General Terms and Conditions for Vendors

Preamble

Choco Communications UK Limited ("**Choco**") operates a cloud solution (Software-as-a-Service, or "SaaS") which, amongst others, enables suppliers in the food industry to receive orders digitally, simplify order processing for restaurant businesses ("**Customers**") and to communicate efficiently with them ("**Software**") and offers services. Customers are afforded an opportunity to conveniently place and manage orders with all their suppliers using the Software.

The Supplier wishes to use the Software and/or benefit from the services to simplify order processing for its customers and to be able to solicit new customers.

NOW THEREFORE, in consideration of the foregoing, Choco and the Supplier (hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**") hereby enter into the following agreement:

1 Other Applicable Provisions and Order of Priority

1.1 In addition to the provisions of these Software-as-a-Service General Terms and Conditions, including the annexes thereto ("**SaaS-GTC**"), the provisions of the Order Form together with its annexes, which may be executed in the form of a document, or an online sign-up or landing page("**Order Form**"), and the special provisions designated governing the services provided under the respective agreed packages in the Order Form, including the annexes thereto (the "**Special Provisions**"), may also apply (the Saas-GTC, the Order Form and the Special Provisions hereinafter collectively referred to as the "**Contract**").

1.2 If there are any inconsistencies between the Order Form, the SaaS-GTC and the Special Provisions, then the relevant provisions shall apply in the order of priority prescribed below:

- Annex 1 to the SaaS-GTC (DPA), retrievable at https://legal.choco.com/ukpremium#dpa

- Order Form

- Annexes to the Order Form

- Special Provisions

- SaaS-GTC

2 Subject Matter and Contract Formation; Supplier General Terms and Conditions

2.1 The Software is intended only for professional, use and is aimed exclusively at business customers. Consumers are not permitted to use the Software. The Supplier represents and warrants that it uses the Software as a business. Choco reserves the right to verify the Supplier's status at any time, particularly on the basis of the information and documents that were provided during the formation of the Contract. Upon request, the Supplier shall without undue delay provide Choco with any additional evidence required for this purpose. The Supplier has no right to compel the formation of the Contract.

2.2 The Contract may be concluded either by executing the Order Form in writing ("**Offline Contract Formation**") or *via* the Internet ("**Online Contract Formation**"). Both the Offline Contract Formation and Online Contract Formation must be made by an employee or agent of the Supplier who is authorized to represent the Supplier. If the Supplier does not execute an Order Form, but an employee or agent of the Supplier who is authorized to represent the Supplier uses the services or Software, such use shall be governed by the Contract and the Supplier shall be deemed to have accepted such terms.

2.3 In the case of the Offline Contract Formation, Choco and the Supplier shall complete the Order Form as agreed. The Supplier will thereafter sign the Order Form and send it to Choco.

2.4 In the case of an Online Contract Formation, the Supplier shall complete all information within the Order Form marked by Choco as necessary. Until the send button is clicked, the Supplier may amend or cancel the Order Form at any time.

2.5 By sending the Order Form in writing to Choco (in case of an Offline Contract Formation) or by submitting the Order Form (in case of an Online Contract Formation), the Supplier will be submitting a legally binding request to Choco to conclude the Contract ("**Offer**"). In the event of an Online Contract Formation and without undue delay following Choco's receipt of the Offer, Choco shall confirm receipt of the Offer by sending a confirmation thereof to the Supplier at the email address that the Supplier has provided in connection with the Online Contract Formation ("**Confirmation of Receipt**"). This Confirmation of Receipt does not, however, constitute an acceptance of the Supplier's Offer.

2.6 A contract between Choco and Supplier will be formed only if and when Choco has accepted the Offer. Choco's declaration of acceptance will be formally made in the case of both an Online Contract Formation and Offline Contract Formation either through a declaration of acceptance in rendered text form (e.g., by email) or by providing access to the Software ("**Contract Formation**").

2.7 Subject to section 12, the Supplier may retrieve the current SaaS-GTC at any time during the Online Contract Formation process by going to https://legal.choco.com/ukpremium#saas. In the event of an Offline Contract Formation, subject to section 12, the Supplier will receive a copy of the Contract either as a paper hardcopy or as an electronic copy.

2.8 Unless expressly agreed by Choco in writing, the Supplier's general terms and conditions will not become part of the Contract.

3 Choco's Services

3.1 Access to the Software and services

3.1.1 For the limited term of the Contract, Choco shall provide the Supplier with access to the Software *via* the Internet. The use requirements and scope of the Software and the services that Choco will provide can be found in the Order Form. Beyond the agreed scope, the Supplier will have no right to any specific design or specific functionalities of the Software and/or of the services performed by Choco.

3.1.2 Choco may also provide services to the Supplier without giving access to the Software as may be agreed in the Order Form or described elsewhere. The terms of this SaaS-GTC shall apply to those services to the extent applicable and relevant depending on the nature of the respective service.

3.1.3 Operation and maintenance of the Software shall be the responsibility of Choco. The Supplier has no right to access the source codes of the Software.

3.1.4 Choco 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 Supplier acknowledges that the Software and services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

3.1.5 Choco will make commercially reasonable efforts to make the Software available 98% of the time, based on a monthly average, i.e., the Software could be unavailable for up to 15 hours per month. Excluded from this downtime are necessary planned maintenance work as well as disruptions that are not within Choco's control (including, for example, force majeure events, interruptions caused by third party licensors which make up part of the Software, or failures caused by the Supplier's incorrect operation). If possible, Choco shall in a timely manner notify Supplier in writing about planned maintenance work. Notwithstanding the foregoing, Choco expressly reserves the right to carry out unannounced maintenance work, if necessary, particularly where this is required for data and operational security.

3.1.6 Choco may make available documentation concerning the Software as well as instructions regarding its use and shall do so in English online. The Supplier shall not be entitled to edit, distribute or post publicly the documentation or instructions for use. No printed documentation will be provided by Choco.

3.1.7 If Choco is obligated to provide support services under the Package agreed to between the Parties, then Choco shall provide such support services in the scope, at the times and within the response times as agreed in the Order Form or as described in the Special Provisions.

3.1.8 Choco will be entitled in its own discretion to engage subcontractors or its affiliates to perform the services. Choco shall remain liable for its acts or omissions of its sub-contractors and affiliates.

3.2 Offer of Products; Orders; Placement of Product Contracts; Choco's role.

3.2.1 In connection with using the Software, the Supplier will be able to offer its Customers the opportunity to purchase goods and products ("**Products**"), to digitally receive corresponding orders for Products placed by the Customers *via* the Software or other communication channels specified by the Supplier ("**Orders**"), and to communicate with the Customers.

3.2.2 The Supplier may enter into contracts with Customers for the purchase and delivery of Products ("**Product Contracts**") by using the Software and on the basis of purchase orders.

3.2.3 The Supplier is solely responsible for its use of the Software, such as for the contact it establishes with other companies, communications sent via or in connection with the Software, the content and availability of the Products and for the proper management of orders. Choco merely provides the infrastructure for offering Products, communication and managing orders and shall have no liability to Customers for the Products offered by the Supplier nor for the management of orders.

3.2.4 If the Supplier concludes Product Contracts with Customers *via* the Software, then Choco will be merely acting as a messenger in transmitting the declarations of intent that are made by the Supplier and the relevant Customer and are aimed at concluding Product Contracts and will itself not become a party to the Product Contracts. Each Product Contract shall be concluded solely between Supplier and the relevant Customer. Neither the Supplier nor the relevant Customer will have any rights *vis-à-vis*Choco under a Product Contract; Choco shall not be responsible for the proper performance of the respective Product Contract, and instead the Supplier and the relevant Customer will have that responsibility. Choco will have no liability whatsoever with regard to the performance of the Product Contracts, and above all not with regard to its proper performance or with regard to any defects to, the Products sold. Choco shall not be a party to disputes of any kind between the Supplier and its Customers, including any disputes that may arise during the conclusion or execution of Product Contracts nor for relationship or communications between the Supplier and the Customers.

3.2.5 The Supplier has no right against Choco to compel the conclusion of Product Contracts.

3.3 Updates and modifications

3.3.1 Choco is under no obligation to update or upgrade the Software.

3.3.2 From time to time, Choco may provide or make updates available to the Supplier and the Supplier shall install any such update as soon as reasonably practicable.

3.3.3 Choco shall not be liable for any failure of any Software to operate in accordance with the Contract if the Supplier does not install any update.

3.3.4 Choco reserves the right to offer additional functionalities in the Software or services that it deems appropriate, in a form and according to the technical means that it deems most suitable for the relevant functionality or service. Choco also reserves the right to modify the Software (or any functionality of the Software) and services or to remove certain functionality, serviceor other information to which a Supplier has access at its own discretion. Any subsequent update, enhancement or other modifications to the Software and the services shall be owned by Choco and subject to the terms of this Contract. In the event that any such changes materially limit the features of the Software or the services, Choco shall provide Supplier with advanced notice thereof. The Supplier's continued use of the Software and services after being notified constitutes acceptance of those changes. In case of an objection by the Supplier, Choco may terminate the Contract or offer the Supplier a reasonable remedy at its own discretion.

4 Intellectual Property

4.1 Subject to section 4.3 and 4.4, upon commencement of the Contract, Choco grants the Supplier for the term of the Contract the non-exclusive, revocable, non-sublicensable, non-transferrable right to use the Software, services and documentation in accordance with the Contract, solely in connection with the Supplier's internal business operations. The licence granted to the Supplier is limited use of the Software by its authorized users.

4.2 Unless explicitly allowed under mandatory applicable law, Supplier shall not (a) modify, adapt, alter or translate the Software; (b) sublicense, sell, transfer or otherwise allow the use of the Software for the benefit of any third party; (c) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code of the Software; (d) modify, copy or make derivative works based on any part of the Software or documentation; (e) attempt to access the Software through any unapproved interface; or (f) otherwise use the Software in any manner inconsistent with applicable law.

4.3 The Supplier acknowledges and agrees that Choco and/or its licensors own or otherwise have all the necessary intellectual property rights in the Software, services and the documentation. Except as expressly granted herein or under mandatory applicable law, this Contract does not grant the Supplier any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (where registered or unregistered) or any other rights of licences in respect of the Software, services and the documentation.

4.4 Certain components of the Software and services may be provided through third party services. Any such components that the Supplier could recognize as being subject to third-party rights, including open-source licences, will be excluded from the grant of rights and will be subject to applicable third party and open-source software licences. Above all, any components that Choco discloses as third-party content in the Order Form, in the Software or in accompanying text files will be deemed recognizable within the meaning of the previous sentence. The Supplier agrees that availability of the Software or certain features may be dependent on the corresponding availability of the third-party services. Choco is not responsible for any interruptions or issues with the Software caused by the third-party services.

4.5 Both during and after the term of the Contract, Supplier allows Choco to use any suggestions, enhancement requests, recommendations or other feedback provided by the Supplier, including by its authorized users, in order to improve and enhance the Software and the services and for other development, diagnostic and corrective purposes for those or other offerings of Choco, without payment, attribution or restriction.

5 Supplier Obligations

5.1 Access and data security; Cooperation; Contact information.

5.1.1 The Supplier shall ensure that it is able to accept Choco's services. In particular, Choco is not responsible for providing any hardware or software required to use the Software and the services. The Supplier is responsible for the operation and availability of its own company software.

5.1.2 The Supplier shall keep the access data to the Software safe and may make such data accessible to authorized users, who are the Supplier's employees, agents, or contractors only. The Supplier is responsible for its authorized users' compliance with the Contract and for all acts and omissions of its authorized users.

5.1.3 The Supplier and its authorized users shall keep the access data confidential. The Supplier shall inform Choco without undue delay if there is any suspicion that the access data may have become known to unauthorized persons. The Supplier is solely responsible for all activities that occur through use of its access data.

5.1.4 The Supplier shall refrain from any conduct that jeopardizes or interferes with the functioning of the Software or intrudes into or damages Choco's systems and shall not access or process any content or data that the Supplier is not authorized to access or process. The Supplier shall comply with all security measures and the functional and other restrictions of the Software and shall, in particular, not remove, override, disable or otherwise circumvent any protection or authentication mechanisms. The Supplier shall ensure that its transmitted information and content posted *via* the Software is not infected with harmful computer programs (e.g., viruses, worms, Trojan horses or other malware) and that it does not upload or send any content intended to induce third parties - including other suppliers or customers - to disclose confidential information (e.g., passwords), to harass third parties, to automatically redirect third parties to other Internet offers outside the Software, or to violate the rights of third parties. The Supplier shall refrain from any other conduct that may impair the intended operation of the Software or the IT infrastructure of Choco or to otherwise violate applicable law.

5.1.5 The Supplier shall be solely responsible for its data and content, which are stored, processed and otherwise transmitted to Choco in connection with the Software (within the meaning of section 5.3.1), and shall create back-ups on a regular basis and

commensurately with the risk. The foregoing shall apply both to the Supplier's data and content on the local systems and to that data and content which the Supplier stores on the IT infrastructure hosted by Choco. The Supplier shall specifically back-up such data and content, which is described in this section and which the Supplier is obligated to store by law or regulation.Choco shall not be responsible for any loss, destruction, or alteration of data, and shall be under no obligation to carry out back-up activities in relation to the same.

5.1.6 The operation and configuration of the Software is the Supplier's responsibility. Insofar as Choco provides the Supplier with guidance, recommendations, tips or advice within the Software or offers information or analysis results generated by the Software, this information will be automatically generated and shall serve as non-binding information intended to support the Supplier in its business decision-making. Such support services do not release the Supplier from checking the accuracy of the respective information and from taking into account all other circumstances relevant in the context of the decision-making process.

5.1.7 The Supplier warrants and undertakes that it is free to enter into the Contract and has the right, power and authority to perform its obligations and give the undertakings containing with the terms of the Contract.

5.1.8 The Supplier warrants that the information provided in the context of concluding the Contract is accurate and complete. The Supplier shall be obligated to keep such information up-to-date and to notify Choco about any changes without undue delay. This information includes, above all, the Supplier's contact and business information.

5.1.9 Upon request, the Supplier shall provide Choco with all further information that Choco, in its sole discretion, requires for the proper performance of the service and Software. This information includes, above all, information which is marked as required within the Software (e.g., information regarding the Supplier's order preferences, including delivery territory, minimum order value, and delivery dates).

5.1.10 The Supplier shall ensure that it will process all orders received *via* the Software or *via* the delivery methods specified to Choco within a reasonable period of time and in a manner customary in the market.

5.1.11 In order to enable Choco to import the order lists of the Supplier's Customers into the Software, the Supplier shall in a timely manner provide Choco with the names, Customer numbers and individual order lists of such Customers who have already registered for the use of the Software or who already order from Supplier *via* the Software. If the Supplier's Customers register for the use of the Software for the first time during the term of the Contract, then the Supplier shall provide Choco with the individual order lists of such Customers without undue delay, and no later than twenty-four (24) hours after the Customer registers. Instead of the individual order lists of relevant Customers, the Supplier may provide to Choco the order history of the Products ordered from the Supplier in the last thirty (30) days. The Supplier shall ensure that the Products reported in the order lists are also listed in the Product catalogue and that the Products in the order list and in the Product catalogue can be assigned to each other by means of a clear, identical Product number.

5.1.12 If the Parties have agreed on the "Premium" package in the Order Form, then the Supplier shall without undue delay provide Choco with a Product catalogue covering all Products and Product groups of the Supplier's total product range. The Product catalogue shall contain items with the following minimum requirements: designation, Product number, availability, order unit, and its listed price.

5.2 Products; Required information

5.2.1 Unless expressly agreed otherwise, the Supplier may only use the Software to offer and sell Products that address food and hotel industry needs.

5.2.2 It is the Supplier's responsibility to ensure that it offers and sells *via* the Software only those Products that it is lawfully authorized to offer and sell. The Supplier shall provide any and all information as required by law about the Supplier and its company and about the Products offered and sold.

5.2.3 The Supplier shall receive Customers' orders through the Software and conclude Product Contracts by using the Software.

5.3 Contents; Use of the Software; Blocking

5.3.1 The Supplier shall retain any and all rights to information, images, texts, documents, data, files and other contents which are transmitted to Choco in the course of Supplier's use of the Software and services or stored within the Software or the IT infrastructure

provided by Choco ("**Supplier Content**") and warrants that it is authorized to transmit Supplier Content to Choco. The Supplier warrants that it has obtained all licences and permissions needed for Choco to use the Supplier Content in accordance with the Contract and is solely responsible for the accuracy, quality and legality of the Supplier Content.

5.3.2 The Supplier grants Choco a non-exclusive, perpetual and worldwide licence to use, host, store, display, reproduce, modify and distribute such Supplier Content for the performance and purposes of the Contract. In particular, Choco shall be entitled to reproduce and process Supplier Content for the purposes of operating the Software and providing services, for security, research and analytics purposes and to grant sublicences to its subcontractors or affiliates to the extent necessary for the purposes of the Contract. Otherwise, the licence may not be transferred or assigned. To the extent Supplier Content includes personal data, such data will be processed in compliance with Choco's Privacy Policy available on its website. Choco shall retain all rights in the aggregated information derived from processing allowed under this section and may use it at its own discretion, to the extent it does not identify the Supplier, its Customers or any other person.

5.3.3 Furthermore, the Supplier grants Choco a non-exclusive, perpetual and worldwide licence to use the Supplier's trade marks for the purposes of the Contract. Choco shall be specifically entitled to use the trade marks for the purposes of operating the Software, including displaying them on the Supplier's supplier profile, and to grant sublicences to its subcontractors and affiliates to the extent necessary for the purposes of the Contract. Otherwise, the licence may not be transferred or assigned.

5.3.4 The Supplier warrants that the Supplier Content transmitted or stored by it does not infringe any third-party rights (for example, privacy and self-determination rights, rights to one's own image, intellectual property rights, including copyrights, trademark rights, etc.) and does not otherwise violate applicable law (for example, data protection rules) ("**Prohibited Content**").

5.3.5 Choco is entitled to block or remove Prohibited Content and the offer of impermissible Products under section 5.2, upon weighing the interests of both parties; the same rule will apply if Choco is obligated by law to do so, based on a complaint by a Customer or a third party, a court judgment or regulatory order.

5.3.6 The Supplier warrants that when using the Software, it will comply with all applicable legal rules, including those imposed by copyright, fair dealing, youth protection, food and data protection laws. In particular, the Supplier shall use the Software exclusively for the intended and contractual use of the Software and in compliance with the statutory provisions, court judgments or regulatory directives on the mailing of advertising communication (including rules against the sending of unsolicited advertising emails). The Supplier may not use the Software to order to build a product or service which competes with the Software.

5.3.7 Choco will also be entitled to block individual Products, upon weighing the interests of both parties, if Choco has reasonable indications that the Supplier's Product offering is unlawful, misleading or for other reasons likely to give rise to complaints by third parties or to unreasonably high user complaints.

5.3.8 Choco will be entitled to block the Supplier's access to the Software, upon weighing the interests of both parties, if

a. there are indications that the Supplier's access data has been or is being misused or that the access data has been or is being provided to an unauthorized third party or that access data is being used by more than one natural person;

b. there are indications that third parties have otherwise gained access to the Software provided to the Supplier;

c. the blocking is necessary for technical reasons;

d. Choco is required to do so by law;

e. the Supplier places Prohibited Content on the Software;

f. the Supplier offers impermissible Products as described in section 5.2;

g. the Supplier is more than two (2) weeks in arrears on the payment of the agreed fees or commissions in accordance with section 6 of the Contract; or

h. the Supplier has stored incorrect or invalid contact data, and communication between Choco and the Supplier is no longer possible; or

i.   the blocking is necessary to avert imminent damage to Choco, the Supplier or third parties or to mitigate damage that has occurred.

Choco shall notify the Supplier in writing about the blocking, including the reasons for it, no later than one (1) business day before the blocking takes effect and shall allow the Supplier to comment on the blocking, provided that the notification and/or waiting for the comment is reasonable (upon weighing the interests of both parties) and is compatible with the purpose of the blocking. Choco shall unblock the use of the Software for the Supplier if the reason for the blocking no longer exists.

5.4 Indemnification

5.4.1 The Supplier shall indemnify and keep Choco indemnified against all claims, demands, actions, proceedings, losses, fines, penalties, awards, liabilities, damages, compensation, settlements, charges and expenses (including legal costs) suffered by Choco, its employees, representatives and or any of its group companies as a result of or in connection with any claim from a third party in relation to the Supplier's use of the Software (including in connection with Supplier's offer of Products, Supplier Content, Prohibited Content, Product orders, and the conclusion, performance or proper fulfillment of Product Contracts).

5.4.2 Choco shall notify the Supplier without undue delay about any claims asserted by third parties and shall, upon request, provide the information and documents required for the defence. Moreover, Choco at its own discretion will either surrender the right of defence to the Supplier or undertake such defence in consultation with the Supplier. In particular, Choco shall neither acknowledge nor dispute any claims asserted by third parties without consulting with the Supplier, except where the Supplier has not responded to Choco's notification of the claim within a reasonable time period.

6. Fees and Commissions, Reporting, Payment

6.1 If the Parties have agreed in the Order Form on a package, the use of which requires the Supplier to pay fees and/or commissions, then the following provisions shall apply.

6.2 As consideration for the use of the Software and services provided under agreed package(s), the Supplier shall pay Choco the fees and commissions agreed to in the Order Form.

6.3 Unless expressly agreed otherwise in the Order Form, the Software shall transmit to Choco on a monthly basis (per calendar month) an evaluation of the orders transmitted to the Supplier *via* the Software ("**Order Evaluation**") for the purpose of calculating the commission. In this case, Choco shall calculate the respective commission due on the basis of a calculated total value of goods ("**Estimated Gross Merchandise Value**"). The Estimated Gross Merchandise Value shall be calculated by Choco multiplying the number of Products ordered according to the Order Evaluation by the price of the Products on the Supplier's standard price list. The Supplier shall in a timely manner provide Choco with the standard price list valid at the time of the transmitted orders. If the Parties agree in the Order Form that fees and/or commissions will be calculated based on the actual Gross Merchandise Value generated by the Supplier through Choco in a calendar month ("**Precise Gross Merchandise Value**"), then the Supplier shall provide Choco with the monthly Precise Gross Merchandise Value no later than the 10th day of the next month (or by such other date as may be agreed in the Order Form). Upon request, the Supplier shall without undue delay provide Choco with any evidence necessary to verify the Precise Gross Merchandise Value.

6.4 Choco is entitled to have the Precise Gross Merchandise Value and the correctness of the information provided by the Supplier in this respect verified by an independent auditor, who is bound to secrecy and is not a competitor of the Supplier, and to do so once each calendar quarter at the Supplier's premises during the Supplier's normal business hours. Choco shall give the Supplier in writing at least two (2) weeks' prior notice of any such review. Choco shall contractually obligate the auditor to ensure that (i) the reviews do not unreasonably interfere with the Supplier's ordinary business operations and (ii) the auditor will disclose to Choco information on the Precise Gross Merchandise Value to the extent that the Precise Gross Merchandise Value deviates from the information provided by the Supplier; otherwise, the auditor may confirm to Choco only the accuracy of the information provided by the Supplier. The Supplier shall be obligated to provide the auditor with all information and disclose all documents that are necessary for the performance of the reviews. If a review by the auditor reveals a deviation of more than 5% to the detriment of Choco between the Precise Gross Merchandise Value and the information provided by Supplier, then the Supplier shall bear the costs of the respective review; otherwise, Choco shall bear the costs of the respective review and the commission shall be calculated based on the Precise Gross Merchandise Value identified by the auditor.

6.5 Unless expressly agreed otherwise in the Order Form, fees and commissions shall be invoiced monthly in arrears and all invoiced amounts shall be due within two weeks of invoicing. In case of late payment, Choco reserves the right to charge interest on the overdue amount at a rate of 4% per annum above the Bank of England base rate but at the rate of 4% per annum for any period during which that base rate is below 0% (such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month) from the due date to the date of actual payment.

6.6 Unless expressly agreed otherwise in the Order Form, all amounts are net amounts in Euro, to which the applicable value added tax will be charged at the statutory rate (if applicable), as well as any other applicable taxes.

7 Warranty

7.1 Except as expressly and specifically provided in this Contract:

7.1.1 the Supplier assumes sole responsibility for results obtained from the use of the Software and services and the documentation provided by the Supplier, and for conclusions drawn from such use. Choco shall have no liability for any damage caused by errors or omissions in any information, Supplier Content, instructions or scripts provided to Choco by the Supplier in connection with the Software and services, or any actions taken by Choco at the Supplier's direction;

7.1.2 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

7.1.3 the Software, services and the documentation are provided to the Supplier on an "as is" basis.

7.2 Except as expressly and specifically provided in this Contract, Choco does not warrant that the Software or services will:

7.2.1 be error-free or uninterrupted;

7.2.2 meet the Supplier's requirements; or

7.2.3 be free from viruses or malicious software.

7.3 With respect to the services and Software provided by Choco where a fee is charged, unless expressly agreed otherwise in the Order Form, Choco provides warranties against defects in the delivered Software and services in accordance with the following provisions and the remedies set out in this section 7 constitute the Supplier's sole and exclusive remedy and Choco's sole liability for any breach of warranty against defects.:

7.3.1 "**Defects**" or "**Defective**" for the purposes of this section 7.3 is defined as any significant deviations from the functional scope of the Software as agreed in the Order Form.

7.3.2 If the services provided by Choco under this Contract are Defective, then Choco shall, at its choice and within a reasonable period of time following receipt of the notice of Defect communicated by the Supplier in writing, either remedy the Defects or deliver the Services again. When using third-party software which Choco has licensed for the Supplier's use, the remedying of Defects shall consist in the procurement and installation of generally available upgrades, updates or patches. The provision of instructions for use, with which the Supplier can reasonably workaround defects that have occurred in order to use the Software in accordance with the Contract, will also be deemed to be a remedy of Defects.

7.3.3 If, based on reasons for which Choco is responsible, Choco fails to remedy or re-deliver in accordance with section 7.3.2, Choco will offer the Supplier a reasonable remedy (such as a discount on the affected services or termination of the Contract) at its own discretion.

7.3.4 The Supplier shall without undue delay notify Choco in writing about any Defects that occur. The notice of Defects must contain all information that is available to the Supplier and is necessary for Choco to identify, reproduce, analyze and remedy the Defect. Furthermore, the Supplier shall assist Choco in remedying Defects free of charge and in a reasonable manner.

7.4 More extensive warranty claims are disclaimed.

7.5 All claims by the Supplier shall become time barred upon elapse of the earlier of the statutory limitation period, or a period of twelve (12) months from the Supplier becoming aware of the fact or event giving rise to the cause of action.

8 Limitations on Liability

8.1 Nothing in this Contract shall limit or exclude either party's liability for:

8.1.1 death or personal injury caused by its negligence, or the negligence of its personnel, agents, affiliates or subcontractors;

8.1.2 fraud or fraudulent misrepresentation; and

8.1.3 any other liability which cannot be limited or excluded by applicable law.

8.2 Subject to section 8.1 and 8.4, with respect to its services and Software offered free of charge, Choco's (and any affiliates', representatives', employees', agents', and sub-contractors' arising out of or in connection with this Contract (whether such liability arises in contract, tort (including negligence), misrepresentation, breach of any duty (including strict liability) or otherwise shall be limited to £1000 (one thousand pounds).

8.3 Subject to section 8.1 and 8.4, with respect to its services and Software for which Choco charges Suppliers, the maximum aggregate liability of Choco (including any affiliates, representatives, employees, agents, and sub-contractors) arising out of or in connection with this Contract (whether such liability arises in contract, tort (including negligence), misrepresentation, breach of any duty (including strict liability) or otherwise shall be limited to the amount payable by the Supplier during the 12 month-period from the commencement of the Contract, or the commencement of the renewed contract (as applicable).

8.4 Subject to section 8.1, Choco shall not be liable to the Supplier (whether such liability arises on contract or tort (including negligence) for misrepresentation, breach of any duty (including strict liability) or otherwise) for any of the following:

8.4.1 loss of data;

8.4.2 loss of anticipated savings;

8.4.3 loss of business or contracts;

8.4.4 indirect or consequential loss or damage;

8.4.5 loss of profits; and

8.4.6 loss or depletion of goodwill.

9 Confidentiality

9.1 The Parties undertake to keep confidential any information and documents of the respective other party, which are either to be regarded as confidential due to the nature of the information or the circumstances of their disclosure or have been designated or marked as confidential by the disclosing party, such as business and/or trade secrets ("**Confidential Information**"), and to use them exclusively for the purposes allowed under this Contract and not to make them accessible to third parties. The receiving party shall undertake reasonable technical and organizational measures to prevent unauthorized access or disclosure of Confidential Information. "Affiliates" (meaning, in relation to a party, any: (i) subsidiary or holding company of that party; (ii) body corporate with an ultimate holding company in common with that party; and (iii) officer of that party or of such subsidiary, holding company or body corporate, and "subsidiary", "holding company", "body corporate" and "officer" shall have the meanings set out in sections 1159 and 1173 respectively of the Companies Act 2006) of the receiving party shall not be considered third parties and the receiving party may freely disclose Confidential Information to its Affiliates.

9.2 Confidential Information on the part of Choco shall include, in particular, the technical components and the source codes of the Software as well as all technologies of Choco, information provided by Choco about the Software or in the context of support requests or cooperation for the purpose of troubleshooting, as well as this Contract including the annexes thereto, the Order Form and the agreed terms and conditions.

9.3 The receiving party is entitled to disclose the Confidential Information of the disclosing party, (i) to its employees, trainees, representatives, vicarious agents or consultants on a need to know basis if and to the extent such disclosure is necessary for the performance of this Contract (ii) in a legal proceeding, (iii) if the disclosure is mandatory by law or (iv) upon prior written approval of the disclosing party. When requests are made by third parties, judicial or administrative authorities relating to the disclosure of Confidential

Information, the receiving party shall without undue delay notify the disclosing party thereof in writing, to the extent permitted by law. Except where doing so would require the receiving party to be in breach of applicable law, the receiving party shall further support the disclosing party in its efforts to prevent the disclosure of the Confidential Information.

9.4 The duty of confidentiality shall not apply to the extent that the Confidential Information was already known to the receiving party prior to disclosure, is generally known or becomes known to public through no fault of the receiving party or with respect to Confidential Information that was developed by the receiving party itself without access to the Confidential Information of the disclosing party or was brought to the attention of the receiving party by a bona fide third party authorized to do so. If the receiving party invokes one or more of the aforementioned reasons, then it must substantiate them by submitting suitable evidence.

9.5 The duty of confidentiality shall commence upon gaining knowledge of the Confidential Information and will continue for the entire term of this Contract. In addition, the duty of confidentiality shall remain in place for a period of three (3) years from termination or the end of the Contract term, unless statutory provisions provide for a longer confidentiality obligation. In particular, any business secrets shall be treated confidentially for as long as they are business secrets.

9.6 During the period in which this duty of confidentiality remains binding, Confidential Information shall be returned without undue delay, undamaged and in full upon the first request made by Choco. Choco may also mandate that certain Confidential Information be destroyed, deleted or placed in safekeeping and that the execution thereof be confirmed in writing by the Supplier.

9.7 The foregoing provisions do not establish any rights of use under intellectual property law. All rights of use granted under this Contract shall remain unaffected by the above provisions.

10 Data Protection

With regard to the personal data that Choco processes on behalf of the Supplier under this Contract, the Parties shall conclude the Data Processing Agreement that may be found at https://legal.choco.com/ukpremium#dpa ("**DPA**"). In the event of any inconsistencies between this Contract and the DPA, the provisions of the DPA will prevail.

11 Term and Termination

11.1 Unless otherwise expressly agreed in the Order Form, the Contract shall commence when the Contract is formed and shall have a term of twelve (12) months from the commencement of the Contract.

11.2 Unless otherwise expressly agreed in the Order Form, the Contract shall be renewed for successive contract periods of twelve (12) months each, if it is not terminated in writing by one of the Parties upon three (3) months' notice to the end of the respective contract period. Choco may update the terms of the Contract, including the fees and commissions, at each renewal, which will be notified to the Supplier before the renewal.

11.3 Choco may terminate the Contract for convenience without having to give reasons on one (1) month notice.

11.4 Without prejudice to any other rights or remedies, either party may, by written notice to the other, terminate the Contract with immediate effect on the happening of any of the following events:

11.4.1 the other party commits a material breach of the Contract which is incapable of remedy; or

11.4.2 the other party commits a material breach of the Contract which is capable of remedy and fails to remedy such material breach within thirty (30) days after receiving written notice requiring it to remedy that material breach. This section shall not apply to breach of limited warranty provided by Choco as per section 7 and the exclusive remedies of the Supplier are listed therein.

11.5 For the purposes of section 11.4.1 and 11.4.2, in the case of Choco material breach will be deemed to exist specifically if:

11.5.1 the Supplier has repeatedly - and despite previous warning from Choco - placed Prohibited Content on the Software; or

11.5.2 the Supplier offers impermissible Products as defined in section 5.2; or

11.5.3 the Supplier culpably breaches its duty of confidentiality under section 9; or

11.5.4 the Supplier is more than four (4) weeks in arrears on the payment of the agreed fees or commissions pursuant to section 6, and

Choco has sent the Supplier a notice of termination in text form or in written form that threatens termination to take effect in two (2) weeks.

11.6 Upon termination or expiration of the Contract, for any reason whatsoever, Choco shall delete the Supplier's Content to the extent reasonably practicable. Choco is entitled, but not obliged, to store the Content for security or back-up reasons for a period of two (2) weeks after the termination or expiration of the contractual relationship. In this case, the DPA, which is available at https://legal.choco.com/ukpremium#dpa, shall continue to apply for the period of time during which the back-up copies are stored. The Supplier is directly responsible for any download of the Content during this period of time. Choco will also be entitled to retain Content beyond the termination of the contractual relationship if Choco is obliged to do so by law, court order or regulatory order (including reasons based on commercial and tax law) or to the extent that the Content is required for accounting, documentation and billing purposes or for the operation of the Software.

11.7 The sections 5.4 (Supplier indemnification), 6 *(Fees and Commissions, Reporting, Payment*), 8 (Limitation of Liability), 9(Confidentiality) and others which by their nature are intended to survive, shall survive after termination or expiration of this Contract.

12 Amendments to this Contract

Choco may, in its sole discretion, amend this Contract at any time. In case of minor or cosmetic amendments that do not negatively affect the Supplier, the amendments shall not be directly notified but posted in Choco's website, indicating the date of entry into force thereof. In other cases, Choco shall notify the Supplier of any adjustment in advance by notice in writing or via a notification within the Software. If the Supplier continues to use the Software after the new version of the Contract takes effect, any amendments to this Contract shall be deemed to have been accepted by the Supplier. In case of objection by the Supplier, Choco may terminate the Contract or offer the Supplier a reasonable remedy at its own discretion.

13 Force majeure

Choco shall have no liability to the Supplier under this Contract if it is prevented from or delayed in performing its obligations under this Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Choco or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of vendors or sub-contractors, provided that the Supplier is notified of such an event and its expected duration.

14 Final Provisions

14.1 Subject to section 12, any amendments and side agreements to this Contract must be made in writing. This requirement also applies to this written form section itself.

14.2 No failure or delay by a party to exercise any right or remedy provided under this 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.

14.3 If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract.

14.4 If any provision or part-provision of this Contract is deemed deleted under section 14.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

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

14.6 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for

innocent or negligent misrepresentation based on any statement in this Contract.

14.7 This Contract does not confer any rights on any person or party (other than the parties to this Contract and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

14.8 This 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.

14.9 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).