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## TERMS AND CONDITIONS (“T&CS”)

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### BACKGROUND:

These T&Cs shall apply to the provision of Marketing Services provided by Bloom Foodservice Ltd (“the Company” and “We”, “Us” or “Our”) a company registered in England under company number 13302241 whose registered address is 20-22 Wenlock Road, London N1 7GU.

*These T&Cs were last updated on 22<sup>nd</sup> December 2021.*

## 1. Definitions and Interpretation

1.1 In these T&Cs, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day”	means, any day (other than a Saturday or Sunday) on which ordinary banks are open for their full range of normal business in England;	“intellectual property”	means (a) any and all rights in any patents, trade marks, service marks, registered designs, applications (and rights to apply for any of those rights), trade, business and company names, internet domain names and e-mail addresses, unregistered trade marks and service marks, copyrights, database rights, know-how, rights in designs and inventions;
“Confidential Information”	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with these T&Cs (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);		(b) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraph (a);
“Campaign”	means a marketing campaign set up and managed by the Company for and on Your behalf in the course of providing the Services;		(c) rights of the same or similar effect or nature as or to those in paragraphs (a) and (b) which now or in the future may subsist; and
“Client”	means the business that requires the Services subject to these T&Cs and the Proposal and includes reference to You and Your;		(d) the right to sue for past infringements of any of the foregoing rights.
“Data Protection Legislation”	means all legislation in force in the UK from time to time relating to data protection and privacy including, but not limited to, the Data Protection Act 2018, EU Regulation 2016/679 UK General Data Protection Regulation (“GDPR”) and any other directly applicable UK or EU regulation relating to data protection and privacy (for as long as, and to the extent that, EU law has legal effect in the UK) and any successor legislation relating to data protection and privacy;	“Project”	means the Services requested by the Client and detailed within the Proposal or agreed upon between the Parties in writing;
“Fee”	means the fee payable for the Marketing Services in accordance with the Proposal or agreed in writing between the Parties thereafter;	“Proposal”	means the document detailing the Client’s request to acquire the Services from the Company including details of the process, Fees, timescales and any relevant information required to undertake the Project.
“Client”/”You”/”Your”	means you the Client who is instructing Us to provide Marketing Services;	“Retainer”	Upon acceptance of the Proposal the Services will be subject to these T&Cs; and means the Services detailed in the Proposal or agreed upon between the Parties in writing which are provided on an ongoing monthly basis until terminated in accordance with Clause 6; and
		“Services”	means the Marketing services provided by the Company as detailed in the Proposal along with any further requests made in writing for additional work which will be subject to these T&Cs.

1.2 Unless the context otherwise requires, each reference in these T&Cs to:

1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

1.2.3 “these T&Cs” is a reference to these T&Cs and the Proposal as amended or supplemented at the relevant time;

1.2.4 a Clause or paragraph is a reference to a Clause of these T&Cs; and

1.2.5 a “Party” or the “Parties” refer to the parties to these T&Cs.

1.3 The headings used in these T&Cs are for convenience only and shall have no effect upon the interpretation of these T&Cs.

1.4 Words imparting the singular number shall include the plural and vice versa.

## 2. Booking Process

2.1 After initial discussions You have been provided with a Proposal detailing the Services required. In order to proceed with the Services You will be required to sign and return the Proposal along with a signed copy of these T&Cs. Any Services undertaken by Us will be provided subject to these T&Cs unless notified otherwise.

2.2 Upon acceptance of Our T&Cs You will be provided with a copy for your records.

## 3. Fees and Payment

3.1 In consideration of the Services, the Client shall pay to the Company any applicable Fees detailed within this Clause, along with the Fees stipulated in the Proposal and confirmed by means of an invoice. Any banking transfer fee, whether sending or receiving, will be Your sole responsibility.

3.2 If the Company is providing Services on a Project basis the following payment terms shall apply:

3.2.1 The Company shall invoice the Client either at the end of the Project or the end of the month, whichever occurs first, and payment shall be made within 30 calendar days of the date of the invoice.

3.3 If the Company is providing Services on a Retainer basis the following payment terms shall apply:

3.3.1 The Company shall invoice the Client in advance on the first of each month and payment shall be made within 30 calendar days of the date of the invoice.

3.3.2 Any unused retained hours will be carried forward to the following month and the invoice shall be adjusted accordingly which represents the subsequent Retainer period.

3.4 All payments required to be made pursuant to these T&Cs and the Proposal shall be made in Great British Pounds (£) in cleared funds to such bank in the United Kingdom as The Company may from time to time nominate, without any set-off, withholding or deduction except such amount (if any) of tax as that Party is required to deduct or withhold by law. Any banking or third-party transfer fee which may be incurred as a result of paying the Fee, whether sending or receiving, will be Your sole responsibility to pay. It shall be Your responsibility to ensure that any payments sent to Us are received and cover the total amount due as shown on the invoice. If any amount received by Us is less than the amount shown on the invoice, due to fluctuations in any exchange rates, We reserve the right to request a further payment from You to cover the shortfall. The Company can, in some circumstances, also accept payment by credit or debit card. If You want to pay by credit or debit card you must inform Us during the Proposal stage and in any event before the invoice is submitted to You.

3.5 All Fees detailed under this Agreement shall be expressly exclusive of value added tax. The Company is not currently VAT registered.

3.6 You are responsible for all sundry and other expenses incurred by the Company and these will be agreed with You in advance of being incurred and will be payable upon receipt of an invoice within 30 calendar days. These expenses include, but are not limited to, the following and the most cost-effective means of transport and accommodation will be considered in all instances:

3.6.1 Travel expenses are based on full standard rate train fares, taxis and public transport, or £0.45 pence per mile mileage and car parking allowances when required;

3.6.2 Overnight accommodation is based on £100 maximum per night, outside of Central London and £175 maximum per night, in Central London;

3.6.3 Subsistence whilst away (evening meals) will be charged at a maximum of £30.00 per night. All receipts will be attached to invoices for your information.

3.7 If any further expenses are incurred such as air travel, they will be confirmed with the client at the outset or as and when the need arises.

3.8 If the Services require professional printing, the Company shall either use the Clients' print providers or source printers, the costs of which will be communicated to the Client within the Proposal or in writing if the expense occurs after the Proposal has been accepted.

3.9 Without prejudice to sub-Clause 6.4.1 (termination for non-payment), any sums which remain unpaid shall incur interest on a daily basis at 8% above the base rate of the Bank of England from time to time until payment is made in full of any such outstanding sums. In addition, The Company reserves their right to be paid on an indemnity basis for any costs it incurs in recovering any money due under these T&Cs (and the costs of recovering such costs) including Our administrative costs and any costs incurred with lawyers or debt collection agencies. Our administrative costs may include the cost of employing the staff concerned and the overheads attributable to them for the time spent. This provision shall not apply to payments disputed in good faith.

#### **4. Provision of the Services**

- 4.1 The Company shall provide the Services as outlined in the Proposal and any subsequent instructions as agreed in writing between the Parties from time to time. Any subsequent instructions shall be in accordance with these T&Cs.
- 4.2 The Company shall provide the Services with reasonable skill and care, commensurate with prevailing standards in the Marketing Services industry in the United Kingdom.
- 4.3 The Company shall act in accordance with these T&Cs and with all reasonable instructions given to Us by You provided that such instructions are compatible with the scope of the Services detailed within the Proposal.
- 4.4 The Company shall be responsible for ensuring that it complies with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.
- 4.5 The Company is not a qualified expert in every industry they provide Services for. It is therefore Your sole responsibility to check the factual accuracy of the Services and ensure there are no omissions.
- 4.6 The Company shall not be liable for any defects or outages caused by third party platforms, programs, software or applications that may be used in the course of carrying out any of the Services. Nor shall We be liable for any third party platforms rejecting or restricting ads and suspending or deactivating Your account. The Company has no control over third party decision making. Accordingly, all work involved and time spent in providing the Services shall be charged to You regardless of this.
- 4.7 You will provide Us with all the required access credentials or make The Company the administrator for the relevant social media accounts as set out within the Proposal. We will provide You with guidance about how to provide us with the requisite access within the Proposal. If You do not follow Our guidance We shall not be liable for any delays which are caused as a result.
- 4.8 Where applicable You hereby authorise The Company to use your access credentials detailed in 4.7 solely for the purposes of providing the Services. All such information is hereby designated Confidential Information and shall be treated accordingly, as described under Clause 11.
- 4.9 The Company shall at all times be exclusively responsible for organising, and entitled to organise, where, when, how and in what order the work is done but shall liaise with the Client (or the Client's representative) to ensure that due account is taken of the impact of the timing of the work to be performed upon the activities of the Client and any other contractors, consultants and similar third parties also engaged by the Client.
- 4.10 The Company is not obliged to make its Services available except for the performance of its obligations under these T&Cs. The engagement and appointment of the Company to provide the Services does not create any mutual obligations on either party to offer or accept any further contract, engagement or services. No continuing relationship shall hereby be created or implied.
- 4.11 The Company in its complete discretion on one or more occasions may use any member of staff or indeed a consultant to work on or complete the Services provided they have the requisite skills and experience to perform the work. The Company shall use all reasonable endeavours to avoid or minimise such changes or additions and to consult with the Client beforehand about any such proposed change in engagement of persons carrying out the Services. The Client shall only be entitled to refuse to accept any Consultant if in its reasonable opinion they are not suitable due to lack of skills, or experience.

#### **5. Client Obligations**

- 5.1 The Company shall not be liable for any delays in the provision of the Services that may result from Your failure to comply with any of Your obligations (or the delivery requirements applying thereto) under this Clause 5 or any other of Your obligations arising under these T&Cs.
- 5.2 The Company shall not be liable for any images, content or intellectual property supplied by You. If any consents, licences or other permissions are required from any third parties it shall be Your responsibility to obtain the same in

advance of the provision of the Services (or the relevant part thereof). If You provide us with images which are of unsatisfactory quality then We will notify You of this and provide You with Our costs in advance for the corrective work required to improve the quality.

- 5.3 If any of the access credentials referred to in sub-Clause 4.7 above change You must notify Us of such changes immediately. We shall not be responsible of any delay in the Services being provided in these circumstances.
- 5.4 The Client shall not seek to supervise, direct or control the Company or any consultants it shall use in the provision of the Services nor shall the Client have any right to do so.

## **6. Cancellation/Termination and Effects of Termination**

- 6.1 These T&Cs shall enter into force upon Your acceptance of the same by means of You signing the Proposal together with these T&Cs and making payment of the Deposit or first payment stipulated within the Proposal sent to You.
- 6.2 The Contract shall continue for 3 (three) calendar months ("the Initial Term"). Thereafter it shall continue on a rolling monthly basis until terminated under sub-Clause 6.3 or 6.4.
- 6.3 Termination will occur:
  - 6.3.1 upon completion of the Services for one-off Project work or by providing the other party with 30 days' notice in writing; or
  - 6.3.2 for ongoing Project or Retainer work either party may terminate the Contract at any time by providing the other party with 30 days' notice in writing.
- 6.4 Without prejudice to any other right or remedy available to it, either Party may terminate forthwith by giving written notice to the other Party in the following circumstances:
  - 6.4.1 any sum owing to that Party by the other Party under any of the provisions of these T&Cs is not paid in accordance with Clause 3;
  - 6.4.2 the other Party commits any other breach of any of the provisions of these T&Cs and, if the breach is capable of remedy, fails to remedy it within 10 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;
  - 6.4.3 an encumbrancer takes possession, or where the other Party is a Freelancer, a receiver is appointed, of any of the property or assets of that other Party;
  - 6.4.4 the other Party makes any voluntary arrangement with its creditors or, being a Freelancer, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
  - 6.4.5 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a Freelancer, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the Freelancer resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under this Agreement);
  - 6.4.6 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;
  - 6.4.7 that other Party ceases, or threatens to cease, to carry on business; or
  - 6.4.8 control of that other Party is acquired by any person or connected persons not having control of that other Party on the date of this Agreement. For the purposes of this Clause 6, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.
- 6.5 For the purposes of sub-Clause 6.4.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.

### **Upon the termination or expiry of these T&Cs for any reason:**

- 6.6 any sum owing by either Party to the other under any of the provisions of these T&Cs shall become immediately due and payable. You will be liable for all Fees incurred by The Company as follows:

- 6.6.1 For all Services provided on a Project basis any sum owing will be calculated on a time spent basis; or
- 6.6.2 For all Services provided on a Retainer basis any sum owing will be calculated on a time spent basis. If the Company holds a sum in excess of the calculation such sums shall be refunded to the Client.
- 6.7 all licences granted to The Company by You shall terminate immediately.
- 6.8 each Party shall (except to the extent referred to in Clause 11) immediately cease to use, either directly or indirectly, any Confidential Information belonging to the other Party and shall at the other Party's request, either promptly return or destroy all such Confidential Information in its possession and/or control;
- 6.9 all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Contract shall remain in full force and effect;
- 6.10 termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of these T&Cs which existed at or before the date of termination; and
- 6.11 subject as provided in this Clause 6 and except in respect of any accrued rights neither Party shall be under any further obligation to the other.

## **7. Liability**

- 7.1 The Company (as an "Indemnifying Party") hereby undertakes to indemnify You (as an "Indemnified Party") and to keep You at all times fully indemnified from and against all losses arising as a result of any action or claim from Your use, possession or ownership of any and all materials created by The Company in the course of providing the Services constitutes an infringement of any Intellectual Property Rights belonging to a third party.
- 7.2 You (as an "Indemnifying Party") hereby undertakes to indemnify The Company (as an "Indemnified Party") and to keep The Company at all times fully indemnified from and against all losses arising as a result of any action or claim against The Company's for the use of any client materials made available by You in the course of providing the Services which constitutes an infringement of any Intellectual Property Rights belonging to a third party.
- 7.3 In the event of an action or claim arising as under sub-Clauses 7.1 or 7.2, the Indemnifying Party shall have complete control over the litigation and/or settlement of the action or claim and shall keep the Indemnified Party fully informed of the same at reasonable intervals.
- 7.4 In the event of an action or claim arising as under sub-Clauses 7.1 or 7.2, the Indemnified Party shall:
  - 7.4.1 Notify the Indemnifying Party immediately in writing upon becoming aware of the action or claim;
  - 7.4.2 Make no admissions or attempt any settlements of the action or claim without the express written consent of the Indemnifying Party;
  - 7.4.3 Provide the Indemnifying Party with all reasonable information and assistance reasonably required by the Indemnifying Party, at the Indemnifying Party's cost, with respect to the action or claim; and
  - 7.4.4 Allow the Indemnifying Party complete control over the litigation and/or settlement of the action or claim.

## **8. Warranties**

- 8.1 Each Party hereby warrants to the other that it has the full power and authority to enter into these T&Cs and to perform its respective obligations hereunder.
- 8.2 The Company represents, warrants, undertakes, and agrees that all content produced by The Company in the course of providing the Services shall be original (save to the extent that it incorporates any of Your materials), and shall not infringe any Intellectual Property Rights belonging to a third party.
- 8.3 Your represent, warrant, undertake that all materials supplied by You shall not, under the laws of England and Wales, be obscene, blasphemous, offensive to religion, or defamatory of any person and shall not contain any material that has been obtained in violation of the Data Protection Act 2018, the Freedom of Information Act 2000, the Regulation of Investigatory Powers Act 2000, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Official Secrets Act 1989, or any similar domestic legislation and nothing contained in the Required Materials or other Client Materials will, if published, constitute a contempt of court.

## **9. Limitation of Liability**

- 9.1 Subject to sub-Clause 9.2, neither Party shall be liable to the other for any loss of profit, indirect, special or consequential loss or damages.
- 9.2 Nothing in these T&Cs shall exclude or limit either Party's liability for death or personal injury resulting from its negligence, fraud or fraudulent misrepresentation, any breach of Clause 8 the indemnities in sub-Clauses 7.1 and 7.2, or other form of liability that cannot be excluded or limited by law.
- 9.3 Subject to sub-Clause 9.1 and 9.2, each Party's total liability to the other in respect of any claims arising out of, or in connection with these T&Cs whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall not exceed:
- 9.3.1 in the case of the Services being provided on a Retainer basis i.e. continuing monthly the total sums paid or payable by You for the Services provided in one calendar month which shall be calculated as an average of the preceding 3 months; or
- 9.3.2 in the case of the Services being provided on a one-off Project basis, the total sums paid or payable by You for the Project.

## 10. Data Protection

- 10.1 All personal data that the Company may use will be collected, processed, and held in accordance with the provisions of the Data Protection Legislation and the Client's rights thereunder.
- 10.2 For complete details of the Company's collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of the Client's rights and how to exercise them, and personal data sharing (where applicable), please refer to the Provider's Privacy Notice available from the Provider's website: <https://www.bloomfoodservice.com/privacy-policy>

## 11. Confidentiality

- 11.1 Each Party undertakes that, except as provided by sub-Clause 11.2 or as authorised in writing by the other Party, it shall, at all times during the term of this Agreement and 12 months after its termination or expiry keep confidential all Confidential Information and not disclose any Confidential Information to any other party, not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of this Agreement, not make any copies of, record in any way, or part with possession of any Confidential Information and ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of this sub-Clause 11.1.
- 11.2 Either Party may disclose any Confidential Information to any sub-contractor or supplier of that Party, any governmental or other authority or regulatory body or any employee or officer of that Party or of any of the aforementioned persons, parties or bodies. to such extent only as is necessary for the purposes contemplated by this Agreement or as required by law. In each case that Party shall first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such governmental or other authority or regulatory body or any employee or officer of any such body) obtain and submit to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of this Clause 11, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made and use any Confidential Information for any other purpose, or disclose it to any other person, to the extent only that it is at the date of this Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information which is not public knowledge.
- 11.3 The provisions of this Clause 11 shall continue in force in accordance with their terms indefinitely, notwithstanding the termination of this Contract for any reason.

## 12. Data Processing

- 12.1 In this Clause 12, "personal data", "data subject", "data controller", "data processor", and "personal data breach" shall have the meaning defined in Article 4 of the UK GDPR.
- 12.2 The Parties hereby agree that they shall both comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 12 shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.
- 12.3 For the purposes of the Data Protection Legislation and for this Clause 12, the Client, namely You is the "Data

Controller” and “The Company” is the “Data Processor”.

- 12.4 The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing will be provided to You at the end of this document and Entitled “Data Processing Schedule”.
- 12.5 The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in the Proposal and these T&Cs.
- 12.6 The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under these T&Cs:
  - 12.6.1 Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.
  - 12.6.2 Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures. Measures to be taken are set out in the Data Processing Schedule.
  - 12.6.3 Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and
  - 12.6.4 Not transfer any personal data outside of the UK without the prior written consent of the Data Controller and only if the following conditions are satisfied:
    - 12.6.4.1 The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;
    - 12.6.4.2 Affected data subjects have enforceable rights and effective legal remedies;
    - 12.6.4.3 The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and
    - 12.6.4.4 The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.
  - 12.6.5 Assist the Data Controller at the Data Controller’s cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner’s Office);
  - 12.6.6 Notify the Data Controller without undue delay of a personal data breach;
  - 12.6.7 On the Data Controller’s written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of these T&Cs unless it is required to retain any of the personal data by law; and
  - 12.6.8 Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 12 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.
- 12.7 The Data Processor shall not sub-contract any of its obligations with respect to the processing of personal data under this Clause 12 to another processor without the prior written consent of the Data Controller (such consent not to be unreasonably withheld). In the event that the Data Processor appoints another processor, the Data Processor shall:
  - 12.7.1 enter into a written agreement with the other processor, which shall impose upon that other processor substantially the same obligations as are imposed upon the Data Processor by this Clause X, which the Data Processor hereby undertakes shall reflect the requirements of the Data Protection Legislation at all times;
  - 12.7.2 ensure that the other processor complies fully with its obligations under that agreement and the Data Protection Legislation; and
  - 12.7.3 remain fully liable to the Data Controller for the performance of that other processor’s obligations and the acts or omissions thereof.

12.8 Either Party may, at any time, and on at least 30 calendar days' notice, alter this Clause 12, replacing it with any applicable data processing clauses or similar terms that form part of an applicable certification scheme. Such terms shall apply and replace this Clause 12 by attachment to this Agreement.

### **13. Force Majeure**

13.1 No Party to these T&Cs will be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

13.2 In the event that a Party to these T&Cs cannot perform their obligations thereunder as a result of force majeure for a continuous period of 3 months, the other Party may at its discretion terminate these T&Cs by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services completed up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of the Project.

### **14. No Waiver**

No failure or delay by either Party in exercising any of its rights under the T&Cs shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the T&Cs shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

### **15. Further Assistance**

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of the T&Cs and Proposal into full force and effect.

### **16. Costs**

Subject to any provisions to the contrary each Party shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of the T&Cs.

### **17. Set-Off**

Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the T&Cs, Proposal or any other agreement at any time.

### **18. Assignment and Sub-Contracting**

18.1 The T&Cs shall be personal to the Parties. Neither Party may assign, mortgage, charge (otherwise than by floating charge) or sub-licence or otherwise delegate any of its rights thereunder, or sub-contract or otherwise delegate any of its obligations thereunder without the written consent of the other Party, such consent not to be unreasonably withheld.

18.2 The Company shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor shall, for the purposes of the T&Cs, be deemed to be an act or omission of The Company.

### **19. Time**

The Parties agree that the times and dates referred to in the T&Cs are for guidance only and are not of the essence of the T&Cs and may be varied by mutual agreement between the Parties.

### **20. Relationship of the Parties**

Nothing in the T&Cs shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in these T&C.

### **21. Third Party Rights**

No part of the T&Cs is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the T&Cs.

### **22. Notices**

All notices under these T&Cs shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice. Notices shall be deemed to have been duly given When delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient or when sent, if transmitted by e-mail and a successful transmission report or return receipt is generated or on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid. In each case notices shall be addressed to the most recent address or e-mail address notified to the other Party.

**23. Entire Agreement**

- 23.1 The T&Cs contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.
- 23.2 Each Party shall acknowledge that, in entering into these T&Cs, it does not rely on any representation, warranty or other provision except as expressly provided in these T&Cs, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

**24. Severance**

In the event that one or more of the provisions of these T&Cs is found to be unlawful, invalid or otherwise unenforceable, that those provision(s) shall be deemed severed from the remainder of the T&Cs. The remainder of the T&Cs shall be valid and enforceable.

**25. Intellectual Property**

- 25.1 All Intellectual Property Rights subsisting in any materials provided by You shall at all times remain Your property (or its licensors, as appropriate). Nothing in these T&Cs shall vest any rights in any material provided by, or otherwise belonging to You (or its licensors, as appropriate) in The Company. You hereby grant to The Company, a non-exclusive, non-transferable, revocable, worldwide licence to use any and all client materials for the purposes of providing the Services in accordance with these T&Cs.
- 25.2 The Company shall retain the ownership of any and all Intellectual Property Rights that may subsist in the processes used or anything produced by The Company that is used in the course of The Company's business for providing the Services. The Company shall be deemed to automatically grant a royalty-free, non-exclusive licence of any and all such rights to You to use the same in accordance with the terms of these T&Cs and the Services.
- 25.3 Upon receipt in full by The Company of all sums due, the copyright and any and all other Intellectual Property Rights subsisting in Services created by The Company for You shall be assigned to You and The Company shall be deemed to have waived any and all moral rights in respect of the same. The Company shall execute all documents and take all actions necessary or reasonably requested by You to document, obtain, maintain, perfect or assign its rights in such content.
- 25.4 Once assigned You hereby grant a royalty-free, non-exclusive licence to The Company which shall continue after the termination of these T&Cs, to use any of the Services works in promotional material. You may revoke the licence by giving The Company notice in writing of not less than 30 days.

**26. Non Solicitation**

- 26.1 Neither Party shall, for the Term of this Agreement and for a period of 6 months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to this Agreement without the express written consent of that Party.
- 26.2 Neither Party shall, for the term of this Agreement and for the period of 6 months after its termination or expiry, solicit or entice away from the other Party any customer or client where any such solicitation or enticement would cause damage to the business of that Party without the express written consent of that Party.

**27. Law and Jurisdiction**

These T&Cs (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

By agreeing to these T&Cs and the accompanying Proposal both Parties understand that a legally binding Contract, under these terms, has been formed and will be in force.

SIGNED for and on behalf of Bloom Foodservice Ltd:

Mark Taylor

.....

Date .....

SIGNED for and on behalf of [insert Client's name] by:

Name and Title of the person signing for the Client

.....

Date .....

## DATA PROCESSING SCHEDULE

### 1. Data Processing

#### Scope

We collect all relevant data required to carry out this service for you.

#### Nature

We will only collect the minimum required information to enable us to carry out these services.

#### Purpose

To enable us to carry out the services as outlined in the Proposal.

#### Duration

Throughout the duration of the service and for a maximum of 12 months thereafter unless longer retention is required by Statute.

### 2. Types of Personal Data

Name

Address

Email

Telephone Number

Any other personal data you may be provided

### 3. Categories of Data Subject

Suppliers

Customers

Contractors

Leads

### 4. Organisational and Technical Data Protection Measures

Password protection

Anti-virus software