

# Restaurant365

## TERMS OF USE

Last updated: May 6, 2020

These Terms of Use (the “**Terms**”) govern the agreement between DYN365 Inc. d/b/a Restaurant365 (hereinafter, “**Restaurant365**,” “**us**,” or “**we**” or words of similar import) and you (alternatively, a “**User**”) regarding your use of [www.restaurant365.com](http://www.restaurant365.com) and any other RESTAURANT365 related websites and any services related thereto (collectively, the “**Website**”). If you are using the Website on behalf of a company or other entity, then “**User**” or “**you**” means that entity, and you are binding that entity to these Terms. As between you and us, the Website are owned and operated or offered by RESTAURANT365.

Use of the Website is also governed by our privacy policy, the current version of which can be found at [www.restaurant365.com/privacy-policy](http://www.restaurant365.com/privacy-policy) (the “**Privacy Policy**”), which is incorporated herein by reference.

**IMPORTANT – PLEASE READ CAREFULLY – THESE TERMS CREATE A LEGALLY BINDING AGREEMENT WHICH GOVERNS YOUR USE OF THE WEBSITE. BY ACCESSING OR USING THE WEBSITE OR ANY CONTENT OFFERED THROUGH THE WEBSITE, YOU ACCEPT AND AGREE TO BE BOUND, WITHOUT LIMITATION OR QUALIFICATION, BY THESE TERMS, AS THEY MAY BE UPDATED FROM TIME TO TIME IN OUR SOLE DISCRETION. IF YOU DO NOT ACCEPT ANY OF THESE TERMS, YOU ARE PROHIBITED FROM USING THE WEBSITE.**

### 1. Basic Rules and Rights We Are Granting.

License Grant. Subject to your agreement and compliance with these Terms and any other relevant RESTAURANT365 policies, including the Privacy Policy, we hereby grant you a non-exclusive, non-transferable, revocable and limited right and license to access and use the Website through a web browser.

Minimum Age Requirement for Users Who Are Individuals. If a User is an individual, a User may only use the Website if such User is at least thirteen (13) years of age. If you are under the age of eighteen (18), you represent that you have received permission from a parent or guardian to enter into these Terms.

Use of the Website. The following restrictions, terms and conditions apply to the use of the Website:

- Without first obtaining our written permission, you shall not use the Website if we have notified you that you may not use the Website;
- You shall not use the Website to engage in any illegal conduct;
- You shall not reproduce, distribute or publicly display any content you access through the Website unless such content is clearly marked as “public” or you have been given the right to view and share such content in accordance with these Terms; and
- You shall not do anything with any content you access through the Website that has been marked with restrictions or other instructions that is counter to such restrictions or other instructions.

### License and Limitations and Prohibitions.

- General Effects of Violations. Any use of the Website in violation of these Terms is strictly prohibited, can result in the immediate revocation of your limited license granted under these Terms and may subject you to liability for violations of law.

# Restaurant365

- Policies. You acknowledge that we may also have in place other policies regarding use of the Website and that you agree to abide by such policies and that such policies are in addition to any obligations you have under these Terms.
- Activity Prohibitions. You agree that you will not, under any circumstances:
  - Act in any way we deem to be in conflict with the spirit or intent of the Website, including, but not limited to, circumventing or manipulating these Terms;
  - Use the Website in connection with any violation of any applicable law or regulation, or do anything that promotes the violation of any applicable law or regulation;
  - Modify or cause to be modified any files or content that are used to offer the Website, without the express prior written consent of RESTAURANT365;
  - Disrupt, overburden or aid or assist in the disruption or overburdening of any computer or server used to offer or support the Website (each a “Server”) or the use or enjoyment of the Website by any other person;
  - Institute, assist or become involved in any type of attack, including, without limitation, distribution of a virus, denial of service attacks upon the Website or other attempts to disrupt the Website or any other person’s use or enjoyment of the Website;
  - Gain, or attempt to gain, unauthorized access to the Website, third party accounts, Servers or networks connected to the Website by any means (including, but not limited to, circumventing or modifying, or encouraging or assisting any other person to circumvent or modify, any security, technology, device or software that is part of the Website);
  - Post any content that: is abusive, threatening or that incites or promotes terrorism; promotes the production or use of weapons that a reasonable person understands could cause substantial harm; or is obscene, defamatory, libelous or racially, sexually, religiously or otherwise objectionable or offensive;
  - Post any content that contains what we reasonably deem, in our sole discretion, to be excessive violence or offensive subject matter or that contains a link to such content;
  - Harass, abuse, harm, bully, intimidate or advocate, threaten or incite harassment, bullying, intimidation, abuse or harm of another person or group of persons, including our employees, customer service representatives, our independent contractors or other users;
  - Post, distribute or make available through the Website any material or information that infringes any copyright, trademark, patent, trade secret, right of privacy or any other intellectual property right of any person or entity;
  - Transmit unauthorized communications through the Website, including junk mail, chain letters, spam and any materials that promote malware, spyware and downloadable items;
  - Interfere or attempt to interfere with the proper functioning of the Website in any way not expressly permitted by these Terms;
  - Use any offline reader, robot, tool, process or any other device or method of any kind to data mine, reproduce or circumvent our Website or content in any way;
  - Intercept, examine or otherwise observe any proprietary communications used by a client, other user, Server or the Website, whether through the use of a network analyzer, packet sniffer or other device;
  - Make any automated use of the Website or take any action that imposes or may impose, as determined in our sole discretion, an unreasonable or disproportionately large load on our infrastructure;

# Restaurant365

- Bypass any robot exclusion headers or other measures we take to restrict access to the Website or use any software, technology or device to send content or messages, scrape, spider or crawl the Website or harvest or manipulate data from, through or relating to the Website;
- Use, facilitate, create or maintain any unauthorized connection to the Website, including, without limitation: any connection to any unauthorized server that emulates, or attempts to emulate, any part of the Website; or any connection using programs, tools or software not expressly approved in writing by us;
- Copy, modify or distribute rights or content from any RESTAURANT365 site, including, but not limited to, content that contains or is protected by our copyrights, trademarks or other intellectual property rights, or use any method to copy or distribute the content of the Website, except as specifically allowed in these Terms;
- Solicit or attempt to solicit personal information from other users;
- Collect, harvest or post anyone's private information (including personally identifiable information, whether in text, image, video or other form), identification documents or financial information through the Website; or
- Upload or transmit (or attempt to upload or to transmit), without our express written permission, any material that acts as a passive or active information collection or transmission mechanism, including, without limitation, clear graphics interchange formats ("gifs"), 1x1 pixels, web bugs, cookies or other similar devices (sometimes referred to as "spyware," "passive collection mechanisms" or "pcms").

## Suspension and Termination of Access:

**FAILURE TO COMPLY.** WITHOUT LIMITING ANY OTHER REMEDIES, WE MAY, WITH OR WITHOUT NOTICE TO YOU, LIMIT, SUSPEND, TERMINATE, MODIFY OR DELETE YOUR ACCESS TO THE WEBSITE OR PORTIONS THEREOF IF, IN OUR SOLE DISCRETION, YOU FAIL TO COMPLY WITH ANY OF THESE TERMS OR YOU USE THE WEBSITE FOR ACTUAL OR SUSPECTED ILLEGAL ACTIVITY OR OTHER IMPROPER USE. WE SHALL BE UNDER NO OBLIGATION TO COMPENSATE YOU FOR, AND SHALL HAVE NO LIABILITY TO YOU FOR, ANY LOSSES OR ADVERSE RESULTS THAT ARE DUE TO THE SUSPENSION, TERMINATION, MODIFICATION OR DELETION OF YOUR ACCESS TO THE WEBSITE.

**IP INFRINGEMENT.** WITHOUT LIMITING ANY OTHER REMEDIES, WE MAY LIMIT, SUSPEND OR TERMINATE ACCESS TO THE WEBSITE, OR ANY PORTIONS THEREOF, INCLUDING ANY CONTENT INCORPORATED THEREIN, DELAY OR REMOVE ANY CONTENT AND TAKE TECHNICAL AND LEGAL STEPS TO PREVENT USERS FROM ACCESSING THE WEBSITE IF WE BELIEVE THAT SUCH USERS ARE CREATING RISK OR POSSIBLE LEGAL LIABILITIES, INFRINGING THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES OR ACTING INCONSISTENTLY WITH THE LETTER OR SPIRIT OF OUR TERMS OR POLICIES.

**Right to Cease Service.** We reserve the right to stop offering or supporting the Website or part of the Website at any time, at which point the license granted hereunder to you to use the Website or any applicable part thereof will automatically terminate. We shall not be required to provide refunds, benefits or other compensation to Users in connection with any such cessation of the Website.

**Intellectual Property Ownership.** As between you and us, the Website and all of its components and contents (including without limitation any computer code, pre-populated content, concepts, artwork, photographs, audio-visual effects, text contained within and patent, copyright, trademark, trade secret and any other intellectual

---

# Restaurant365

property rights therein) are owned by us. The Website is protected by copyright, trademark and other laws of both the United States and foreign countries and may not be reproduced, duplicated, copied, sold, resold, visited or otherwise exploited for any unauthorized commercial purpose, or used in any manner other than as permitted by these Terms, without our express prior written consent in each instance. You agree not to engage in any reverse engineering, de-compiling or other activities designed to view the source code for the Website and are prohibited from reverse engineering, de-compiling or otherwise engaging in activities designed to view the source code thereof.

Feedback. In the event you provide us with any feedback about the Website, including, without limitation, any errors, flaws, issues, suggestions or otherwise (collectively, “**Feedback**”), you hereby assign to us any and all rights, title and interest in and to the Feedback, including, but not limited to, the right to use such Feedback in any manner we deem appropriate. To the extent any Feedback may not be assigned to us, whether under any applicable law or otherwise, you agree to provide us with an exclusive, royalty-free, fully paid-up, irrevocable, perpetual, transferable, worldwide license to use such Feedback in any manner we deem appropriate.

## 2. User Data.

User Data: “**User Data**” means any communications, materials, data and other information you upload, post or otherwise transmit through the Website, including, without limitation, any information related to your transactional, usage or other data with respect to the Website or any other third party platform you have authorized to interface with the Website.

Licenses to User Data: As between you and us, you are the owner of all rights, title and interest in and to the User Data, and except as otherwise expressly stated in these Terms or the Privacy Policy, you reserve all rights in and to the User Data. You hereby grant us a non-exclusive, perpetual, royalty-free, fully paid up, worldwide license to use your User Data as determined by us in our sole discretion, including as necessary to provide the Website or otherwise in accordance with these Terms and Privacy Policy. To be clear, any personal information included in your User Data may only be used by us in accordance with the Privacy Policy.

## User Interactions.

- Responsibility for Interactions and Adherence to Policies. You are solely responsible for your interactions with any other parties with whom you interact through the Website. You acknowledge that we have various policies in place regarding use of the Website that are intended to promote a respectful environment for all Users, such as, but not necessarily limited to, policies regarding content submitted, interactions with other Users, respect for intellectual property rights and billings and refunds. We reserve the right, but have no obligation, to become involved in any way with any disputes that may arise between you and other Users or any other parties with whom you interact through the Website.
- Releases for Disputes and Use of Third Party Information. You hereby release us, and our officers, directors, agents, subsidiaries, joint ventures and employees, from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with any of the following: any dispute that arises between you and one or more other Users or any other parties with whom you interact through the Website, and any use by us of third party information.

# Restaurant365

## 3. Third Party Sites; Advertising.

Third Party Advertisements. You understand that the Website may feature advertisements from us or third parties. The Privacy Policy addresses our disclosure of information for third party advertising.

Links to Third Party Sites; Advertisers. We may provide links on the Website to third party websites or vendors who may invite you to participate in a promotional offer in return for receiving a benefit. Any charges or obligations you incur in your dealings with these third parties are your responsibility. We make no representation or warranty regarding any content, goods or services provided by any third party even if linked from our Website, and we will not be liable for any claim relating to any third party content, goods or services. The linked sites are not under our control and may collect data or solicit personal information from you. We are not responsible for their content, business practices or privacy policies, or for the collection, use or disclosure of any information those sites may collect. Further, the inclusion of any link does not imply our endorsement of these linked sites.

## 4. Seeking to Take Down Infringing Content.

We reserve the right to terminate without notice any User's access to the Website if that User is determined by us to be a "repeat infringer." In addition, we accommodate and do not interfere with standard technical measures used by copyright owners to protect their materials. Without limiting the foregoing, it is our policy to respond to notices of alleged copyright infringement that comply with the Digital Millennium Copyright Act. If you believe that your work has been copied and posted on any Website in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (b) a description of the copyrighted work that you claim has been infringed; (c) a description of the location on the Website of the material that you claim is infringing; (d) your address, telephone number and e-mail address; (e) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (f) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for our Copyright Agent for notice of claims of copyright infringement is as follows: [legal@restaurant365.com](mailto:legal@restaurant365.com).

## 5. Updates to the Service.

You understand that the Website undergoes frequent changes and that the Website may not always be available for various reasons, such as, for example, downtime due to maintenance. We may require that you accept updates to the Website in order to continue using the Website. You acknowledge and agree that we may update the Website without notifying you.

## 6. Disclaimer; Limitations; Waivers on Liability; Indemnification.

### Disclaimer of Warranties.

- **WEBSITE PROVIDED "AS IS". YOU EXPRESSLY AGREE THAT USE OF THE WEBSITE IS AT YOUR SOLE RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF NON-**

# Restaurant365

INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE (EXCEPT ONLY TO THE EXTENT PROHIBITED UNDER APPLICABLE LAW WITH ANY LEGALLY REQUIRED WARRANTY PERIOD THE SHORTER OF THIRTY (30) CALENDAR DAYS FROM FIRST USE OR THE MINIMUM PERIOD REQUIRED).

- NO WARRANTY OF ERROR-FREE OPERATION. WITHOUT LIMITING THE FOREGOING, NEITHER WE NOR ANY OF OUR AFFILIATES OR SUBSIDIARIES, OR ANY OF OUR OR THEIR DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, THIRD-PARTY CONTENT PROVIDERS, DISTRIBUTORS, LICENSEES OR LICENSORS (COLLECTIVELY, “**RESTAURANT365 PARTIES**”) WARRANT THAT THE WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE AND YOU ACKNOWLEDGE THAT THE WEBSITE MAY SOMETIMES BE UNAVAILABLE FOR SECURITY, MAINTENANCE OR OTHER REASONS.
- NO WARRANTY REGARDING ACCESS TO CONTENT. RESTAURANT365 PARTIES DO NOT GUARANTEE THAT ANY INDIVIDUAL WILL ALWAYS BE PREVENTED FROM VIEWING INFORMATION OR CONTENT THAT THE WEBSITE INTENDED TO NOT BE AVAILABLE TO SUCH INDIVIDUAL. RESTAURANT365 PARTIES DO NOT WARRANT THAT ANY INFORMATION ON OR AVAILABLE THROUGH THE WEBSITE WILL BE KEPT FROM ANY PARTICULAR INDIVIDUAL WHO EITHER HACKS OR ENGAGES IN UNAUTHORIZED ACCESS TO SUCH INFORMATION OR IS MISTAKENLY GRANTED ACCESS BY US OR THROUGH THE WEBSITE.

## Limitations; Waivers of Liability.

- DISCLAIMER OF INDIRECT DAMAGES. YOU ACKNOWLEDGE AND AGREE THAT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DISCLAIMERS OF LIABILITY CONTAINED HEREIN APPLY TO ANY AND ALL DAMAGES OR INJURY CAUSED BY OR RELATED TO USE OF, OR INABILITY TO USE, THE WEBSITE UNDER ANY CAUSE OR ACTION WHATSOEVER OF ANY JURISDICTION, INCLUDING, WITHOUT LIMITATION ACTIONS FOR BREACH OF WARRANTY, BREACH OF CONTRACT OR TORT (INCLUDING NEGLIGENCE) AND THAT RESTAURANT365 PARTIES SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN ANY WAY WHATSOEVER ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE WEBSITE, INCLUDING, BUT NOT LIMITED TO: LOSS OF PROFITS, DATA, USE, OR LOSS OF GOOD WILL OR ANY OTHER INTANGIBLE LOSSES, WITH ANY OF THE FOREGOING RESULTING FROM YOUR ACCESS TO OR USE OF, OR INABILITY TO USE, ANY OF THE WEBSITE, ANY CONDUCT OR CONTENT OF ANY THIRD-PARTY ON THE WEBSITE, ANY CONTENT OBTAINED FROM THE WEBSITE OR ANY UNAUTHORIZED ACCESS, USE OR ALTERATION OF YOUR SUBMISSIONS OR USER DATA.
- THIRD PARTY CONDUCT. YOU FURTHER SPECIFICALLY ACKNOWLEDGE THAT RESTAURANT365 PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD RESTAURANT365 PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OTHER USERS OF THE WEBSITE AND OPERATORS OF EXTERNAL SITES, AND THAT THE RISK OF USING THE WEBSITE AND EXTERNAL SITES AND OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH YOU.

# Restaurant365

- LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES WILL RESTAURANT365 PARTIES BE LIABLE TO YOU UNDER ANY CLAIM FOR MORE THAN THE LESSOR OF: \$500, OR THE AMOUNT(S) YOU HAVE PAID US, IN THE AGGREGATE, IN THE ONE HUNDRED EIGHTY (180) CALENDAR DAYS IMMEDIATELY PRECEDING THE DATE ON WHICH YOU FIRST ASSERT ANY SUCH CLAIM.
- FAILURE TO PAY. YOU ACKNOWLEDGE AND AGREE THAT IF YOU HAVE NOT PAID US ANY AMOUNTS IN THE ONE HUNDRED EIGHTY (180) CALENDAR DAYS IMMEDIATELY PRECEDING THE DATE ON WHICH YOU FIRST ASSERT ANY SUCH CLAIM, YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH RESTAURANT365 PARTIES IS TO STOP USING THE WEBSITE.
- DISCLAIMER MAY NOT BE APPLICABLE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR CERTAIN TYPES OF DAMAGES. THEREFORE, SOME OF THE ABOVE LIMITATIONS IN THIS SECTION MAY NOT APPLY TO YOU.

Indemnification. You agree to defend, indemnify, save and hold the RESTAURANT365 Parties harmless from any claims, losses, damages and liabilities, including legal fees and expenses, arising out of (a) your use or misuse of the Website, (b) any violation by you of these Terms or any breach of the representations, warranties and covenants made by you herein, (c) your use or access of any third party software or service utilized in connection with the Website, (d) your violation of any applicable laws or any infringement by you, or any third party acting on your behalf, of any intellectual property, real property, privacy or other right of any third party, or (e) any intentional misconduct or negligence by you in using the Website. We reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify RESTAURANT365 Parties and you agree to cooperate with our defense of these claims. We will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it. You agree that the provisions in this paragraph will survive any termination of your allowed use of the Website.

## 7. How to Handle Disputes.

General. If a dispute arises between you and us, our goal is to provide you with a neutral and cost effective means of resolving the dispute quickly. Accordingly, you and RESTAURANT365 agree that we will resolve any claim or controversy at law or equity that arises out of these Terms or use of our Website (a “**Claim**”) in accordance with one of the subsections below or as we and you otherwise agree in writing. Before resorting to these alternatives, we strongly encourage you to first contact us directly to seek a resolution by going to Customer Support. We will consider reasonable requests to resolve the dispute through alternative dispute resolution procedures, such as mediation or arbitration, as alternatives to litigation. Other than those matters listed in Section 7, you and RESTAURANT365 agree to seek resolution of the dispute only through arbitration of that dispute in accordance with the terms of this Section 7, and not litigate any dispute in court. Arbitration means that the dispute will be resolved by a neutral arbitrator instead of in a court by a judge or jury.

Exclusions from Arbitration. YOU AND RESTAURANT365 AGREE THAT ANY CLAIM FILED BY YOU OR BY US IN SMALL CLAIMS COURT OR BY US RELATED TO PROTECTION OF OUR OR ANY OF

# Restaurant365

OUR LICENSOR'S INTELLECTUAL PROPERTY ARE NOT SUBJECT TO THE ARBITRATION TERMS CONTAINED IN THIS SECTION 7.

**RIGHT TO OPT OUT OF BINDING ARBITRATION. IF YOU DO NOT WISH TO BE BOUND BY THE BINDING ARBITRATION PROVISION IN THIS SECTION 7, YOU MUST NOTIFY US IN WRITING WITHIN THIRTY (30) DAYS OF THE DATE THAT YOU FIRST ACCEPT THIS AGREEMENT. YOUR WRITTEN NOTIFICATION MUST BE MAILED TO: Restaurant365 attention: Legal Department, 500 Technology Drive, Suite 200, Irvine, CA 92618 AND MUST INCLUDE: (1) YOUR NAME, (2) YOUR ADDRESS, (3) YOUR USERNAME (IF APPLICABLE), AND (4) A CLEAR STATEMENT THAT YOU DO NOT WISH TO RESOLVE DISPUTES WITH US THROUGH ARBITRATION.**

Initiation of Arbitration Proceeding; Selection of Arbitrator. If you or RESTAURANT365 elect to resolve your dispute through arbitration, the party initiating the arbitration proceeding must initiate it with the American Arbitration Association ("AAA"). The terms of this Section 7 govern in the event they conflict with the rules of the arbitration organization selected by the parties.

Arbitration Procedures. Because the Website provided to you by us concerns interstate commerce, the Federal Arbitration Act ("FAA") governs the arbitrability of all disputes. However, applicable federal or state law may also apply to the substance of any disputes. The FAA rules are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. Such award will be binding and final, except for any right of appeal provided by the FAA, and may be entered in any court having jurisdiction over the parties for purposes of enforcement. Notwithstanding the foregoing, in no event will we be liable to you for any of your attorney fees.

Location of Arbitration. You or RESTAURANT365 may initiate arbitration in the State of California.

Severability. If any clause within this Section 7 is found to be illegal or unenforceable, that clause will be severed from this Section 7 and the remainder of this Section 7 will be given full force and effect.

Survival. This Section 7 shall survive any termination of the Terms.

## 8. General Provisions.

### Updates to the Terms and Privacy Policy.

- Right to Update. We reserve the right, at our discretion, to change, modify, add or remove portions of these Terms and our Privacy Policy at any time by posting the amended Terms or Privacy Policy through the Website. You may also be given additional notice, such as an email message or messaging within the Website, of any changes. You will be deemed to have accepted such changes by continuing to use the Website. Except as otherwise stated, all amended terms shall automatically be effective when they are posted. We may also revise other policies, codes or rules at any time and the new versions will be available on the Website or otherwise through the Website. No amendment to the Terms or Privacy Policy shall apply to any dispute of which we had actual notice before the date of the amendment.

# Restaurant365

- Seeking Consent. If we revise these Terms or the Privacy Policy and seek your consent to be bound by such revised Terms or revised Privacy Policy and you do not agree to be bound by such revised Terms or revised Privacy Policy before using the Website again, then notwithstanding anything to the contrary, we reserve the right to terminate your use of the Website.
- Disagreement with Terms. If at any time you do not agree to any provision of the then-current version of our Terms, the Privacy Policy or any other RESTAURANT365 policy, rule or code of conduct relating to your use of the Website, your right to use the Website will immediately terminate, and you must immediately stop using the Website.
- Conflict. To the extent these Terms or the Privacy Policy conflict with any other RESTAURANT365 terms, policy, rule or code of conduct, the provisions of these Terms and the Privacy Policy will prevail.

Severability. If any provision of these Terms or the Privacy Policy is found invalid, illegal or unenforceable, in whole or in part, by any court of competent jurisdiction, such provision will, as to such jurisdiction, be ineffective solely to the extent of such determination of invalidity, illegality or unenforceability without affecting the validity, legality or enforceability thereof in any other manner or jurisdiction and without affecting the remaining provisions of the Terms (or as applicable, the Privacy Policy), which will continue to be in full force and effect.

Assignment. We may assign any of our rights or delegate any of our obligations under these Terms, in whole or in part, to any person or entity at any time without your consent. You may not assign or delegate any rights or obligations under these Terms without our prior written consent, and any purported assignment or delegation in violation of this Section is null and void.

Entire Agreement. These Terms, together with any supplemental policies, the Privacy Policy and any other documents expressly incorporated by reference herein, contain the entire agreement between us and you with respect to the subject matter hereof and supersede all prior and contemporaneous understandings, agreements, representations and warranties of the parties hereto relating to the subject matter hereof, whether electronic, oral or written, or whether established by custom, practice, policy or precedent.

No Waiver. Our failure to require or enforce strict performance by you of any provision of these Terms or the Privacy Policy or failure to exercise any right under them shall not be construed as a waiver or relinquishment of our right to assert or rely upon any such provision or right in that or any other instance. The express waiver by us of any provision, condition or requirement of these Terms or the Privacy Policy shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement. Except as expressly and specifically set forth in these Terms, no representations, statements, consents, waivers or other acts or omissions by us shall be deemed a modification of these Terms nor legally binding, unless documented in physical writing, hand signed by you and our duly appointed officer.

Notices. We may notify you via postings on the Website or via email or any other communications means through contact information you provide to us. All notices given by you or required from you under these Terms or the Privacy Policy shall be in writing and addressed to the address in this Section. Any notices that you provide without compliance with this Section shall have no legal effect.

# Restaurant365

Restaurant365  
Email: [legal@restaurant365.com](mailto:legal@restaurant365.com)

Equitable Remedies. You acknowledge that the rights granted and obligations made under these Terms to RESTAURANT365 are of a unique and irreplaceable nature, the loss of which may irreparably harm us and which cannot be replaced by monetary damages alone, so that we shall be entitled to seek injunctive or other equitable relief (without the obligations of posting any bond or surety or proof of damages) in the event of any breach or anticipatory breach by you. You irrevocably waive all rights to seek injunctive or other equitable relief, or to enjoin or restrain the operation of the Website, exploitation of any advertising or other materials issued in connection therewith or exploitation of the Website or any content or other material used or displayed through the Website and agree to limit your claims to claims for monetary damages, limited by Section 7.

Force Majeure. RESTAURANT365 shall not be liable for any delay or failure to perform resulting from causes outside our reasonable control, including, without limitation, any failure to perform hereunder due to unforeseen circumstances or cause beyond our control, such as acts of God, war, terrorism, pandemics, riots, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, shortages of transportation facilities, fuel, energy, labor or materials.

Choice of Law. The Terms and Privacy Policy shall be governed by the laws of the State of California, notwithstanding its conflicts of law provisions.