

TABLESAFE SUBSCRIPTION LICENSE AGREEMENT

THIS END USER LICENSE AGREEMENT (the "Agreement") is a legal agreement between TableSafe, Inc. ("TableSafe"), a Washington corporation located at 12220 113th Avenue NE, Suite 220, Kirkland, WA 98034, and Merchant for use of the TableSafe Products and Hosted Service (as defined below) provided to Merchant by or on behalf of TableSafe, at any or all locations, as indicated in the applicable Order or Merchant Location Sheet. By accessing or otherwise using the Products or Hosted Service, Merchant acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. If Merchant does not agree to the terms and conditions of this Agreement, Merchant may not access or use the Products or Hosted Service. In consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. Definitions. Definitions for certain Agreement-specific capitalized terms are listed in this section 1, in TableSafe Terms located at www.tablesafe.com/tsterms, or in related agreements, and are incorporated into this agreement by reference; other capitalized terms are defined in context throughout this Agreement.
 - 1.1 "Cardholder Data" has the meaning stated in the Payment Card Industry (PCI) Data Security Standard (DSS) and Payment Application Data Security Standard (PA-DSS) Glossary of Terms, Abbreviations, and Acronyms.
 - 1.2 "Intellectual Property Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights, and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.
 - 1.3 "Software" means the computer software programs (solely in object code form) that TableSafe provides to Merchant, whether on a standalone basis or incorporated into Equipment, as the case may be.
 - 1.4 "Transaction" means any action between Merchant and a consumer using a Payment Device that results in activity on the cardholder's account (e.g., payment, purchase, refund, or return).
 - 1.5 "Transaction Information" means any data or information resulting from a Transaction. Transaction Information includes payment processing-related transactional information that may be collected or stored by TableSafe, including the price paid for products or services, date, time, approval, unique transaction number, store identifier, and customer bank information relating to a Transaction.
 - 1.6 "Updates" means modifications, bug fixes, or updates to Software that TableSafe makes generally commercially available.
2. Scope. Merchant has received certain point-of-sale payment devices, peripherals, accessories, and accompanying equipment ("Equipment"), software incorporated into the Equipment or provided in connection with Equipment ("Software"), accompanying written materials ("Documentation") and TableSafe's hosted software application or applications that TableSafe manages, operates, and maintains for remote electronic access and use by Merchants ("Hosted Service"). The Equipment, Software, and Documentation are collectively referred to as the "Products." This Agreement sets forth the terms and conditions under which Merchant may use the Products and Hosted Service.
3. License Grant.
 - 3.1 Use of the Hosted Service. Subject to the terms and conditions of this Agreement, and Merchant's payment of the applicable fees, TableSafe hereby grants to Merchant a non-exclusive, non-transferable, non-sublicensable, revocable license during the term of the Agreement, to: (a) access and use the Hosted Service solely for Merchant's internal business purposes; and (b) reproduce and use any Documentation provided by TableSafe as reasonably required for the use of the Hosted Service. Merchant's licenses will terminate upon any termination of this Agreement or upon any suspension or termination of Merchant's access to the Hosted Service.
 - 3.2 Software. If any Software is delivered to Merchant by or on behalf of TableSafe, including any TableSafe proprietary software either incorporated into Equipment or provided in relation to Equipment, then TableSafe hereby grants Merchant a limited, non-exclusive, revocable, non-transferable, non-sublicensable license to use the Software solely for Merchant's internal business purposes during the term of the Agreement: (a) to use the Software (in object code form only) on such Equipment to process data in accordance with the Documentation; and (b) to use any related Documentation provided by TableSafe for use with the Software. TableSafe may provide Updates to Merchant that Merchant must install to continue to use the Hosted Service. Any such Updates may be subject to additional terms. Equipment may include third-party software that is subject to different or additional terms.
 - 3.3 Third Party Advertising. The Products are designed to discreetly promote select advertisers or sponsors, including the Merchant itself. Merchant agrees to the displaying of advertisers, selected by TableSafe. Merchant may also obtain their own advertisers for promotion on the "Merchant Thank You" screen, which is reserved for the Merchant.
4. Restrictions and limitations. Except as expressly stated otherwise in the Agreement, Merchant (on its own behalf and on behalf of anyone acting for it) will not: (a) access the Hosted Service or use the Products for any purposes other than for its own

internal business purposes (except as authorized by TableSafe) as disclosed to TableSafe in writing; (b) modify, reverse engineer, disassemble or decompile any part of the Hosted Service or Products; (c) transmit any data that contains software viruses, time bombs, worms, Trojan horses, spyware, disabling devices, malicious code, or other harmful or deleterious computer code, files or programs to or through the Hosted Services; (d) interfere with or disrupt the servers or networks connected to or providing the Hosted Service; (e) remove, change or obliterate the copyright, trademark or other proprietary protection legends or notices that appear in connection with access to and use of the Hosted Service, Products, or any Documentation; (f) take any action that interferes with any of TableSafe's Intellectual Property Rights or challenge any right, title or interest of TableSafe in or to TableSafe's Intellectual Property Rights; or (f) copy, re-sell, republish, download, frame or transmit the Hosted Service, Software, or Documentation, including in order to act as a consultant for any third party or, unless otherwise permitted under the Agreement, as a service bureau, outsourcing or application service provider for any third parties, or otherwise allow any third party to use or access the Hosted Service.

5. Access and Authorized Users.

- 5.1** Access to the Hosted Service. Merchant will be responsible for the distribution of all passwords and user IDs issued to Merchant's employees or contractors designated by Merchant to access and use the Hosted Service ("Authorized Users"). Merchant will ensure that the access granted to each Authorized User to the Hosted Service is limited to only the access and information necessary for the Authorized User to perform his or her job functions on behalf of Merchant. Merchant will ensure that all Authorized Users will be trained and qualified to access and use the Hosted Service in accordance with the terms of the Agreement and any Documentation. Merchant is responsible for its Authorized Users' compliance with the terms of the Agreement and the Documentation, for all acts or omissions of Authorized Users, and for all use of any user ID and password other than by TableSafe or TableSafe's Authorized Users.
- 5.2** Responsibility for Authorized Users. Merchant will be responsible for: (a) maintaining the confidentiality and security of Authorized Users' passwords and user IDs; (b) any communications or other uses of the Hosted Service that are made using its or its Authorized Users' passwords and user IDs; and (c) any obligation that may result from such use. Merchant is responsible for changing the user IDs and passwords of its Authorized Users if it believes that any of those user IDs or passwords have been stolen or might otherwise be misused and for disabling any Authorized User's ID and password promptly upon the termination of employment of such Authorized User or the cessation of such Authorized User's need to access the Hosted Service. Merchant will promptly notify TableSafe if Merchant believes the Hosted Service or TableSafe's databases have been compromised by use of a user ID or password associated with the Hosted Service. Merchant will cooperate and assist with any actions taken by TableSafe to prevent or terminate unauthorized use of the Hosted Service.

6. Merchant Responsibilities.

- 6.1** Merchant Contact. Merchant will designate one of its employees to serve as its primary contact with respect to this Agreement and to act as its authorized representative with respect to matters pertaining to this Agreement. Merchant will respond promptly to any reasonable requests from TableSafe for instructions, information, or approvals required by TableSafe to provide the Services.
- 6.2** Maintenance of Merchant Systems. Merchant will provide and maintain its systems and equipment, at Merchant's sole expense, in compliance with TableSafe's then-current installation, operating, maintenance, and other standards.
- 6.3** Cooperation. Merchant will cooperate with TableSafe and provide access to Merchant's premises, equipment, networks, information, and systems as required to enable TableSafe to provide the Hosted Service. Merchant will take all steps necessary, including obtaining any required licenses or consents, to prevent any Merchant-caused delays in TableSafe's provision of the Hosted Service.
- 6.4** Use of Products. The Products are provided to Merchant for the purpose of facilitating Merchant's use of the Software and Hosted Services, and Merchant may not use the Products for any other purpose. Merchant acknowledges Products will only be used in connection with TableSafe site and setup requirements, as provided by TableSafe and/or an authorized reseller. Merchant acknowledges that combining, operating, or using the Products with any non-TableSafe equipment, devices, hardware, or software ("Non-TableSafe Products") may degrade the performance of the Hosted Service or damage the Products or the Non-TableSafe Products with which the Products are combined. TableSafe is not responsible or liable for any damage to persons or property or degradation in performance to the Hosted Service, Products or Non-TableSafe Products arising directly or indirectly from such combination. Additionally, unless such combination is approved by TableSafe, such combination will void all warranties related to Products.
- 6.5** Information. Merchant will use reasonable efforts to notify TableSafe at least ten (10) days in advance of, and in no event later than five (5) days following, any change to the Merchant information that may impact the operation of the products or services set forth in an Order.
- 6.6** Use of Folios. TableSafe folios are patent-protected and custom designed to house TableSafe's pay-at-the-table platform. Any use of third party folios and/or use without TableSafe folios is strictly prohibited and such use is considered a material breach of this agreement, which will void TableSafe's warranty of Products and may result in termination of Services until TableSafe-supplied folios are in use.

7. Intellectual Property Rights.

- 7.1 Ownership.** As between TableSafe and Merchant, TableSafe retains all right, title, and interest in the Software and Hosted Service and all Intellectual Property Rights associated with and in the Products and Hosted Service. Merchant acquires no Intellectual Property Rights, express or implied, in the Products or Hosted Service other than the licenses expressly granted to Merchant in the Agreement. Any goodwill derived from the use by Merchant of TableSafe's Intellectual Property Rights inures to the benefit of TableSafe or its licensors, as the case may be. The rights granted to Merchant under the Agreement are non-exclusive and nothing in the Agreement will limit the ability of TableSafe to market, sell, offer for sale, license, or otherwise exploit the Products or Hosted Service or Intellectual Property Rights in any of the foregoing to any third parties or to appoint or authorize any other person or entity to do the same. If Merchant acquires any Intellectual Property Rights in or relating to Products or Hosted Service (including any rights in any trademarks, derivative works or patent improvements relating thereto) by operation of Law or otherwise, such rights are deemed and are hereby irrevocably assigned to TableSafe or its licensors, as the case may be, without further action by either of the parties. TableSafe may take such actions as it deems advisable to protect its Intellectual Property Rights, and Merchant will, on request, cooperate with TableSafe in all reasonable respects in any such protective actions, at TableSafe's expense.
- 7.2 Feedback.** If Merchant gives TableSafe any Feedback, Merchant is deemed to have also given to TableSafe, without charge, the right to use, share, and commercialize the Feedback in any way and for any purpose, without regard to Intellectual Property Rights or otherwise. "Feedback" means ideas, suggestions, comments, input, or know-how, in any form, that Merchant provides to TableSafe in relation to TableSafe's Products, Hosted Service or Documentation. Feedback does not include forecasts, future release schedules, marketing plans, financial results, and high-level plans (e.g., feature lists) for future Products.

8. Trademarks.

- 8.1 License of Marks.** During the Term and subject to the terms and conditions herein, each party hereby grants to the other a non-exclusive, non-transferable, non-sublicensable, revocable, royalty-free, worldwide, personal license to use, publish, and display the other party's trademarks, service marks, well-known marks, symbols, logos and names (collectively "Marks") solely for purposes of fulfilling its obligations under this Agreement, and to advertise and to promote the Products and Subscription Services. In carrying out its obligations under this Agreement, each party will use the other party's Marks solely in the manner approved by the other party. Neither party will use the other party's Marks in any manner that is disparaging or that otherwise portrays the other party in a negative light. Neither party may alter, modify, or change the other party's Marks. No right is granted hereunder to use the other party's Marks or name as part of a domain name, company name, d/b/a, or phone number.
- 8.2 Ownership of Licensed Marks.** Each party acknowledges the other party's sole ownership of the other party's Marks worldwide and all associated goodwill. Nothing in this Agreement or in the performance thereof, or that might otherwise be implied by Law, will operate to grant a party any right, title, or interest in or to the other party's Marks other than as specified in the limited license grant herein. All goodwill arising from each party's use of the other party's Marks will inure solely to the benefit of the other party. Each party hereby assigns and will assign in the future to the other party all rights it may acquire by operation of law or otherwise in the other party's Marks, including all applications or registrations therefore, along with the goodwill associated therewith.
- 8.3 Protection of Licensed Marks.** Each party will assist the other party in protecting and maintaining the other party's rights in its Marks worldwide, including preparation and execution of documents necessary to register the Marks or record this Agreement. Each party will have the sole right to and in its sole discretion may commence, prosecute, or defend, and control any action concerning its Mark. Neither party will during the Term contest the validity of, by act or omission jeopardize, or take any action inconsistent with, the other party's rights or goodwill in the other party's Mark in any country, including attempted registration of any of the other party's Mark, or use or attempted registration of any mark confusingly similar thereto.
- 8.4 Quality Control of Licensed Marks.** Each party will supply the other party with suitable specimens of its Marks for use as contemplated. Each party will fully correct and remedy any deficiencies in its use of the other party's Marks upon reasonable notice from the other party.

- 9. Compliance with Laws.** Merchant will comply with all applicable local, state, and federal statutes, regulations, ordinances, rules, and other binding law in effect from time to time ("Law") and Payment Network Regulations applicable to the Products and Hosted Service. "Payment Network Regulations" means the rules, operating regulations, guidelines, specifications and related or similar requirements of any Payment Network. "Payment Network" means any Credit Card Association, EFT Network, ECS Association or automated clearing house association, governmental agency or authority, and any other entity or association that issues or sponsors a payment device or method such as a credit or debit card, or operates a network on which a payment device is processed. Without limiting the generality of the foregoing, Merchant will (a) at its own expense, maintain all certifications, credentials, licenses, and permits necessary to conduct its business relating to the purchase or use of the Products and Hosted Service and (b) not engage in any activity or transaction involving the Products and Hosted Service, by way of shipment, use or otherwise, that violates any Law.

10. Confidentiality.

- 10.1 Confidential Information Generally. Each party will (a) protect the confidentiality of Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would exercise to protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (b) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (c) not disclose any such Confidential Information to any person or entity, except to the Receiving Party's representatives that need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under the Agreement. The Receiving Party acknowledges that any breach of this Section 10.1 by the Receiving Party may result in irreparable harm to the Disclosing Party for which monetary damages may not provide a sufficient remedy. Therefore, the Disclosing Party may seek both monetary damages and equitable relief with respect to any such breach without any obligation to post bond.
- 10.2 Disclosure of Confidential Information. If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it will, prior to making such disclosure, use commercially reasonable efforts to notify Disclosing Party of such requirements to afford Disclosing Party the opportunity to seek, at Disclosing Party's sole cost and expense, a protective order or other remedy.
- 10.3 Duration of Obligations. The non-disclosure obligations in this Section 10 will continue (a) with respect to Confidential Information that does not constitute a trade secret, for three (3) years following termination, and (b) with respect to Confidential Information that is a trade secret under Law, for the longer of three (3) years after termination and such period as the information retains its status as a trade secret under Law.
- 10.4 Obligations on Termination. At the request of the Disclosing Party upon the termination of the Agreement, the Receiving Party will promptly delete or return to the Disclosing Party all originals and copies containing or reflecting any Confidential Information of the Disclosing Party (other than those required to be retained by Law, or that would be unreasonably burdensome to destroy, such as archived computer records). If a dispute arises between the parties in relation to the Confidential Information or this Agreement, the Receiving Party may retain a copy of such Confidential Information as the Receiving Party reasonably determines is necessary for its defense of the dispute. In all cases, any retained Confidential Information will continue to be subject to the terms of the Agreement.

11. Data Security and Use.

- 11.1 TableSafe Data Breach. If TableSafe suffers a TableSafe Data Breach, then it will follow all Law and Payment Network Regulations with respect to such TableSafe Data Breach, including providing the required reporting and forensic audits to the Payment Networks. TableSafe will not pass-through or require Merchant to be liable to TableSafe for any fees, fines, penalties, assessments, or charges levied against TableSafe by the Payment Networks in connection with a TableSafe Data Breach. Unless otherwise required or directed under Law, the Payment Network Regulations, or a Payment Network, TableSafe will not (a) contact or inform any cardholder whose data may have been the subject of a TableSafe Data Breach of the occurrence of the TableSafe Data Breach, or (b) publicly disclose that information provided by Merchant to TableSafe was the subject in any part of a TableSafe Data Breach. If TableSafe is legally obligated, or the Payment Network Regulations or Payment Networks require TableSafe, to contact cardholders as part of a TableSafe Data Breach, TableSafe will limit the notices to such cardholders to those required by the legal obligation, the Payment Network Regulations, or the Payment Networks, or as approved by Merchant.
- 11.2 Cardholder Data and Transaction Information. TableSafe and Merchant will protect the security of Cardholder Data and Transaction Information in accordance with all Laws and Payment Network Regulations. TableSafe and Merchant will retain certain Cardholder Data and Transaction Information for the duration required by Law and the Payment Network Regulations and thereafter will destroy, in a manner that will render the information unreadable, all such information that is no longer necessary or appropriate to maintain for ordinary business purposes.
- 11.3 Merchant Use of Customer Data. TableSafe acknowledges that Merchant may collect information about Merchant's customers as part of a Merchant sales transaction (e.g., price paid, time, store identifier, SKU information) regardless of the Merchant customer's payment type and not in connection with the Hosted Service, and that the Agreement does not restrict Merchant's retention, use or disclosure of such information even though some of that information may overlap with elements of Transaction Information.
- 11.4 TableSafe Use of Transaction Information. Notwithstanding anything stated in the Agreement, Merchant acknowledges that any Transaction Information and information regarding Merchant, its principals, affiliates, or agents that Merchant provides to TableSafe or that TableSafe otherwise obtains in connection with the Agreement may be:
- (a) Used by TableSafe and its affiliates, third-party contractors, agents, and referral partners: (i) to provide the Hosted Service and related functions to Merchant; (ii) for administrative purposes; and (iii) for TableSafe's internal fraud and compliance monitoring;
 - (b) Used to provide analytics and to optimize, enhance, or improve TableSafe's Products or Hosted Service generally;
 - (c) Used or disclosed by TableSafe in the course of any actual or potential sale, reorganization or other change to TableSafe's business;

- (d) Collected, used, and disclosed by TableSafe as required by Law (e.g., for tax reporting or in response to a subpoena);
 - (e) Retained for such periods of time as TableSafe requires to perform its obligations and exercise its rights under the Agreement; and
 - (f) Used to derive, analyze, prepare, use, and share with third parties, aggregated, non-personally identifiable information of TableSafe's customers.
- 12. Audit.** If TableSafe reasonably suspects that it is subject to a financial or reputational risk due to Merchant's acts or omissions, Merchant authorizes TableSafe and its agents to perform an audit or inspection of Merchant's operations and records to confirm Merchant's compliance with the Agreement upon reasonable advance notice, during normal business hours, and at TableSafe's expense (unless TableSafe reasonably determines based on such audit that Merchant is not in compliance with the Agreement, in which case Merchant will bear the cost). Merchant will maintain complete and accurate records of its performance under the Agreement. Merchant will execute and deliver to TableSafe all documents TableSafe reasonably deems necessary to verify Merchant's compliance with Section 6.
- 13. Disclaimers.**
- 13.1** Warranty Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THE AGREEMENT, THE PRODUCTS, HOSTED SERVICE, AND DOCUMENTATION ARE PROVIDED "AS IS," AND TABLESAFE DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE PRODUCTS, HOSTED SERVICE, AND DOCUMENTATION, AND MERCHANT'S USE OF THIRD PARTY HOSTED SERVICE, EQUIPMENT, SOFTWARE, OR DATA IN CONNECTION WITH THE PRODUCTS AND HOSTED SERVICE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, SATISFACTORY QUALITY, TITLE, SECURITY, NONINFRINGEMENT, UNINTERRUPTED OR ERROR-FREE USE, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OR TRADE.
- 13.2** Internet Security Disclaimer. MERCHANT ACKNOWLEDGES THAT THE INTERNET IS NOT A SECURE MEDIUM AND IS SUBJECT TO INTERRUPTION AND DISRUPTION. TRANSMISSION OF INFORMATION AND DATA VIA THE INTERNET IS OUT OF TABLESAFE'S CONTROL. TABLESAFE IS NOT RESPONSIBLE FOR ANY INTERCEPTION OR CORRUPTION OF INFORMATION OR DATA DURING ANY TRANSMISSION OVER THE INTERNET OR ANY RELATED TELECOMMUNICATIONS NETWORK.
- 14. Limitation of Liability.** Neither TableSafe nor its agents, officers, directors, employees, or authorized resellers will be liable to Merchant for indirect, exemplary, punitive, special, or consequential damages in connection with the Agreement under any theory of law or equity (whether in contract, tort, negligence, strict liability, by statute, or otherwise). TableSafe's aggregate liability for any Losses, regardless of the form of action, arising out of this Agreement under any theory of law or equity (whether in contract, tort, negligence, strict liability, by statute, or otherwise), will not exceed, in the aggregate, \$50,000.
- 15. Representations and Warranties.** Merchant represents and warrants that: (a) it has all requisite right, power, and authority to enter into the Agreement and perform its obligations and grant the rights, licenses, and authorizations it grants under this Agreement; (b) the Agreement has been duly authorized, executed, and delivered by such party, and constitutes its legal, valid, and binding obligations enforceable against it in accordance with its terms; (c) its execution, delivery, and exercise of rights under the Agreement, will not conflict with or result in a breach or other violation of any agreement or other third-party obligation by which it is bound; (d) it is duly organized, validly existing, and in good standing as a company under the laws of the jurisdiction of its formation; and (e) it is obtaining and using the Products and Hosted Service to facilitate lawful business transactions between Merchant and its customers.
- 16. Indemnification.** Merchant will indemnify and defend TableSafe, its affiliates, and their respective employees, officers, directors, agents and authorized resellers against losses, damages, liabilities, fines, judgments and expenses (including all reasonable attorneys' fees) (collectively, "Losses") in connection with any and all claims, actions, demands, or proceedings (made or threatened) brought by a third-party ("Claims") arising out of: (a) any Transaction processed under this Agreement; (b) Merchant's breach of this Agreement; or (c) Merchant's gross negligence or willful misconduct. Merchant will not enter into any settlement that imposes any liability or obligation on the indemnified party, or contains any admission or acknowledgement of wrongdoing (whether in tort or otherwise), without the indemnified party's prior written consent.
- 17. Term; Termination.**
- 17.1** Term. The term of this Agreement begins on the Effective Date and will continue until terminated as provided below. Either party may terminate the Agreement by providing the other party at least ninety (90) days prior written notice. Termination by the Merchant shall require payment of all fees for the term stated in the associated Order or applicable document.
- 17.2** Termination for Cause. Either party may terminate the Agreement, effective on written notice, if the other party materially breaches this Agreement and such breach is either incapable of cure or is capable of cure but remains uncured for at least thirty (30) days after the non-breaching party provides the breaching party with written notice of such breach.

17.3 Effect of Termination.

- (a) Upon the termination of this Agreement for any reason or Products' end of life, Merchant will, as directed by TableSafe (i) (A) allow TableSafe to decommission such Products and/or (B) destroy such Products in accordance with TableSafe's instructions and certify to TableSafe that it has done so; or (ii) return such Products to TableSafe or its designee as directed by TableSafe.
 - (b) Expiration or termination of the Term will not affect any rights or obligations of the parties that: (i) come into effect upon or after expiration or termination of the Agreement; or (ii) otherwise survive the expiration or earlier termination of the Agreement and were incurred by the parties prior to such expiration or earlier termination. Termination of the Agreement will not constitute a waiver of any of the terminating party's rights or remedies under this Agreement, at law, in equity, or otherwise.
 - (c) Any notice of termination under this Agreement automatically operates to cancel any deliveries of Products or Services to Merchant that are scheduled to be made subsequent to the effective date of termination, whether or not any Orders for such Products or Services had been accepted by TableSafe.
 - (d) Survival. Subject to the limitations and other provisions of the Agreement, Sections 7, 10, 11.4, 12-18 and 24, as well as any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, will survive the expiration or earlier termination of this Agreement for a period of 12 months after such expiration or termination.
- 18.** Publicity. Neither party will make any disclosures regarding the contents of this Agreement or its terms, without the other party's prior written consent.
- 19.** Notices. Any written legal notice to the other party will be deemed received upon the earliest of: (a) actual receipt; (b) within twenty-four (24) hours of the time emailed, unless the sending party receives notice the email was undeliverable; (c) five (5) business days after being deposited in the U.S. mail, return receipt requested; or (d) two (2) business days after being deposited with a nationally recognized overnight carrier. Such notices will be addressed to the party's applicable address above or such other addresses as either party may designate in writing.
- 20.** Assignability. Neither party may assign this Agreement without the other party's prior written consent, except TableSafe may assign this Agreement to any entity into or with which TableSafe will merge or consolidate, or who may acquire substantially all of TableSafe's stock or assets.
- 21.** Force Majeure. Neither party will be considered in default in performance of its obligations to the extent such performance is delayed by Force Majeure affecting such party's ability to perform. A "Force Majeure" means an act of God, natural disaster, war, act of terrorism, civil disturbance, action by governmental entity, strike, or other cause beyond such party's reasonable control. If a Force Majeure interrupts TableSafe's provision of any Products or Hosted Service, Merchant will continue to pay TableSafe the fees for the Products and Hosted Service owed under the Agreement and TableSafe will make all reasonable efforts to restore such Hosted Service or deliver such Products. If the Force Majeure continues for more than 14 days, then Merchant may, upon notice to TableSafe, as its sole and exclusive remedy, abate payment to TableSafe to the extent Hosted Service are not performed or Products are not delivered and terminate the Agreement.
- 22.** Governing Law. The Federal Arbitration Act, applicable federal law, and the laws of the state of Washington, without regard to principles of conflict of laws, will govern the Agreement and any dispute of any sort that may arise between the parties.
- 23.** Dispute Resolution. Except for disputes relating to the enforcement or validity of either party's Intellectual Property Rights, any dispute arising out of or relating to the Agreement will be resolved by arbitration in accordance with the then-applicable Commercial Arbitration Rules of the American Arbitration Association, and judgment on the arbitral award may be entered in any court having jurisdiction. The arbitration will take place in King County, Washington before a single arbitrator. The fees and expenses of the arbitrators and the administering authority, if any, will be paid in equal proportion by the parties. Any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated, or representative action. If for any reason a claim proceeds in court rather than in arbitration: (a) judicial proceedings must be brought in the state courts in King County, Washington, or federal court for the Western District of Washington, located in the city of Seattle; and (b) each party waives any right to a jury trial. Either party may bring suit in court to enjoin infringement or other misuse of Intellectual Property Rights.
- 24.** General Provisions. The titles of the sections of this Agreement are for convenience only and do not affect the interpretation or construction of any section. The words "include" and "including" and variations thereof are not terms of limitation, but rather shall be deemed to be followed by the words "without limitation." This Agreement is the parties' entire agreement on this subject, and merges and supersedes all related oral understandings, representations, prior discussions, letters of intent, or preliminary agreements. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Waivers must be in writing to be effective. This Agreement may only be modified, amended or supplemented in a written document signed by authorized signatories of both parties subsequent to the date of execution of this Agreement. If any litigation is brought to enforce, or arises out of, the

Agreement or any term, clause, or provision hereof, the prevailing party shall be awarded its reasonable attorneys' fees together with expenses and costs incurred with such litigation, including necessary fees, costs, and expenses for services rendered, as well as fees, costs, and expenses incurred subsequent to judgment in obtaining execution thereof. All rights and remedies under this Agreement are cumulative. The exercise of a right or remedy will not exclude or waive other rights or remedies under the Agreement, at law or in equity. This Agreement may be signed in counterparts, each of which will be deemed an original.