

TERMS AND CONDITIONS FOR FULLY MANAGED SERVICE AND PROCUREMENT ONLY PROVISION OF GOODS

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in the Contract.

Authorised Users: those employees and other representatives of the Customer who are authorised by the Customer to use the Portal.

Business Day: a day other than a Saturday, Sunday or public holiday in Scotland when banks in London are open for business.

Control: shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Commencement Date: means the commencement date of the Contract as shown on the Order Form.

Conditions: means these terms and conditions which are available online at www.inhousemanager.com and the Schedules as amended from time to time in accordance with the Contract.

Contract: means the Order Form and these Conditions.

Customer Data: the i) default uptake numbers and other information provided by the Customer to IHM for the purposes of the Contract and ii) the data inputted by the Customer, its employees, contractors and agents or any party acting on its behalf, the Authorised Users and IHM on Customer's behalf for the purpose of ordering the Goods or facilitating the Customer's use of the Portal.

Delivery Timetable: means the delivery timetable for the Goods agreed by the parties in writing and included in the Order Form.

Documentation: means the training documents and any other documents made available to the Customer by IHM relating to the Goods, the Services or the use of the Portal.

Equipment: means any equipment belonging to IHM or its suppliers which may from time to time be in the Customer's possession.

Fees: the fees payable by the Customer to IHM for the Goods, Services and Line Priced Items under clause 9 (Fees and Payment), including the Initial Fees.

Food Information Conditions: means the conditions outlined in Schedule 2.

Fully Managed Service: means the management and procurement services IHM shall deliver to the Customer for the purpose of ordering of the Goods as outlined in the Order Form.

Goods: means the food and catering supplies provided by IHM to the Customer under the Contract including food and supplies provided for the Menu as well as Line Priced Items.

IHM: means Inhouse Manager Limited, a company incorporated in Scotland under the Companies Acts (Company Number SC144362) and having its registered office at Steuart Road, Bridge Of Allan, Stirling, FK9 4JY.

Initial Fees: means the initial fees agreed by IHM and the Customer as outlined in the Order Form.

Initial Menu: means the initial menus agreed by IHM and the Customer as outlined in the Order Form.

Initial Term: means the initial term of the contract as outlined in the Order Form.

Line Priced Items: any Goods ordered by the Customer from time to time that are outside the Menu and will be charged as separate items.

Mandatory Policy: means IHM's privacy policy which may be accessed online at www.inhousemanager.com/privacy as such policy may be amended from time to time in the sole discretion of IHM.

Menu: means the Initial Menu as such menus may be changed and amended in accordance with clause 10 below (Menu Change) or as otherwise agreed between IHM and the Customer.

Mobilisation Plan: a plan agreed by the parties for the launch and mobilisation of the written Portal and the delivery of the Goods as well as initial on-site support and training which is subject to IHM's final approval.

Order Form: means the order form between IHM and the Customer for the provision of the Goods by IHM.

Portal: means the online portal to manage the ordering of the food and catering supplies.

Procurement Only Provision: means the procurement-only services IHM shall deliver to the Customer for the purpose of ordering of the Goods as further outlined in the Order Form.

Services: means the services IHM provides to the Customer under the Contract as outlined in the Order Form and the Mobilisation Plan, being either services relating to Fully Managed Service or to Procurement Only Provision, as indicated in the Order Form.

Store Room: means the premises to which IHM shall deliver the Goods for collection by the Customer the location of which is outlined in the Order Form.

Virus: anything or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of the Contract.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural, shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.9 A reference to writing or written does not include fax or e-mail.

1.10 References to clauses and Schedules are to the clauses and Schedules of these Conditions; references to paragraphs are to paragraphs of the relevant Schedule to these Conditions.

1.11 The Schedules form part of these Conditions and shall have the same force and effect as if set out in the body of these Conditions and references to these Conditions shall include the Schedules.

2. MOBILISATION

2.1 No later than thirty days following the Commencement Date IHM and the Customer shall agree the Mobilisation Plan and the parties shall carry out the mobilisation activities in accordance with the timelines as detailed in the Mobilisation Plan.

3. IHM'S OBLIGATIONS

3.1 Subject to the Customer paying the Fees timeously and the other terms and conditions of the Contract:

- (a) IHM shall supply (or procure that its suppliers shall supply) such Goods to the Store Room in accordance with the Delivery Timetable as the Customer may order in accordance with the Menu (always under the condition that such supply of the Goods by IHM is subject to its terms and conditions included in the Schedule 1 to these Conditions and the Food Information Conditions);
- (b) IHM hereby grants to the Customer a non-exclusive, non-transferable, royalty-free and revocable right to permit the Authorised Users to use the Portal and any Documentation solely for the purpose of the Customer ordering the Goods; and
- (c) IHM shall deliver the Services to the Customer as outlined in the Order Form and the Mobilisation Plan.

4. USE OF THE PORTAL

4.1 IHM may withdraw and/or modify the Portal where there are technical or legal reasons to do so.

4.2 IHM shall use commercially reasonable endeavours to make the Portal available 24 hours a day, seven days a week, except for:

- (a) planned maintenance which has been notified to the Customer in advance;
- (b) any unscheduled or urgent maintenance which IHM reasonably requires to carry out; and
- (c) the occurrence of any force majeure events in terms of clause 15 (Force Majeure).

Username and passwords

4.3 IHM shall allocate user names and passwords to the Authorised Users to allow access to the Portal. Such usernames and passwords are personal to each Authorised User and the Customer shall ensure these are maintained as confidential.

4.4 IHM may withdraw a username and password and allocate a new username and password to any Authorised User where IHM has reason to believe such username or password may be used in a manner not expressly authorised by these Conditions or where IHM deems it necessary to do so in its reasonable opinion.

- 4.5 IHM shall change the username(s) and password(s) where the Customer requests these to be changed and reserves the right to withdraw the right to access the Portal where in its opinion there are reasonable grounds for believing the Customer has not complied or is not complying with the Contract or if the Contract or any part of it is terminated or suspended for any reason.
- 4.6 The Customer shall prevent any unauthorised access to, or use of, the Portal and, in the event of any such unauthorised access or use, promptly notify IHM.

Activities not permitted

- 4.7 The Customer shall not allow any third-party other than the Authorised Users to access the Portal.
- 4.8 The Customer shall not access, store, distribute or transmit any Viruses or any material during the course of its use of the Portal that:
- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing, discriminatory or racially or ethnically offensive; or
 - (b) facilitates illegal activity; or
 - (c) is otherwise illegal or causes damage or injury to any person or property;

and IHM reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to the Portal or to any infringing material where the Customer breaches this clause 4.8.

- 4.9 The Customer shall not, except as may be allowed by any applicable law which is incapable of exclusion by agreement between IHM and the Customer and except to the extent expressly permitted by the Contract, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Portal and/or Documentation (as applicable) in any form or media or by any means.
- 4.10 The Customer shall not:
- (a) access the Portal or use the Documentation in order to build a product or service which competes with the Portal or the software; or
 - (b) subject to clause 21.1 below (Assignment/Transfer), licence, sell, rent, lease, transfer, assign, distribute, display, disclose or otherwise commercially exploit or make the Portal available to any third party except the Authorised Users; or
 - (c) attempt to obtain, or assist third parties in obtaining, access to the Portal and/or Documentation other than as expressly provided in the Contract.

- 4.11 The rights provided under this clause 4 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

5. CUSTOMER DATA

- 5.1 The Customer has read and agrees to comply with the Mandatory Policy.
- 5.2 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 5.3 IHM does not back up the Customer Data but its supplier of hosting services may do so from time to time in accordance with its policies. In the event of any loss or damage to Customer Data, the

Customer's sole and exclusive remedy shall be to restore such lost or damaged Customer Data from the latest back-up of such Customer Data. IHM shall not be responsible for any loss, destruction, alteration or disclosure of the Customer Data.

- 5.4 The Customer agrees not to upload to the Portal or provide to IHM in any other manner any Personal Data (as that term is defined under the Data Protection Act 1998).

6. PROPRIETARY RIGHTS

- 6.1 The Customer acknowledges and agrees that IHM and/or its licensors own all intellectual property rights in:

- (a) the Portal and the Documentation; and
- (b) any intellectual property rights in any materials created by IHM in the provision of the Services.

- 6.2 IHM grants the Customer the right to use any such intellectual property rights mentioned in clause 6.1(b) to copy and modify such materials only for the purpose of using the Goods and the Portal and receiving the Services in its business. Such right does not include the right to sub-licence, assign or transfer the licenced rights except in accordance with clause 21.1 (Assignment/Transfer).

- 6.3 Except as expressly stated herein, the Contract does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Portal, any of the Documentation or any materials created by IHM while providing the Services.

7. SERVICES

- 7.1 IHM shall, during term of the Contract use reasonable endeavours to provide the Services to the Customer in all material respects. IHM shall use reasonable endeavours to meet any performance times and dates outlined for the relevant Services or delivery of the Goods in the Order Form but any such dates and times shall be estimates only and time for performance by or on behalf of IHM shall not be of the essence to the Contract.

- 7.2 IHM shall use reasonable endeavours to observe all health and safety requirements that apply at the Store Room and at any other Customer premises that have been communicated to IHM in advance in writing by the Customer, provided that IHM shall not be in breach of the Contract if as a result of such observation it is in breach of any of its obligations under the Contract.

8. CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) report default uptake numbers to IHM reflecting the level of consumption and/or use of the Goods by the Customer and it shall ensure that such default numbers are accurate;
- (b) without prejudice to clause 5.2, check regularly that the default uptake numbers are accurate and that the Customer's consumption of Goods corresponds with volume of Goods ordered;
- (c) maintain the Storage Room in good, clean and accessible condition and in accordance with all applicable laws;
- (d) ensure that its equipment shall comply with any hardware and software specifications to use the Portal as IHM may provide from time to time;

- (e) provide IHM with:
 - (i) all necessary co-operation in relation to the Contract; and
 - (ii) all necessary access to such information as may be required by IHM;in order to perform its obligations under the Contract, including but not limited to Customer Data, security access information, configuration services and anything else which IHM may reasonably request;
- (f) comply with all applicable laws and regulations with respect to its activities under the Contract and generally;
- (g) carry out all of its responsibilities set out in the Contract in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, IHM may adjust any agreed time of performance and the Delivery Timetable as reasonably necessary;
- (h) ensure that the Authorised Users use the Portal and the Documentation in accordance with the terms and conditions of the Contract and shall be responsible for any Authorised User's breach of the Contract;
- (i) obtain and shall maintain all necessary licences, consents, and permissions necessary for IHM, its contractors and agents to perform their obligations under the Contract;
- (j) ensure that its equipment and network and systems comply with the relevant specifications provided by IHM from time to time;
- (k) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to IHM's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
- (l) provide for IHM, its agents, sub-contractors, consultants and employees in a timely manner access to the Storage Room and other Customer's premises as reasonably required by IHM;
- (m) keep and maintain the Equipment in good condition and shall not dispose of or use the Equipment other than in accordance with IHM's written instructions or authorisations; and
- (n) read, understand and implement the Food Information Conditions as required in relation to its use and/or management of the Goods and Services under the Contract and acknowledges and accepts that IHM has no responsibility in relation to compliance with the Food Information Conditions outlined in this Contract

9. FEES AND PAYMENT

- 9.1 The Fees for the Goods, Services and Line Priced Items are outlined in the Order Form, stated in the Mobilisation Plan or in the Portal at the time of ordering. Once the validity period for the Initial Fees (as stated in the Order Form) has elapsed, the parties shall review the Fees and agree new revised Fees in writing and the Order Form shall be deemed to have been amended accordingly.
- 9.2 IHM shall be entitled to render an invoice for the Goods delivered and Services rendered each week. The Customer shall pay the invoices in full and cleared funds and without set-off or deduction within 30 days of the date of any such invoice using the payment method indicated in the Order Form.
- 9.3 Additional fees will be payable for any additional services to be delivered by IHM. Such additional services may be subject to separate terms and conditions which the Customer is required to accept.

- 9.4 All sums payable under the Contract are exclusive of VAT or any relevant local sales taxes, for which the Customer shall be responsible.
- 9.5 If the Customer fails to make any payment due to IHM under the Contract by the due date for payment, then, without limiting the IHM's remedies under the Contract which IHM may have:
- (a) IHM may suspend all further deliveries of Goods until such payments have been made in full; and
 - (b) IHM may suspend the Customer's access to the Portal and the delivery of any Services to the Customer; and
 - (c) the Customer shall pay interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.6 IHM shall at any time during the term of the Contract be entitled to increase the Fees where:
- (a) the Customer orders any Line Priced Items or IHM delivers any additional services;
 - (b) IHM agrees to any change of the Delivery Timetable proposed by the Customer;
 - (c) IHM's expenses to perform its obligations under the Contract are increased due to a factor beyond IHM's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in insurance, labour, materials, transportation and other manufacturing costs), provided that IHM shall give the Customer no less than 30 days' prior written notice after which the Order Form shall be deemed to have been amended accordingly; and
 - (d) IHM's performance of the Contract is delayed due to any instructions provided by the Customer or the Customer's failure to provide IHM with adequate or accurate information or instructions.

10. MENU CHANGE

- 10.1 The Customer may propose changes to the Menu but no proposed changes shall come into effect until both parties have agreed to such change and the timescale for such changes in writing.
- 10.2 If the Customer wishes to change the Menu:
- (a) it shall notify IHM and provide as much detail as IHM reasonably requires of the proposed changes, including new recipes and the timings; and
 - (b) IHM shall, as soon as reasonably practicable after receiving the information requested under clause 10.2(a), provide a quote to the Customer to deliver the Goods relevant to the proposed new Menu.
- 10.3 Where the parties agree to amend the Menu, they shall sign a document recording such agreed amended Menu and any changes to the Fees and the Order Form shall be deemed to have been amended accordingly.
- 10.4 The Customer may request to change the Menu twice in any 12 month period at no extra cost. Any additional changes to the Menu shall be charged separately as additional services as quoted by IHM from time to time.

11. CONFIDENTIALITY

- 11.1 Each party shall, during the term of the Contract and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of the Contract) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its group companies, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of the Contract, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.
- 11.2 The Customer acknowledges that details of the Portal, IHM's pricing and the Services, constitute IHM's confidential information.
- 11.3 No party shall make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

12. WARRANTY AND INDEMNITY

- 12.1 IHM warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Contract.
- 12.2 IHM:
- (a) does not warrant that the Customer's use of the Portal will be uninterrupted or error-free; or that the Portal, Documentation and/or the information obtained by the Customer through the Portal will meet the Customer's requirements; and
 - (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Portal and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 12.3 The Customer acknowledges that the Customer's breach of the terms of the Contract may place IHM in contractual breach with third parties. The Customer indemnifies and holds harmless IHM from and against all claims, proceedings, damages, losses and costs (including reasonable legal costs) arising out of any claim by any third party resulting from any breach of the Customer's obligations under the Contract.
- 12.4 The Customer shall indemnify and hold harmless IHM against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Portal and/or Documentation.
- 12.5 In no event shall IHM, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
- (a) a modification of the Portal, Services or Documentation by anyone other than IHM; or

- (b) the Customer's use of the Portal or Documentation in a manner contrary to the instructions given to the Customer by IHM; or
- (c) the Customer's use of the Portal or Documentation after notice of the alleged or actual infringement from IHM or any appropriate authority; or
- (d) any materials provided by the Customer (including Customer Data); or
- (e) IHM's compliance with the Customer's specifications and/or instructions.

12.6 The foregoing and clause 13.3 (Limitation of Liability) state the Customer's sole and exclusive rights and remedies, and IHM's (including IHM's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13. LIMITATION OF LIABILITY

13.1 Nothing in the Contract shall (in relation to any act or omission by IHM):

- (a) limit or exclude any liability for death or personal injury caused by the negligence of IHM, its officers, employees, contractors or agents;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in a way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

13.2 Subject to clause 13.1:

- (a) IHM shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:
 - (i) special damage, even if IHM was aware of the circumstances in which such special damage could arise;
 - (ii) loss of profits, sales or business;
 - (iii) loss of anticipated savings;
 - (iv) loss of business opportunity;
 - (v) loss of goodwill;
 - (vi) loss or corruption of software, data or information;
 - (vii) losses arising from any delays, delivery failures, or any other loss resulting from the Customer's equipment or the transfer of data over communications networks and facilities (including the internet); or
 - (viii) any losses which may arise from the Customer's use of any links to access third party websites or resources provided by third parties which links may be featured in the Portal from time to time.

13.3 Without prejudice to clause 13.1, IHM's total and aggregate liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation or otherwise shall in all circumstances be limited to the Fees paid by the Customer under the Contract in the twelve (12) months immediately preceding any

initial breach less the cost of ingredients paid by IHM in respect of such Fees in such twelve (12) month period.

- 13.4 All dates and times for the performance of IHM's obligations under the Contract and the Mobilisation Plan shall be treated as approximate only. IHM shall not in any circumstances be liable for any loss or damage arising from any delay beyond such approximate dates and/or times.
- 13.5 Except as expressly and specifically provided in the Contract:
- (a) the Customer assumes sole responsibility for errors or omissions in any Customer Data, information and instructions provided to IHM by the Customer in connection with the Contract, or any actions taken by IHM at the Customer's direction;
 - (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract; and
 - (c) the Portal and the Documentation are provided to the Customer on an "as is" basis.
- 13.6 This clause 13 sets out the entire financial liability of IHM (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
- (a) arising under or in connection with the Contract;
 - (b) in respect of any use made by the Customer of the Goods, Portal and Documentation or any part of them; and
 - (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

14. TERM AND TERMINATION

- 14.1 The Contract shall commence on the Commencement Date and remain in force until terminated by either party in accordance with these Conditions.
- 14.2 Either party may terminate the Contract by giving the other party no less than 3 months' advance notice in writing. No such notice to terminate the Contract shall take effect during the Initial Term.
- 14.3 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under the Contract on the due date for payment;
 - (b) the other party commits a material breach of any other term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;
 - (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- (g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.3(c) to clause 14.3(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (l) there is a change of control of the other party.

14.4 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to IHM all of the IHM's outstanding unpaid invoices and interest and, in respect of any Goods and Services supplied but for which no invoice has been submitted, IHM may submit an invoice which shall be payable immediately in receipt;
- (b) the Customer shall return and make no further use of any Portal, Equipment, property, Documentation and other items (and all copies of them) belonging to IHM;
- (c) IHM may destroy or otherwise dispose of any of the Customer Data in its possession unless IHM receives, no later than ten days after the effective date of the termination of the Contract, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. IHM shall use reasonable commercial endeavours to deliver the back-up to the Customer within a reasonable time of its receipt of such a written request, provided that the Customer has, at that time, i) paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination) and ii) paid all reasonable expenses incurred by IHM in returning or disposing of Customer Data;
- (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced; and
- (e) any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

15. FORCE MAJEURE

- 15.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (such as the failure of any communications networks including the internet or any other failure of communications facilities). In such circumstances, the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

16. NO EXCLUSIVITY

- 16.1 The Contract shall not prevent IHM from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products, goods and/or services which are similar to those provided under the Contract.

17. CONFLICT

- 17.1 If there is an inconsistency between any of the provisions in the main body of these Conditions and the Schedules the provisions of the Schedules shall prevail.
- 17.2 If there is an inconsistency between any of the provisions of the Order Form and the provisions of these Conditions, the provisions of the Order Form shall prevail.

18. WAIVER

- 18.1 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19. REMEDIES

- 19.1 Except as expressly provided in the Contract, the rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

20. SEVERANCE

- 20.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 20.2 If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. ASSIGNMENT/TRANSFER

- 21.1 The Customer shall not, without the prior written consent of IHM, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

21.2 IHM may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract, provided it gives written notice to the Customer.

22. NO PARTNERSHIP OR AGENCY

22.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23. THIRD PARTY RIGHTS

23.1 Except where expressly permitted under the Contract, a person who is not a party to the Contract shall not have the right to enforce any term of the Contract.

24. NOTICES

24.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

24.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address; or
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second working day after posting.

24.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include e-mail.

25. GOVERNING LAW AND JURISDICTION

25.1 Without prejudice to either party's right to bring proceedings to seek interim or interlocutory remedies or commence proceedings before the expiry of a limitation period, the parties will attempt to resolve in good faith any dispute arising out of or in relation to the Contract by negotiations between a director of each party with authority to settle the relevant dispute. The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

25.2 The parties irrevocably agree that the courts of the jurisdiction in which the Customer's main address (as defined in the Order Form) is located shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1
TERMS AND CONDITIONS FOR THE SALE OF GOODS

**SCHEDULE 2
FOOD INFORMATION CONDITIONS**

IMPORTANT INFORMATION: FOOD INFORMATION (INCLUDING NUTRITIONAL ANALYSIS AND ALLERGY INFORMATION)

IHM does not produce or manufacture Goods and does not create or produce any of the information relating to the Goods featured from time to time on the Inhouse Manager software or the Portal (together known as “**the Software**”), any reports, Menus or recipes generated using the Software (together known as “**Documents**”) and on the packaging of the Goods.

IHM EXCLUDES ANY AND ALL LIABILITY TO THE FULLEST EXTENT PERMITTED BY LAW IN RESPECT OF:

- (1) ANY AND ALL INFORMATION RELATED TO ANY (A) GOODS FEATURED WITHIN THE SOFTWARE AND/OR (B) ANY DOCUMENTS AND/OR (C) THE PACKAGING, LABELLING AND CONTAINERS FOR THE GOODS USED AND/OR SUPPLIED (“FOOD INFORMATION”). IHM DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION CONCERNING THE FOOD INFORMATION RELATING TO THE GOODS, INCLUDING BUT NOT LIMITED TO THE ACCURACY AND COMPLETENESS OF ANY SUCH FOOD INFORMATION;**
- (2) ANY INFORMATION WHICH IS PROVIDED TO END USERS OF ANY FOOD, BEVERAGES OR OTHER FOODSTUFFS ON THE BASIS OF THE FOOD INFORMATION;**
- (3) THE DOCUMENTS, GOODS AND/OR THE FOOD, BEVERAGES OR OTHER FOODSTUFFS PREPARED USING ANY OF THE GOODS MEETING ANY OBLIGATIONS OR STANDARDS, FOR EXAMPLE DIETARY REFERENCE VALUES OBLIGATIONS TO WHICH THE CUSTOMER MAY BE SUBJECT;**
- (4) THE COMPOSITION, ALLERGENS PRESENT IN AND NUTRITIONAL VALUES OF ANY FOOD, BEVERAGES OR OTHER FOODSTUFFS PREPARED USING THE DOCUMENTS AND/OR ANY OF THE GOODS.**

AND THE CUSTOMER ACCEPTS THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, IHM HAS NO LIABILITY TO THE CUSTOMER OR ANY THIRD PARTY IN CONNECTION WITH THE ABOVE MATTERS.

Customer obligations:

The Customer:

- Is wholly responsible for complying with its obligations under the Food Information Regulations 2014 and the Food Information (Scotland) Regulations 2014 and all other applicable laws;
- shall ensure that a qualified dietician analyses any Documents generated by the Software in order to ensure that the Food Information in such Documents is accurate and complete and that the Goods, Menus and any food, beverages or other foodstuffs prepared using the Documents and/or any of the Goods are suitable for the end users i.e. the consumers;

- shall input the correct and relevant dietary reference values in the Software and check regularly that the correct and up-to-date reference values are being used;
- shall update the relevant recipes within the Software to reflect any change in the Goods or ingredients used to prepare the foods, beverages and all other foodstuffs (including any changes in quantities or where the ordered ingredient is not available and a replacement ingredient is supplied);
- shall check the packaging, labelling and any other information displayed on the Goods when they are received (particularly in respect of any substitute items);
- shall match Goods delivered correctly with the food, beverages and other foodstuffs featured within the Software or where IHM does this on behalf of the Customer, confirm to IHM within three (3) working days whether such Goods have been matched correctly and where IHM does not receive such confirmation, the Customer is deemed to have accepted any matching made by IHM; and
- shall prepare all foods, beverages and other foodstuffs using the Goods in accordance with the Documents.