Terms and Conditions

These terms and conditions (“**Terms**”), together with the Vendor Registration Form to which these Terms are attached (“**Vendor Registration Form**”) form the agreement (“**Agreement**”) between Delivery Hero (Singapore) Pte. Ltd. (“**Foodpanda**”) and the vendor named on the Vendor Registration Form (“**Vendor**”).

Foodpanda and the Vendor shall collectively be referred to as “**Parties**” and individually as “**Party**”, as the case may be.

WHEREAS Foodpanda acts as an independent contractor of the Vendor and to this purpose, the Vendor through this agreement grants Foodpanda full authority to conclude and negotiate contracts with customers in the name and for the account of the Vendor and for the offers of the Vendor made via Foodpanda’s online platform www.foodpanda.sg. (the “**Website**”) and a mobile application (“**Vendor App**”) (where applicable). The Website and Vendor App are collectively referred to as the   
“**Platform**”. It is understood that Foodpanda does not act for the customers.

WHEREAS Foodpanda, as part of the Foodpanda Platform, provides an online marketplace for the Vendor, via which customers can order prepared food items, groceries and such other items and products which may be offered on the Platform directly from the Vendor (the “**Items**”) and where applicable, provide delivery services to customers in Singapore. Thereto, Foodpanda receives the order of the customer online via the Foodpanda Platform, transmits it via a printer / handset / tablet / Vendor App installed by Foodpanda or, in exceptional circumstances, by phone, to the Vendor and receives the payment of the customer for orders placed by the customer on the Foodpanda Platform (“**Order**”). The payment for the Order is accepted by Foodpanda in the name and for the account of the Vendor and transmitted to the Vendor, after deducting the Agency fee as agreed upon by the Parties as per the Vendor Registration Form. These shall be referred to as the “**Services**”.

WHEREAS in addition to the online marketplace, the Parties shall also agree on who shall deliver Items from the Vendor to the Customer once an Order is placed via the Foodpanda Platform. Such choice shall be indicated on the Vendor Registration Form.

WHEREAS in the event of a Vendor Delivery option being selected in the Vendor Registration Form, Foodpanda shall charge the customer the Delivery Charge on behalf of the Vendor.

WHEREAS all contracts that are concluded by Foodpanda in its function as commercial agent on behalf of the Vendor with customers via Foodpanda’s online marketplace will be based on the General Terms and Conditions with the customers as found on the Platform.

1. **Foodpanda’s Rights and Obligations**
   1. In order to perform the Services, Foodpanda shall:
      1. help set up Foodpanda’s proprietary mobile application for the Vendor’s use (“**Vendor App**”);
      2. every time Foodpanda receives an Order online through the Foodpanda Platform for the Vendor’s Items, forward the Order to the Vendor via the Vendor App and accept the customer’s payment online or in cash (save for pick up Orders which shall be paid by the customer via online payment only);
      3. in the event of delivery performed by Foodpanda (“**Foodpanda Delivery**”): when the Order is ready to be collected, arrange for a delivery rider to collect the Order from the Vendor and deliver it to the customer;
      4. transfer to the Vendor the monies for such Order minus the Agency fee and Delivery Charges, and such other additional fees as may be applicable, stated on the Vendor Registration Form ("**Agency Fee**" and "**Delivery Charge**", respectively) in accordance with clause 4 of these Terms;
      5. have the right to change the Delivery Charges to customers without notice to Vendor;
      6. have the right to influence the prices for the food items offered by the Vendor on a case-by-case basis by offering discounts according to clause 4.2.5 whereas Foodpanda will not increase the prices as agreed on with the Vendor;
      7. where applicable, ensure full compliance with the guidelines of MUIS with regards to the delivery of Halal food;
      8. have full right to remove or amend certain information on the Vendor’s page on the Foodpanda Platform including: Items; ingredients, nutrition and allergen information (if applicable and required by law); minimum order values; promotions; discounts; opening hours; times of delivery and areas of delivery (if applicable) (“**Listing Information**”) at its sole discretion, provided that no new or untrue information shall be made available, and shall not be required to inform Vendor of such changes;
      9. have the right to increase or reduce the prices of the Items offered by the Vendor to match the prices of those same Items as may be listed by the Vendor on other online food delivery platforms without prior notice to the Vendor;
      10. not be obliged to, but may, provide and / or install one or more devices for the Vendor including but not limited to: a printer, mobile phone; tablet; Vendor App ("**Devices**”);
      11. inform the Vendor, in its sole discretion, of any material changes to Foodpanda’s procedures or operations which would substantially impact the Vendor at least 2 days prior to the implementation of the intended change, and the Vendor shall agree to all such changes;
      12. have the right, in its sole discretion, not to make any Items available for sale on the Foodpanda Platform which may be prohibited by any law or regulations;
      13. have the right, in its sole discretion, to refuse to provide any kind of service to customers if Foodpanda is not fully satisfied with the outcome of any kind of customer verification procedures or measures implemented by Foodpanda (e.g. customer fails SMS verification when first registering on the Platform). Additionally, Foodpanda has the right to block customers from placing an Order on the Platform if it is discovered that the customer is abusing any promotions, committing or attempting to commit fraud or whether as a customer, or on the account of Foodpanda or the Vendor. Foodpanda shall not require any consent from Vendor in order to effect the provisions of this clause.
2. **Vendor Obligations** 
   1. The Vendor shall:
      1. provide Foodpanda with all and up-to-date Listing Information including operating hours; any intended changes to the Listing Information will take up to five (5) working days to take effect in the Vendor App;
      2. provide Foodpanda, its employees, agents, consultants and subcontractors, access to the Vendor 's premises and other facilities as reasonably needed by Foodpanda to perform the Services;
      3. comply with all local laws and regulations an obtain and maintain all necessary licenses, permissions and consents which may be required to perform its obligations under this Agreement;
      4. upon receiving an Order via the Vendor App, accept such order promptly and no later than within three (3) mins from the time the Order was placed, prepare and fulfill such Order promptly, within the preparation time allocated by Foodpanda to the Vendor as indicated in the Vendor App or if no time is allocated, no later than within fifteen (15) minutes. Vendor shall prepare the Order and/or Items with the quality of the same standard as the common standard of the Vendor, pack it in accordance with Foodpanda standards as communicated from time to time to the Vendor, and hand it to the Foodpanda delivery rider;
      5. if the Vendor is temporarily unable to receive, prepare and/or fulfill Orders (for a duration of less than one (1) hour), inform Foodpanda immediately via Vendor App or the service hotline and shut down the Vendor App temporarily. If the Vendor is unable to receive, prepare and/or fulfill orders for a longer duration (due to Vendor closure or public holiday, for example) Foodpanda must be informed of the same and be given a timeframe for recommencement of such Services at least two (2) working days in advance;
      6. guarantee that the prices, including promotional prices, offered to customers on the Foodpanda Platform are identical to the prices offered to customers by the Vendor when placing delivery orders by phone, website, mobile app or any other platform operated by the Vendor. For the avoidance of doubt, the Vendor shall ensure that all offers, discounts, deals, and other promotions which are available to the Vendor ’s customers for any period during the Term, whether in-store, online or otherwise, and whether offered directly or indirectly by the Vendor, are similarly available through the Foodpanda Platform for the Items for at least the said period, provided that offer can be replicated on the Platform. If the Vendor intends to offer any lower prices, promotions or discounts, the Vendor shall inform Foodpanda at least 7 days in advance;
      7. if the Vendor is Halal certified, it must inform Foodpanda in writing of this certification. If there are any changes to the Vendor’s status with regards to its Halal certification, the same must be made known to Foodpanda within 24 hours of any such changes; and
      8. Insofar as, while placing the Order, the customer chooses to pick up the Order on his or her own in lieu of delivery, the clauses in this Agreement shall apply subject to the provision that there will be no delivery of the Order to the customer. A Delivery Charge shall not be charged in this case. In the event of pick-up by the customer, the Vendor shall be required to make the Items available for pick-up by the customer at the end of the preparation time indicated in clause 2.1.4 hereof. It shall be the Vendor's responsibility to ensure that the Order is handed over to the right customer. Foodpanda shall not be liable if the Order is not received by the customer or not received in a timely manner. Disputes arising in this regard between the customer and the Vendor shall not affect Foodpanda's responsibility. In the event of pick-up by the customer, all applicable contractual and other provisions shall be interpreted consistently with this clause.
      9. In the event of Vendor Delivery:
         1. provide Foodpanda with a realistic estimated delivery time at the same time as providing the Listing Information;
         2. deliver to the customer all accepted Orders within the time indicated at acceptance by Vendor;
         3. immediately inform Foodpanda of any delay in delivering the Order according to the estimated delivery time;
         4. deliver the Order in a condition that a customer would reasonably expect for the type of Order/Items, with the appropriate packaging; AND
         5. inform Foodpanda about any cancelled, fake or any non-fulfilled Orders within 48 hours from acceptance of the Order.
         6. Provide a minimum order value in the Vendor Registration Form applicable to customer orders with Vendor Delivery.

1. **Suspension** 
   1. Foodpanda shall have the right to temporarily suspend the Vendor from the Platform, without liquidated damages, if in its reasonable opinion, the Vendor is in breach of any terms of this Agreement or may be negatively affecting Foodpanda’s business.
   2. For the avoidance of doubt, any suspension shall not result in the termination of this Agreement, the provisions of which shall remain fully applicable.

1. **Fees and Payment**
   1. The Vendor grants Foodpanda the authority to receive any funds in the name, and for the account, of the Vendor s paid by the customers, whether by online means or in cash.
   2. Foodpanda will reconcile the monies received from the customers with the Vendor and issue an invoice to the Vendor within 7 working days from every 15th and last day of the month, for orders provided in the previous half of the month. The monies received by Foodpanda from the customers, with GST added and less the Agency Fees and Delivery Charges (not applicable if Vendor delivery) shall be paid to the bank account listed on the Vendor Registration Form.

4.3 The Agency Fee is calculated based on the Listing Information price, which excludes additional fees (e.g. Delivery Charges) charged to customers as well as GST;

4.4 In the event of Foodpanda Delivery, Foodpanda reserves the right to adjust the Delivery Charges charged to customers;

4.5 If the Vendor is GST registered, 7% GST on the full basket price will be charged by Foodpanda to the final costumers;

4.6 Foodpanda is a GST registered company and will charge the Vendor (if applicable) 7% GST on the full amount of its revenues;

4.7 Foodpanda will charge the Vendor 3% for all Orders paid for by the customer by Credit Card or PayPal on Foodpanda Platform to cover bank, credit card and PayPal charges;

4.8 Foodpanda will pay the Vendor within 3 working days upon exchange of the invoice to the Vendor’s stated bank account. Any bank fees shall be borne by the Vendor. There are no bank fees for DBS, POSB, UOB and OCBC.

4.9 Foodpanda reserves the right to run discounts and promotions for the customers. Said promotions and discounts will be funded by Foodpanda and will require the Vendor to accept payment from customers in accordance with the discount offered. The Vendor will be reimbursed for this by Foodpanda during the invoicing process.

4.10 The Vendor shall pay to Foodpanda a replacement fee of SGD100 for any lost or damaged phone and SGD50 for any lost or damaged Bluetooth printer. There will be a seven-day grace period after receipt of the devices by the Vendor. In this grace period, faulty phones and bluetooth printers can be exchanged for a new device at no cost to the Vendor.

4.11 The Vendor shall pay the redelivery charges to Foodpanda as set out in Appendix B of this Agreement.

1. **Preferred Partnership (if applicable)** 
   1. In return for the Preferred Partnership Rate agreed to on the Vendor Registration Form (if applicable), the Vendor agrees that for a period of one (1) year from the date of this Agreement (“**Preferred Partnership** **Term**”), it shall not enter into any agreements with any third parties that provide services that are similar or identical to the Services. For avoidance of doubt, the Preferred Partnership Rate shall be offered to the Vendor throughout the Preferred Partnership Term only. Upon the expiry of the Preferred Partnership Term, the Vendor shall no longer enjoy the Preferred Partnership Rate, and the non-Preferred Partnership Rate shall apply to the Vendor, unless otherwise agreed in writing between Foodpanda and the Vendor.
   2. Should the Vendor not opt to work exclusively with Foodpanda, the Non-Preferred Partnership Rate agreed to on the Vendor Registration Form shall apply.
   3. Notwithstanding Clause 5.1 above, the Vendor may, at any time during the Preferred Partnership Term, decide that it no longer wishes to work with Foodpanda on a Preferred Partnership basis by informing Foodpanda of such decision with at least ninety days’ (90) notice in writing, and the non-Preferred Partnership Rate shall apply to the Vendor with effect from the first day of the following month following the end of the said notice period. For avoidance of doubt, the Vendor shall no longer enjoy the Preferred Partnership Rate on the date that the non- Preferred Partnership Rate takes effect.

1. **Performance-based Rebate** 
   1. Foodpanda may, in its sole and absolute discretion, provide a 2% rebate on the total gross order value every calendar month to the Vendor, if the Vendor fulfils the following two conditions for each calendar month:
      1. achieve a late preparation rate (defined as the percentage of Orders for which the actual preparation time is higher by more than 10 minutes compared to the preparation time allocated by Foodpanda to the Vendor) of below 5%; and
      2. achieve a Vendor-induced fail rate (defined as the percentage of Orders for which the Vendor fails to fulfill an Order placed by a customer) of below 2%.
   2. The rebate amount is to be paid out concurrently with settlement of the billing cycle of the 2nd half of the month.
   3. Foodpanda shall have the right to amend the targets set out in clauses 6.1.1 and 6.1.2 above, provided that it shall inform the Vendor of such amendments in writing 14 days before the effective date of such amendments.
2. **Warranties and Indemnity**
   1. Foodpanda represents, warrants and undertakes that it shall provide the Services with reasonable care and skill.
   2. The Vendor represents, warrants and undertakes that:
      1. it shall perform the Vendor Services with all due care, skill and diligence;
      2. all Items will be: (i) of excellent quality; (ii) prepared to a high industry standard; and (iii) compliant with all applicable laws and regulations (including, without limitation, any food and beverage and/or health and safety legislation and/or regulations);
      3. the use by Foodpanda of the name, logo and/or image of the Vendor on its website and/or other marketing materials in accordance with clause 8 of these Terms shall not infringe the intellectual property rights of any third party.
   3. The Vendor shall indemnify Foodpanda, its affiliates, employees and agents against any loss suffered by Foodpanda arising from the actions or omissions of the Vendor in connection with this Agreement including, without limitation, any breach by the Vendor of the warranties in this clause 7.
   4. In the event of the Vendor rejecting an order without justifiable reason, the Vendor shall be liable to pay Foodpanda the Agency Fee that would have been due on such rejected order by way of contractual penalty, provided that no penalty shall be due to Foodpanda by Vendor if the breach arose as a fault of Foodpanda or due to Force Majeure event.
   5. The Vendor shall, at its expense, defend any of the following types of third-party claims brought against Foodpanda, its directors, officers, or agents (collectively, “**Indemnitees**”):
      1. any claim that, if true, would constitute a breach of this Agreement by the Vendor, its employees, agents or representatives;
      2. any claim related to injury to, or death of, any person or damage to any property arising out of or related to the Vendor obligations arising out of this Agreement; or
      3. any claim that otherwise arises from the negligence, acts, or failures to act, of Vendor, its employees, agents or representatives.
      4. The Vendor shall indemnify and hold harmless the Indemnitees from any costs, losses, claims, damages and fees (including reasonable legal fees) incurred by any of them that are attributable to any such claim.

7.6 The Vendor acknowledges that it is aware that Foodpanda is a reputable company in Singapore, which seeks to provide convenience, reliability, and quality to customers. As Foodpanda’s systems and operations are heavily dependent on customer experience and feedback, the Vendor confirms and agrees with Foodpanda that in the event the Vendor fails to observe or comply with Foodpanda’s operational standards as specified in Appendix A (and as amended by Foodpanda from time to time), the Vendor shall pay to Foodpanda such sum as shall be determined by Foodpanda in accordance with Appendix A as liquidated damages (“**Customer Recovery Charge**”).

7.7 The aforesaid Customer Recovery Charge shall not prejudice the right of Foodpanda to claim damages for the costs and expense of taking such steps as deemed necessary by Foodpanda to rectify such non-observation and/or non-compliance of such operational standards. For the avoidance of doubt, this clause 7.7 is intended to be read in conjunction with Appendix A.

1. **Marketing Materials and Intellectual Property**

8.1 “**Intellectual Property**” shall mean any registered or unregistered trademarks, designs, logos, insignia and images. The Vendor agrees that its name, address, a brief slogan and one or more images of the Vendor, including any logos or insignia, may be published online by Foodpanda including on the Platform, and any of Foodpanda’s partner and affiliate platforms, so that the Vendor can be identified as a Foodpanda partner vendor on such platforms.

8.2 The Vendor furthermore permits Foodpanda, at Foodpanda's cost, to advertise the Vendor on the Platform, Facebook, Google and any other social media or relevant offline and online marketing channels and specifically authorizes Foodpanda unlimited use to its intellectual property, including its logo, in doing so.

8.3 The Vendor, where practicable, is to promote, advertise, display and distribute official Foodpanda marketing materials such as, *inter alia*, business cards of Foodpanda, and links to the Platform, on a variety of online and offline tools, such as the Vendor website (if available) and any social media accounts of the Vendor, via a certificate picture and an “order now” button. The Vendor shall display marketing materials for the purposes of advertising and promoting the Foodpanda brand, image and Platform provided to Vendor or as approved by Foodpanda (“Foodpanda Marketing Materials”) at the Vendor’s brick-and-mortar outlets. Foodpanda shall provide Foodpanda Marketing Materials, and Vendor shall not design, create or produce any marketing materials in relation to Foodpanda including any material referencing the name, image, logo or insignia of Foodpanda, without the consent of Foodpanda. The Vendor shall not bear any cost in respect of these Foodpanda Marketing Materials.

8.4 Foodpanda may provide Vendor with offline marketing materials, such as stickers, and Vendor obliges itself to display such offline marketing materials as instructed by Foodpanda.

8.5 All intellectual property rights in the marketing materials mentioned in clauses 8.3 and 8.4, and otherwise arising out of the Services shall remain the exclusive property of Foodpanda.

8.6 It is hereby clarified that Vendor does not have any rights whatsoever to use or avail of any Intellectual Property rights of Foodpanda, including any domains or similar domain names.

8.7 It is agreed that neither Party shall obtain any other rights to the Intellectual Property of the other Party, except as catered for in these Terms.

8.8 The Vendor represents, warrants and undertakes that the use by Foodpanda of the Intellectual Property of the Vendor, including the name, logo and/or image of the Vendor, and/or other marketing materials in accordance with Clause 8 of this Agreement shall not infringe the intellectual property rights of any third party.

1. **Partnering Platforms**

Foodpanda may display the Listing Information on any other platform owned by, operated by, or affiliated with Foodpanda.

1. **Term and Termination**
   1. This Agreement shall commence from the date the Vendor’s Listing Information goes live on Foodpanda Platform and will continue to remain valid until explicitly terminated. This Agreement may be terminated: (a) by either Party for convenience upon giving the other Party not less than 90 days' prior written notice (for Vendors working with Foodpanda on a Preferred Partnership Rate basis); (b) by either Party for convenience upon giving the other Party not less than 30 days’ prior written notice (for Vendors working with Foodpanda on a non-exclusive basis); (c) with immediate effect upon the provision of written notice by either party in the event of material breach of this Agreement by the other party; or (d) at any time by mutual written agreement between the Parties.
   2. Upon termination by either party of this Agreement:
      1. The Vendor is obliged to return all Foodpanda property in its possession, including any handset, phone, tablet and printer provided by Foodpanda, immediately to Foodpanda. If the Vendor fails to return the handset and/or printer within 14 days of termination, the Vendor shall pay a replacement fee of SGD 300.00 to Foodpanda within 30 days of termination;
      2. the Vendor must immediately remove any reference to Foodpanda and/or any of Foodpanda’s intellectual property from its premises, website and/or marketing materials;
      3. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry;
      4. clauses which expressly or by implication survive termination shall continue in full force and effect.
2. **Confidentiality & Data Protection**
   1. A party ("**Receiving Party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("**Disclosing Party**"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the Receiving Party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under this Agreement, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to this Agreement.
   2. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 11 shall survive termination of this Agreement.
   3. In the event of Vendor Delivery, Foodpanda shall provide Vendor with certain personal data belonging to the Foodpanda customers ("**Customer Data**"). Such Customer Data may include, among others: name, surname, address, e-mail address and telephone number or other information provided by the Foodpanda customers that are considered to be required for the performance of service of food delivery. Vendor hereby undertakes to only use the Customer Data for the purposes of this Agreement and in accordance with the provisions of the Personal Data Protection Act 2012, and shall not retain, store or process, in any manner whatsoever, any part of the Customer Data, unless legally required to do so.

1. **Limitation of Liability**
   1. Nothing in this Agreement shall limit or exclude either Party’s liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors or fraud or fraudulent misrepresentation.
   2. Subject to clause 12.1:
      1. Foodpanda shall under no circumstances whatever be liable to the Vendor, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with this Agreement; and
      2. Foodpanda’s total liability to the Vendor in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Agency Fees paid in the preceding payment period at the time of the event giving rise to such liability.
   3. This clause 12 shall survive termination of this Agreement.

1. **Amendments**
   1. Foodpanda shall have the right to amend these Terms and Agreement at its sole discretion, provided that it shall inform Vendor of such amendments in writing fourteen (14) days from the date of amendment.
   2. Vendor shall have the right to object to such amendments within 7 days from receipt of such amendments (the “**Objection Period**”) and shall provide reasonable grounds for such objections, which shall be reviewed by Foodpanda. Foodpanda shall provide Vendor with its decision on the acceptance or rejection of the objection within 5 business days from receipt of such objections, which decision shall be final.
   3. The amendments shall become valid and effective between the Parties (i) upon the expiry of the Objection Period, if no objection was submitted, or (ii) 2 business days after the rejection by Foodpanda of any objections made by Vendor.
   4. Vendor has the right to terminate this Agreement in the event of no agreement being reached between the Parties on the amendments. In such event, this Agreement shall terminate 7 days after the Vendor’s written termination notice is received by Foodpanda. For the avoidance of doubt, Vendor shall not be obliged to abide by any amendments made by Foodpanda and shall abide by the then valid Terms.
   5. Any notice made in accordance with the provisions of this clause 13 may be sent by email to the email address mentioned on Vendor Registration Form, or any other email address as agreed between the Parties and shall be deemed notified at 09.00hrs of the next business day following the day on which such email was sent.
2. **Severability**

If any provision or part-provision of this Agreement 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 this Agreement.

1. **Waiver**

A waiver of any right under this Agreement or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its 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.

1. **No Partnership**

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties.

1. **Insurance**

During the Term, the Vendor shall obtain and maintain adequate insurance at all times to cover any potential liability that it may incur under this Agreement.

1. **Assignment**
   1. Foodpanda may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.
   2. The Vendor shall not, without the prior written consent of Foodpanda, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under this Agreement.

1. **Conflicting Terms**

To the extent that any of these Terms conflict with the terms stated on Vendor Registration Form (including, without limitation, any Special Conditions detailed on the Vendor Registration Form), the terms of Vendor Registration Form shall prevail.

1. **Governing Law and Jurisdiction**
   1. This Agreement, 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 Singapore.
   2. Each party irrevocably agrees that the courts of Singapore shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

1. **Force Majeure**
   1. For the purposes of this Agreement, "**Force Majeure Event**" means an event beyond the reasonable control of either party including but not limited to acts of God; war; riot; civil commotion or terrorist action.
   2. Neither Party shall be liable to the other Party as a direct result of any delay or failure to perform its obligations under this Agreement as a result of a Force Majeure Event.
   3. If a Force Majeure Event prevents either Party from performing its obligations under this Agreement for more than four weeks, either Party shall, without limiting its other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the other Party.

1. **Contracts (Rights of Third Parties) Act**

Unless expressly provided to the contrary in this Agreement, a person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act (Chapter 53B) and notwithstanding any term of this Agreement, the consent of any third party is not required for any variation (including any release or compromise of any liability) or termination of this Agreement.

1. **Entire Agreement**
   1. This Agreement sets forth the entire agreement and understanding between the Parties or any of them in relation to the subject matter of this Agreement and supersedes and cancels in all respects all previous agreements, letters of intent, correspondence, understandings, agreements and undertakings (if any) between the Parties with respect to this subject matter hereof, whether written or oral.
   2. This Agreement and terms and conditions are written in the English language, which shall be the sole language of interpretation in the event of any translations. To the extent that any of these Terms conflict with the terms stated on Vendor Registration Form (including, without limitation, any Special Conditions detailed on the Vendor Registration Form), the terms of the Vendor Registration Form shall prevail.

1. **Authorised Signatories**

Vendor acknowledges that Foodpanda’s approval and agreement to be bound by the terms and conditions under this Agreement shall only constitute to be legally binding when signed by at least two duly authorised representatives of Foodpanda on this Agreement.

**Appendix A**

**Customer Recovery Charge**

The Vendor agrees to pay to Foodpanda the Customer Recovery Charges for the issues listed in the table below.

The Vendor shall be obliged to pay to Foodpanda the Customer Recovery Charges only if the Vendor exceeds the threshold set for both the “Total number of issues” and “% of Total orders” for the invoiced period.

Between 1st September 2018 to 31st October 2018, less than 1% of our Vendor s incurred a charge. Of these Vendor , the average charge incurred was SGD2.

The contents of the table below may be amended from time to time at Foodpanda’s sole discretion. Foodpanda shall inform the Vendor of such amendments in writing 14 days before the effective date of such amendments.

|  |  |  |  |
| --- | --- | --- | --- |
| **Issue Type** | **Total number of Issues during invoiced period** | **% of Total orders in invoiced period** | **Customer Recovery Charge per order** |
| Wrong dishes | **5** | 5% | SGD 2 |
| Missing Items | **5** | 5% | SGD 2 |
| Vendor delay (10-30 mins) | **5** | 5% | SGD 2 |
| Vendor delay (above 30 min) | **0** | 0% | SGD 2 |
| Cancellations | **5** | 5% | SGD 2 |

The Vendor shall be granted a grace period of **2 billing cycles (being 4 weeks)** (“Grace Period”) during which the Vendor may implement measures to address all its issues and/or operational problems. The Customer Recovery Charges (if any) for the Grace Period will be reflected in the invoice issued by Foodpanda to the Vendor . However, the Vendor shall **not** have to pay for these Customer Recovery Charges during the Grace Period. After the Grace Period is over (i.e. from the 3rd billing cycle or 5th week onwards), the Vendor shall make payment of the Customer Recovery Charges to Foodpanda as reflected in the invoice issued by Foodpanda to the Vendor .

**Appendix B**

**Redelivery charges**

Foodpanda may on certain occasions be required to perform a second delivery (or a redelivery) for the same order from a customer as a result of issues arising due to the Vendor ’s error. For instance, the Vendor could have prepared wrong dishes or missed items in the food order. In such cases, **Foodpanda performs the second delivery and absorbs the cost of the second delivery on behalf of the Vendor .**

Foodpanda may, on other occasions, be required to perform a second delivery (or a redelivery) for the same order from a customer as a result of issues arising due to the rider’s error, for instance, rider’s spillage of the food items or rider causing items to go missing. The Vendor would therefore have to prepare a second set of the same food items to fulfill the same order by the customer. The cost of the first set of the food items and the Delivery Charge will be borne by the customer. **Foodpanda performs the second delivery and absorbs the cost of the second delivery on behalf of the Vendor .** **Foodpanda will pay to the Vendor 40% of the cost of the second set of the food items.**

Between 1st September 2018 and 31st October 2018, only 0.11% of orders requires a re-delivery. Of these, two-thirds of orders were due to Vendor operational issues and one-third were due to foodpanda operational issues.

For the avoidance of doubt, the Vendor will only have to pay to Foodpanda one set of Agency Fees for this order.