

(2) **IP Infringement Indemnification.** Lunchbox will indemnify Customer from and pay (a) all damages, costs, and attorneys' fees finally awarded against Customer in any Lunchbox Claim; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by Customer in connection with the defense of a Lunchbox Claim (other than attorneys' fees and costs incurred without Lunchbox's consent after Lunchbox has accepted defense of the Lunchbox Claim);

and (c) all amounts that Lunchbox agrees to pay to any third party to settle any Lunchbox Claim. Lunchbox will have no obligation under Section 12.B for any infringement or misappropriation relating to the Services to the extent that it arises out of or is based upon: (i) use of the Services in combination with other products or services; (ii) designs, requirements, or specifications required by or provided by Customer; (iii) use of the Services by Customer outside the scope of the license granted to Customer or otherwise in violation of this Agreement; (iv) Customer's failure to use the Services in accordance with instructions provided by Lunchbox; (v) any modification of the Services not made or authorized in writing by Lunchbox; (vi) any activity after Lunchbox has provided Customer with a work around or modification that would have avoided such issue without materially adversely affecting the functionality or availability of the Services or (vii) use of Third-Party Services that are made available on the Services. This Section 12.B states Lunchbox's sole and exclusive liability, and Customer's sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third party intellectual property right by the Services.

D. IP Infringement Mitigation.

1. If any of the Services or Lunchbox Materials are, or in Lunchbox's opinion are likely to be, claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property Right, or if Customer's or any Authorized User's use of the Services or Lunchbox Materials is enjoined or threatened to be enjoined, Lunchbox may, at its option and sole cost and expense: (1) obtain the right for Customer to continue to use the Services and Lunchbox Materials materially as contemplated by this Agreement; or (2) modify or replace the Services and Lunchbox Materials, in whole or in part, to seek to make the Services and Lunchbox Materials (as so modified or replaced) non-infringing, while providing materially equivalent features and functionality, in which case such modifications or replacements will constitute Services and Lunchbox Materials, as applicable, under this Agreement; or (3) in the event either of the preceding are infeasible or not commercially practicable, Lunchbox may, in its sole discretion, terminate this Agreement upon written notice to Customer and refund to Customer any prepaid amounts for unused Services.

E. ADA Indemnification. Lunchbox strives to ensure that the Services are accessible to all users, to the extent that achieving accessibility is technologically feasible. To comply with the Americans with Disabilities Act (ADA) and other federal, state, and local laws and regulations governing accessibility, Lunchbox aims to conform to the best practices set forth in the World Wide Web Consortium's Web Content Accessibility Guidelines 2.1 ("WCAG 2.1"), Level AA. Lunchbox will indemnify Customer for damages, costs, and attorneys' fees finally awarded against Customer for any actual third-party claim, proceeding, or suit arising out of or based on an allegation that the Services do not comply with the ADA or any other federal, state, or local law or regulation governing accessibility only if the underlying third-party claim, proceeding, or suit concerns solely the Services, and not other digital assets operated by the Customer or within the Customer's control. Notwithstanding the provisions in Section 13.B below, Lunchbox's liability for any claims for indemnification under this provision shall not exceed \$5,000 per Order Term, and any payment made by Lunchbox in accordance with this provision shall be included in the maximum cap set forth in Section 13.B.

13. Limitations of Liability.

A. Exclusion of Damages. Neither Lunchbox nor its affiliates nor its or their vendors, suppliers, licensors, officers, representatives, contractors, or employees will be liable to Customer for any consequential, incidental, special, or exemplary damages arising out of or related to this

Agreement, including lost profits, loss of business, or loss of data, even if Lunchbox is apprised of the likelihood of such damages occurring.

B. **Damages Cap.** Neither Lunchbox's nor its affiliates' nor its or their vendors', suppliers', licensors', officers', representatives', contractors', or employees' total liability of all kinds arising out of or related to this Agreement (including warranty claims), regardless of the forum and regardless of whether any action or claim is based on contract, tort, or otherwise, will not exceed the total amount paid by Customer to Lunchbox during the six months immediately preceding the claim (determined as of the date of any final judgment in an action).

C. **Basis of the Bargain.** Each provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages is to allocate the risks of this Agreement between the parties. This allocation is reflected in the pricing offered by Lunchbox to Customer and is an essential element of the basis of the bargain between the parties. Each of these provisions is severable and independent of all other provisions of this Agreement. The limitations in this Section 13 (Limitations of Liability) will apply notwithstanding the failure of essential purpose of any limited remedy in this Agreement.

D. **Applicability.** Some jurisdictions do not allow the exclusion or limitation of damages. This Section 13 (Limitations of Liability) will apply to Customer solely to the extent permitted by Applicable Law.

14. **Publicity.** Lunchbox may publicly list Customer as a Customer of Lunchbox and use Customer's trademark, trade name, and logo for marketing or promotional purposes (including without limitation case studies and white papers) and in other communication with existing or potential Lunchbox customers, resellers, or investors.

15. **Compliance with Applicable Law; Export.** Each party will comply with all Applicable Law in connection with exercising its rights or performing its obligations under this Agreement, including applicable export laws. As defined in FAR section 2.101, the Services and Documentation are "commercial items" and according to DFAR section 252.2277014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by this Agreement and will be prohibited except to the extent expressly permitted by this Agreement.

16. **Miscellaneous.**

A. **Governing Law; Venue.** This Agreement is governed by New York State law without reference to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. All claims arising under this Agreement will be litigated exclusively in the federal or state courts of New York City, New York. The parties submit to the jurisdiction in those courts. In any proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

B. **Non-Solicitation.** During the Term and for three years thereafter, Customer will not directly or indirectly solicit for employment or otherwise induce, influence, or encourage any employee or contractor of Lunchbox to terminate their engagement with Lunchbox. This Section 16.B will apply solely to the extent permitted by Applicable Law.

C. **Injunctive Relief.** If either party breaches Sections 6 (Ownership) or 8 (Confidentiality), the other party may suffer irreparable harm, and monetary damages may be inadequate to compensate the non-breaching party. Accordingly, either party may, in addition to any other remedies available, seek injunctive or other equitable relief in response to any such breach.

D. **Assignment.** Customer may not assign its rights or delegate its performance under this Agreement without Lunchbox's prior written consent, and any attempt to do so is null and void. Lunchbox may assign its rights or delegate its performance under this Agreement without Customer's consent. Subject to the foregoing, this Agreement is binding upon and inures to the benefit of the parties' permitted successors and assigns.

E. **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

F. **No Waiver.** Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this Agreement.

G. **Entire Agreement.** This Agreement (including any Service Orders, Service Specific Terms and SOWs and any and all exhibits, documents and policies attached or referenced herein or therein, whether by URL or otherwise) constitutes the entire agreement and supersedes any other agreement of the parties relating to its subject matter. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, or supplement the terms of this Agreement.

H. **Amendment.** No amendment to or modification of or rescission, termination, or discharge of this Agreement is effective unless it is in writing, identified as an amendment to or rescission, termination, or discharge of this Agreement and signed by an authorized representative of each party. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

I. **Relationship.** The parties are independent contractors of each other. Each party is responsible for instructing and managing its employees and personnel. This Agreement does not create any agency, partnership, or joint venture relationship between the parties.

J. **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

K. **Notices.** All notices under this Agreement must be in writing, and will be considered given: (1) upon delivery, if delivered personally or by internationally recognized courier service; (2) three business days after being sent, if delivered by U.S. registered or certified mail (return receipt requested); or (3) upon acknowledgement of receipt, if delivered by email. Either party may update its notice address by notice to the other party in accordance with this Section. All notices to Lunchbox will be sent to:

Lunchbox Technologies Inc.
1216 Broadway, New York, NY 10001

Email: kluke@lunchbox.io

Attn: Kieran Luke, COO

L. **Force Majeure.** Lunchbox will not be liable for any delay or failure to perform under this Agreement as a result of (1) any fire, explosion, unusually severe weather, natural disaster or Act of God; (2) epidemic; any nuclear, biological, chemical, or similar attack; any other public health or safety emergency; any act of terrorism; and any action reasonably taken in response to any of the foregoing; (3) any act of declared or undeclared war or of a public enemy, or any riot or insurrection; (4) damage to machinery or equipment; any disruption in transportation, communications, electric power or other utilities, or other vital infrastructure; or any means of disrupting or damaging internet or other computer networks or facilities or hacking; (5) any strike, lockout or other labor dispute or action; (6) any action taken in response to any of the foregoing events by any civil or military authority or (7) any other cause or condition beyond Lunchbox's control (each, a "Force Majeure Event").

M. **Interpretation.** If Lunchbox provides a translation of the English language version of this Agreement, the translation is provided solely for convenience, and the English version will prevail. Any heading, caption, or section title contained in this Agreement is for convenience only, and does not define or explain any provision. Any use of the term "including" or variations thereof should be construed as if followed by the phrase "without limitation."

N. **Counterparts.** This Agreement and any Service Order may be executed in counterparts (which may be exchanged by email, DocuSign or similar electronic process). Each counterpart should be considered an original, but all counterparts together should constitute the same Agreement.

Exhibit A

LUNCHBOX SERVICE LEVELS

All capitalized terms used but not defined in this Exhibit A have the meanings given in the Client Services Agreement between the parties.

1. **Definitions.**

A. **"Available" or "Availability"** means the ability to access and use the Services.

B. **"Excused Downtime"** means when the Services are not Available due to: (1) Scheduled Maintenance; (2) Customer's use of the Services in violation of the Agreement; (3) failures of Customer's internet connectivity or Customer's equipment, services, systems, or other technology (excluding the Services); (4) failures of Lunchbox's third-party service providers (e.g., AWS, Heroku, etc.); or (5) a Force Majeure Event.

C. **"Scheduled Maintenance"** means any scheduled outages or downtime for maintenance, upgrades, enhancements, or changes to the Services.

D. **"Service Interruption"** means that the Services are not Available.

2. **Support.** During Lunchbox's standard business hours, Lunchbox will use commercially reasonable efforts to make available to Customer and its Authorized Users qualified personnel knowledgeable in the Services via telephone numbers and/or email addresses designated by Lunchbox from time to time to: (A) provide advice on the configuration and use of the Services; (B) respond to Service Interruptions and error reporting; and (C) troubleshoot other issues relating to the Services.

3. **Availability.** During the Order Term, Lunchbox will use commercially reasonable efforts to make the Services Available 24 hours a day, seven days a week, at least 99.5% of the time as measured on a monthly basis, excluding Excused Downtime (the **"Availability Requirement"**). Lunchbox will use commercially reasonable efforts to provide advance notice of any Scheduled Maintenance, which may be done via email, or via the Services. Scheduled Maintenance will be performed during a maintenance window expected to least disturb Customer's Authorized Users where possible.

A. Services are considered "unavailable" when no Authorized Users can log in to the Services.

B. Availability in a particular month will be calculated as follows:

$$a = [(b - c) - d] \times 100 / (b - c)$$

"a" = the percentage of Availability in such month;

"b" = the total number of hours in such month;

"c" = the total number of Excused Downtime hours in such month; and

"d" = the total number of hours the Services are unavailable for reasons other than Excused Downtime in such month.

4. **Service Credits.** If Lunchbox fails to meet the Availability Requirement in any given calendar month, Customer notifies Lunchbox of such failure within 24 hours of the end of the month, and Lunchbox confirms the failure, Lunchbox will provide Customer a credit to Customer's account equal

to 2.5% of the fees paid by Customer attributable to the month in which the failure occurred (each, a **"Service Credit"**) per incident that caused the service failure. An incident is only eligible for a Service Credit if the incident lasts more than 45 consecutive minutes. Accrued Service Credits may be applied to a future purchase or amount owing only. Service Credits may not be redeemed for cash payments. Service Credits will not exceed, in the aggregate, more than one week of Fees in any one calendar month.

5. **Sole and Exclusive Remedy.** Service Credits constitute Customer's sole and exclusive remedy for Lunchbox's failure to meet the Availability Requirement or otherwise to conform to the exhibit requirements of this EA.