

Grubhub Delivery Partner Agreement

This Grubhub Delivery Partner Agreement (“Agreement”) is made and entered into by and between Grubhub Holdings Inc. (“Grubhub”), a Delaware corporation, having a principal place of business at 111 W. Washington St., Suite 2100, Chicago, IL 60602, and you, the undersigned independent delivery professional (“Delivery Partner”). Grubhub and Delivery Partner may be referred to herein, each as a “Party” and together as the “Parties.” This Agreement will become effective on the date it is accepted regardless of whether you are eligible to, or ever do, perform any Engagement (as defined below).

Please review this Agreement carefully, including the “Arbitration” section set forth below in Section 12, as it will require you to resolve disputes with Grubhub, no matter when arising or asserted, through binding individual arbitration, unless you validly opt out of arbitration, as provided below. You acknowledge and agree that you and Grubhub each waive the right to a trial by jury. You also waive your right to participate as a plaintiff or class member in any purported class action or representative proceeding against Grubhub, whether now pending or filed in the future. You expressly acknowledge that you have read and understand, and agree to be bound by all of the terms and conditions of this Agreement and have taken the time to consider the consequences of this important decision. By accessing the Driver App (as defined below), you agree to be bound by this Agreement, as well as the [Grubhub Delivery Partner Terms of Use](#) and the [Grubhub Delivery Partner Privacy Policy](#).

Recitals

Grubhub is an online and mobile food ordering company that connects customers with local takeout and delivery restaurants and/or other businesses (collectively, “Merchant(s)”) through its website and associated mobile applications (collectively, the “Platform”). Grubhub is not a delivery company or a common carrier. Rather, through its online-enabled Platform, Grubhub facilitates the ordering of food, including pickup by customers and delivery by Merchants on an on-demand basis. Grubhub also facilitates food delivery for certain Merchants that do not offer a delivery option by connecting Merchants and local customers with independent Delivery Partners, who deliver food from such Merchants to customers who order through the Platform (“Delivery Services”).

Delivery Partner is an independent, licensed provider of messenger, courier and/or delivery services, and is interested in entering into this Agreement for the opportunity to deliver orders placed through the Platform by customers in exchange for service fees (“Service Fees”) to be agreed upon between the Parties.

In consideration of the mutual promises made herein, the Parties agree to the terms and conditions set forth herein.

1. Purpose. This Agreement governs the business relationship and partnership between (a) Grubhub and (b) Delivery Partner and any of Delivery Partner's employees, contractors,

subcontractors, agents and representatives or other delivery service entities engaged by Delivery Partner to perform Delivery Services for customers (collectively, the "Subcontractors"). "Subcontractors" also includes any employees, contractors, subcontractors, agents and representatives of any delivery service entity engaged by Delivery Partner to perform Delivery Services. In exchange for the promises contained in this Agreement, Delivery Partner will have the contractual right and obligation to perform Delivery Services, and receive the Service Fees to be agreed upon by the Parties.

2. Delivery Partner Representations and Warranties.

- a. As a condition of entering into this Agreement with Grubhub, and as long as Delivery Partner is performing Delivery Services hereunder, Delivery Partner represents and warrants to the following:

- i. Legal Requirements. Delivery Partner is in the independent business of providing delivery services, and maintains any and all licenses, permits, and registrations necessary to perform Delivery Services in the locality or localities ("Market(s)") in which Delivery Partner chooses to perform Delivery Services.
- ii. Age and License. Delivery Partner is at least 18 years of age and has had a valid driver's license for at least 2 years, and has the appropriate level of certification necessary or advisable to operate the vehicle used to perform Delivery Services.
- iii. Driving Record. Delivery Partner has a safe driving record (if Delivery Partner performs Delivery Services using a motor vehicle such as a car, motorcycle or scooter).
- iv. Criminal Record. Delivery Partner has not been convicted of a crime reasonably likely to negatively impact Delivery Partner's ability to perform Delivery Services, including but not limited to any crimes relating to violence, weapons, theft, robbery, burglary, dishonesty, fraud, embezzlement, any sex-related crimes, or any other similar crimes.
- v. Equipment. Delivery Partner maintains at its own expense all

equipment it deems necessary in its reasonable discretion to perform Delivery Services. Delivery Partner is not required to purchase, lease, or rent any equipment from Grubhub. To the extent Delivery Partner uses its own equipment, Delivery Partner certifies that such equipment meets all industry and regulatory standards, and will be in good working condition. Delivery Partner is solely responsible for ensuring that any vehicle used conforms to all applicable laws pertaining to registration, safety, and inspection.

vi. Insurance. Delivery Partner maintains at its own expense insurance of the types and in the amounts specified below:

1. If Delivery Partner performs Delivery Services using a motor vehicle, Delivery Partner will maintain vehicle insurance for every vehicle used to perform Delivery Services. Such vehicle insurance must provide insurance coverage for all activities arising in connection with the Delivery Services, and must satisfy all applicable state and local insurance requirements (including minimum coverage amounts). Grubhub reserves the right to require that it be named as an additional insured on any policy required hereunder.
2. Delivery Partner will maintain workers' compensation insurance covering any persons performing Delivery Services hereunder, provided that occupational accident insurance may be maintained in lieu of workers' compensation insurance to the extent permitted by law. Delivery Partner acknowledges Delivery Partner will not be eligible for workers' compensation benefits through Grubhub and is instead responsible for maintaining Delivery Partner's own workers' compensation insurance or occupational accident insurance. Delivery Partner's maintenance of Delivery Partner's own workers' compensation insurance or occupational accident insurance will not disqualify Delivery Partner from participating in certain group insurance plans that may be made available to Delivery Partner by Grubhub and/or third-party providers.
3. To the extent required by applicable law, Delivery Partner is responsible for securing and paying disability insurance, health insurance, and/or other similar insurance; unemployment or other similar insurance contributions; and

all necessary liability insurance. While Delivery Partner is solely responsible for paying for health insurance, Delivery Partner may qualify for a healthcare subsidy pursuant to California Business and Professions Code § 7454.

4. Delivery Partner agrees to provide proof of insurance coverage upon request. Delivery Partner further agrees to provide updated proof of insurance each time it renews or alters such insurance coverage upon request. Delivery Partner must provide Grubhub written notice at least 30 days prior to the cancellation of any insurance policy specified herein.
 - b. Delivery Partner will notify Grubhub immediately in the event any of the foregoing representations and warranties is no longer true.
 - c. Delivery Partner acknowledges that during account creation and registration, Grubhub will collect and may verify certain information about Delivery Partner and, if applicable, Delivery Partner's vehicle(s) used to provide Delivery Services. Delivery Partner further acknowledges that it may be subject to periodic background and motor vehicle report checks, and may be required to supply proof of license, equipment or insurance upon request, so that Grubhub can verify that Delivery Partner continues to satisfy the eligibility requirements set forth herein.
 - d. In the event any of the foregoing representations and warranties ceases to be true ("Ineligibility"), Grubhub may immediately suspend Delivery Partner's Delivery Services and access to the Driver App (as defined below) until such Ineligibility is cured. Grubhub may terminate this Agreement if such Ineligibility is not cured within 14 days of receiving notice of such Ineligibility or if such Ineligibility is not capable of cure.
3. Use of Driver App. Delivery Partner acknowledges that the performance of Delivery Services requires the use of Grubhub's proprietary mobile application (the "Driver App"), and that if Delivery Partner cannot access or utilize the Driver App, Delivery Partner will not be able to perform Delivery Services. Delivery Partner must consent to any Driver App terms of use applicable at the time Delivery Partner accesses and uses the Driver App, and acknowledges that continued use of the Driver App represents continued agreement to the terms of use as they may be updated from time to time. Any violation of such terms of use may result in revocation of Delivery Partner's license to use the Driver App and

the termination of this Agreement. Access to the Driver App is not conditioned upon Delivery Partner's acceptance of any particular Engagement (as defined below).

- a. Location. Delivery Partner acknowledges and agrees that its geo-location information must be provided to Grubhub via the Driver App in order to provide Delivery Services, and that such geo-location information may be monitored and tracked by Grubhub and shared with third parties when Delivery Partner is logged into and available to receive Delivery Services offers in the Driver App. Delivery Partner will not falsely report its geo-location, prevent or attempt to prevent the Driver App from reporting its geo-location, or otherwise attempt to circumvent this requirement.
- b. Safety. Delivery Partner agrees that, to ensure the safety of the Platform and compliance with all applicable federal, state, and local laws, rules, and regulations, Grubhub may require that Delivery Partner complete mandatory safety training administered by either Grubhub or a third-party vendor before Delivery Partner receives access to the Platform (including the Driver App) or Delivery Partner is given continued access to the same. Additionally, Delivery Partner agrees that, in accordance with applicable law, and at Grubhub's sole discretion, periodically

during the term of this Agreement, Grubhub may require that Delivery Partner submit to additional safety training.

4. Delivery Services. Grubhub will offer Delivery Partner a Service Fee or Service Fee schedule ("Fee Offer") for a proposed engagement. The mechanism for making and/or accepting a Fee Offer (e.g., by e-mail or through the Driver App) may vary from time to time in Grubhub's reasonable discretion, provided that Grubhub agrees to communicate such mechanism to Delivery Partner. Delivery Partner agrees to provide Grubhub with its e-mail address, and agrees to update Grubhub any time such address changes. Delivery Partner retains discretion to choose which Fee Offers are acceptable and which are not. If Delivery Partner decides to accept a particular Fee Offer, Delivery Partner agrees to perform Delivery Services for such Fee Offer (the "Engagement") in accordance with subsection (a) below. Delivery Partner retains discretion over whether, when, and how frequently to perform such Engagements. If Delivery Partner decides not to accept the Fee Offer, Delivery Partner has no obligation to perform the Delivery Services sought by the proposed Engagement. Nothing in this Agreement requires Delivery Partner to perform any particular Engagement or volume of Engagements.

- a. For the duration of any Engagement, Delivery Partner agrees to faithfully and diligently devote best efforts, skills, and abilities to the performance of

Delivery Services in a professional manner that is at least consistent with industry standards, including but not limited to the following:

- i. Delivery Partner agrees to be located within a reasonable distance of delivery Merchants in its Market. Delivery Partner may choose the Market in which it renders Delivery Services to customers.
- ii. Delivery Partner agrees to pick up each order at the Merchant in a timely and professional manner. Delivery Partner agrees to comply with all reasonable identification or other requirements imposed by Merchants.
- iii. Delivery Partner agrees to deliver orders to customers in a timely and professional manner. Delivery Partner agrees to follow reasonable delivery instructions provided by customer.
- iv. Delivery Partner agrees to promptly notify Grubhub of any Merchant or customer issues, including without limitation any omissions or mistakes in any food order or in any delivery address provided.
- v. Delivery Partner agrees to use the Driver App to communicate order status with Merchants and/or customers, including acceptance of order or trip offers, arrival at Merchant, receipt of food and completion of delivery. Delivery Partner acknowledges that the Driver App may be updated periodically, and the type and timing of communications may change. If

there are technical issues with the Driver App, Delivery Partner is responsible for promptly notifying Grubhub, and Grubhub may prohibit Delivery Partner from performing Delivery Services until the Driver App is functional.

- vi. Delivery Partner agrees that Delivery Services will be performed in a safe manner and in compliance with all applicable traffic laws, regulations, and guidelines. Delivery Partner agrees not to perform Delivery Services while under the influence, and not to consume alcoholic beverages within a reasonable time before engaging in, or at any time while providing, Delivery Services under this Agreement. Delivery Partner acknowledges that its access to the Driver App will be suspended pending investigation if Grubhub receives a report that Delivery Partner is reasonably suspected of being under the influence of drugs or alcohol while providing Delivery Services under this Agreement.

vii. Delivery Partner agrees to maintain and utilize all equipment necessary to provide Delivery Services. Delivery Partner acknowledges that without limiting the generality of the foregoing, the following equipment is necessary to provide Delivery Services:

1. Motor vehicle or bicycle, as agreed between Grubhub and Delivery Partner. Such motor vehicle or bicycle must be appropriately registered to lawfully perform Delivery Services in the Market(s).

2. Data-enabled smartphone with data plan. Network access must be generally available at all times while Delivery Partner is performing Delivery Services. WIFI-only data access is not sufficient. The smartphone may not be jailbroken (if iPhone) or rooted (if Android), or otherwise altered to circumvent requirements or processes of the Driver App.

3. Insulated delivery bags. Delivery Partner may but need not opt to lease or purchase insulated delivery bags from Grubhub pursuant to a separate arrangement with Grubhub.

viii. Delivery Partner is not required to wear any uniform, or to use, wear, or display any Grubhub-branded items or signage on their persons or their vehicle at any time. Nonetheless, Delivery Partner agrees to maintain a professional appearance consistent with industry standards.

ix. Grubhub may provide Delivery Partner with one or more prepaid cards for the purpose of paying for orders at Merchants (a "Payment Card"). Delivery Partner acknowledges that such Payment Cards are provided

merely to facilitate orders placed by a customer to a business which requires the Delivery Partner to place the order personally, either pursuant to a written agreement or where permitted by law. Delivery Partner agrees to promptly activate any such Payment Card provided by Grubhub. Delivery Partner agrees that such Payment Cards are not for Delivery Partner's personal use or expenses. Delivery Partner agrees to use the Payment Card solely for paying for orders placed on the Platform by customer and chosen by Delivery Partner to provide said customer with Delivery Service and

only for the amount of the order. Delivery Partner acknowledges and agrees that Grubhub may, in its sole discretion, suspend Delivery Partner's license to use the Driver App until the Payment Card has been activated. If Delivery Partner has not activated the Payment Card within 14 days of receipt, Grubhub may terminate this Agreement upon written notice to Delivery Partner.

- b. Unless otherwise agreed to between Grubhub and Delivery Partner or as otherwise required by law, Grubhub is not obligated to pay Delivery Partner any Service Fees or other payments associated with orders not completed in material compliance with the foregoing subsection (a). Delivery Partner will not circumvent or attempt to circumvent the conditions or requirements of this Section 4.
- c. Subject to compliance with this Agreement, (including the service level commitments set forth in this Section 4), Delivery Partner will be solely responsible for determining how to perform the Delivery Services, including but not limited to whether to utilize Subcontractors to perform all or some of the Delivery Services, and Grubhub will have no right to, and will not, control or prescribe the manner, method, or means Delivery Partner uses to complete Delivery Services, including determining the manner of pickup, delivery, and route selection, provided the route chosen does not interfere with the timely and professional completion of the Engagement. Delivery Partner understands and agrees that the details of each Engagement are determined by the customer and/or Merchant, not Grubhub, and represent the end result desired, not the means by which Delivery Partner is to accomplish the result. Further, Delivery Partner will not have any supervisor or manager, or any individual at Grubhub to whom Delivery Partner is required to report. The provisions of this Agreement reserving ultimate authority in Grubhub have been inserted solely to achieve compliance with federal, state or local laws, regulations and interpretations thereof.
- d. Nothing herein will preclude Delivery Partner from providing services to any other business, including a business directly competing with Grubhub. Such services may be performed concurrently with the Delivery Service during any Engagement, provided that such concurrent services do not hinder Delivery Partner's performance of Delivery Services during such Engagement. Notwithstanding the

foregoing, Delivery Partner will not divert or attempt to divert any Grubhub Merchants or customers to a competitive service or directly to Delivery Partner.

- e. Delivery Partner acknowledges and agrees that it is responsible for

complying with all applicable laws and regulations applicable to its performance of Delivery Services for customers (including through the use of Subcontractors).

- f. Failure to comply with any part of this Section 4 will constitute a material breach of this Agreement.

5. Service Fees and Invoicing.

- a. Service Fees. Grubhub will pay Delivery Partner Service Fees for the Delivery Services in the amounts and pursuant to the terms agreed to between the Parties for each Engagement.
- b. Gratuities. Delivery Partner will retain 100% of any and all gratuities received and retained from customers, whether submitted in cash or paid through the Platform, and shall remit such gratuities to any Subcontractors in accordance with applicable law. Grubhub is not required to collect any minimum gratuity from customers using the Platform, or to remit any gratuities not received and retained from customers.
- c. Entire Amount; Expenses. The Service Fees and any gratuities paid by customers to Delivery Partner pursuant to this Agreement constitute the entire amount to be paid by Grubhub for performance of Delivery Services by Delivery Partner or any Subcontractors. Delivery Partner acknowledges and agrees that it is solely responsible for all costs and expenses arising from its performance of Delivery Services, including but not limited to costs related to Subcontractors, equipment, motor vehicle violations or violations based on the use of other modes of transport, and property damage or loss. Except as otherwise required by law, Delivery Partner assumes all risk of damage or loss to any equipment used to perform Delivery Services.
- d. Reporting. Grubhub will report all Service Fees paid to Delivery Partner on a calendar year basis using an IRS Form 1099 if the volume of payments to Delivery Partner qualifies. Delivery Partner agrees to report all such payments to the appropriate federal, state and local taxing authorities. Upon execution of this Agreement, Delivery Partner will provide Grubhub with its business license number and federal employer identification number (if any).
- e. Disputes. Payment by Grubhub to Delivery Partner under the terms of this Agreement will be deemed complete and accurate unless disputed in accordance with the following requirements. To dispute a payment, Delivery Partner must

submit written notice of the dispute to Grubhub within 30 days of receipt of payment. If the Parties are unable to resolve the dispute, it shall be submitted to arbitration in accordance with Section 12 below.

6. Relationship of the Parties.

a. This Agreement is made between co-equal, independent business enterprises that are separately owned and operated. The Parties intend this Agreement to create the relationship of principal and independent contractor between Grubhub and Delivery Partner, and not that of employer and employee. Delivery Partner and Grubhub are not agents, joint venturers, or partners of each other for any purpose. Neither Party will have the right to bind the other by contract or otherwise except as specifically provided hereunder. Delivery Partner acknowledges that Delivery Partner is engaged in Delivery Partner's own business, separate and apart from Grubhub's business, and represents and warrants that it holds itself out to the public as a separately established business.

b. Delivery Partner represents and acknowledges the following:

i. Delivery Partner understands that this Agreement creates the relationship of principal-independent contractor, not employer-employee.

ii. Delivery Partner specifically desires and intends to operate as an independent business providing delivery services.

iii. If at any time Delivery Partner believes that its relationship with Grubhub is something other than an independent contractor relationship, Delivery Partner agrees to immediately notify Grubhub of this view.

c. To the extent Delivery Partner engages any Subcontractor to perform Delivery Services, Delivery Partner and Grubhub acknowledge and agree that Subcontractor is not an employee of Grubhub and that no employment relationship exists between Subcontractor and Grubhub. Neither Grubhub nor Subcontractor will have the right to bind the other by contract or otherwise, except as specifically provided hereunder.

7. Subcontractors. Subject to compliance with this Agreement (including the requirements set forth in this Section 7 and the service level commitments set forth in Section 4), Delivery Partner will have sole discretion over whether to use Subcontractors, and will be solely responsible for the direction and control of its Subcontractors. Delivery Partner (or its owner or principal) has no obligation under this Agreement to personally perform any Delivery Services.

Notwithstanding the foregoing, Delivery Partner remains liable for the performance of Delivery Services by its Subcontractors, and the engagement of Subcontractors will not release Delivery Partner from any of its obligations hereunder.

- a. Service Fees payable for Delivery Services performed by Subcontractors will be payable to Delivery Partner. Delivery Partner assumes full responsibility, and

Grubhub will not be responsible, for the payment of any compensation, benefits, and expenses to Subcontractors (which will be determined in Delivery Partner's sole discretion), and for any required state and federal income tax withholdings, unemployment insurance, and social security taxes related to Subcontractors. Unless required by law, Grubhub will not have any withholding obligations with respect to Subcontractor compensation.

- b. Delivery Partner will require all Subcontractors performing Delivery Services hereunder to comply with all eligibility requirements set forth in Section 2 hereof, as if Subcontractor is Delivery Partner. Before allowing any Subcontractors to perform Delivery Services, Delivery Partner will notify Grubhub of the Subcontractor relationship and, upon request, make its records demonstrating compliance with the foregoing requirements available to Grubhub for verification (including but not limited to Delivery Partner's agreement with any Subcontractors), and may be required to submit Subcontractors to checks imposed by Grubhub pursuant to Section 2(c). Any such checks will be made with Subcontractor's consent as required by applicable law. Grubhub's right to verification herein does not in any way mitigate or reduce Delivery Partner's obligation to ensure Subcontractor's compliance with the requirements of this Agreement.

8. Indemnity.

- a. Delivery Partner agrees to indemnify, protect, and hold harmless Grubhub and its affiliates, and their respective employees, officers, directors, and agents (collectively, the "Grubhub Indemnitees") from any and all claims, demands, suits, losses, liabilities, damages, settlements, costs, and expenses (including reasonable attorneys' fees) arising directly or indirectly from, as a result of or in connection with (i) the actions or omissions of Delivery Partner, any Subcontractor or other person employed or engaged by Delivery Partner, including without limitation property damage or personal injury to, or death of, any person, or (ii) Delivery Partner's failure or the failure of any of its Subcontractors or other

person employed or engaged by Delivery Partner to comply with any term of this Agreement. Grubhub will have the right to select its counsel and direct its defense in the event a claim triggering its right to indemnification hereunder is made. Delivery Partner's obligations hereunder shall include the cost of defense, including attorneys' fees, as well as payment of any final judgment rendered against or settlement agreed upon by the Grubhub Indemnitees.

a. Delivery Partner agrees to indemnify, protect, and hold harmless the Grubhub Indemnitees from any and all tax liabilities and responsibilities for payment of all federal, state and local taxes, including without limitation all payroll taxes, self employment taxes, workers' compensation premiums, and any contributions

imposed or required under federal, state and local laws, with respect to Delivery Partner and any Subcontractors.

b. Delivery Partner agrees to indemnify, protect, and hold harmless the Grubhub Indemnitees from any and all costs, expenses, and responsibilities of Delivery Partner's business sought to be paid by Grubhub, including without limitation costs of wages (or back wages), employee benefits, insurance, or regulatory licenses, permits, fines, or assessments of any and all regulatory agencies, boards, or municipalities.

c. Unless resolved informally or in small claims court, or unless Delivery Partner has opted-out of the Arbitration Provision, all damage or injury claims between Grubhub and Delivery Partner will be resolved pursuant to the Arbitration Provision (as defined and set forth in Section 12).

9. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, GRUBHUB ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY: (A) PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, IN CONNECTION WITH THE PERFORMANCE OF DELIVERY SERVICES OR THE ACCESS TO OR USE OF THE DRIVER APP; (B) ERRORS, MISTAKES OR INACCURACIES OF THE DRIVER APP; (C) INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE DRIVER APP; (D) ERRORS OR OMISSIONS IN ANY CONTENT OR LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED OR OTHERWISE MADE AVAILABLE THROUGH THE DRIVER APP; (E) BUGS, VIRUSES, TROJAN HORSES OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH THE DRIVER APP BY ANY THIRD PARTY;

OR (F) UNAUTHORIZED ACCESS TO OR USE OF GRUBHUB'S SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN BY ANY THIRD PARTY.

10. Confidentiality and Personal Information Use Restrictions.

- a. Confidential Information. The Parties understand that the independent contractor relationship created by this Agreement requires the Parties to disclose and exchange confidential, proprietary, and other sensitive or non-public information regarding their operations or customers (collectively, "Confidential Information"). The Confidential Information of Grubhub includes without limitation: (i) contact information of Grubhub Merchant partners; (ii) personal information of customers (such as email, phone number, and address); (iii) fees and billing practices; (iv) strategic plans; (v) marketing and advertising materials; (vi) data regarding methods, formulae, systems, data processes and technology ; and (vii) agreements, notices and other correspondence between Grubhub and Delivery Partner. The Confidential Information of Delivery Partner includes without limitation: (i) equipment; (ii) licenses and other legal authorizations; (iii) business operations; and (iv) marketing and advertising materials.

- b. Use and Disclosure. The Parties agree to use each other's Confidential Information solely to effectuate their respective obligations hereunder, and will not disclose, release, transfer, make available, or otherwise communicate each other's Confidential Information to any third parties; provided, however, that Confidential Information may be disclosed to such Party's Subcontractors who have a need-to know such information to perform their obligations under this Agreement, and are subject to confidentiality obligations at least as restrictive as those herein. Each Party will be responsible for any breach of this provision by its Subcontractors. This Section 10(b) will not apply to Confidential Information which: (i) was in the public domain at the time it was communicated to the recipient or subsequently enters the public domain through no fault of the disclosing Party or recipient; (ii) the recipient can prove was independently developed by recipient or already known to recipient at the time of receipt (without violation of any obligations hereunder); (iii) was rightfully communicated to recipient, free of any obligation of nondisclosure or restriction as to use; or (iv) is required to be disclosed pursuant to judicial order or other compulsion of law, provided that receiving Party will promptly notify the other Party of such requirement, and will comply with any protective or similar order imposed on such disclosure. In the event of an unauthorized disclosure of

Confidential Information, the disclosing Party will bear the burden of proving one or more of the foregoing exceptions apply.

c. Personal Information. Without in any manner limiting the foregoing obligations, Delivery Partner understands and agrees that (i) the information included in subsections 10(a)(i) and 10(a)(ii) above and (ii) all other information that Delivery Partner processes in connection with the provision of Delivery Services that is subject to applicable international, federal, national and state privacy and data protection laws, rules, and regulations pertaining to privacy, data processing and use, data protection, data security, encryption, or confidentiality, including, without limitation, the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100 et seq. (the “CCPA”) ((i) and (ii) collectively, “Personal Information”) are subject to additional restrictions as set forth below. For the purposes of this Section 10(c), process means any operation or set of operations that are performed on Personal Information, whether or not by automated means.

i. The Parties acknowledge and agree that the Delivery Partner will act as a “Service Provider” and not a “Third Party” for the purposes of CCPA and as such terms are defined in the CCPA in its performance of its obligations pursuant to the Agreement.

ii. Delivery Partner shall not (i) sell (as defined in the CCPA) any Personal Information to another business or third party without the prior written consent of Grubhub, (ii) retain, use or disclose Personal Information for any purpose other than for the specific purpose of providing the Delivery

Services, including retaining, using, or disclosing Personal Information for a commercial purpose other than providing the Delivery Services, or (iii) retain, use or disclose the Personal Information outside of the direct business relationship between the Parties. For clarity, Delivery Partner shall not contact customers or Merchants beyond what is necessary to fulfill the Services nor download and/or store any Personal Information Delivery Partner processes in connection with the provision of Delivery Services to customers outside of the Driver App. Delivery Partner hereby certifies that Delivery Partner understands the requirements in the preceding sentence and shall comply with them.

iii. Unless required by applicable law, the Delivery Partner shall immediately upon written request of Grubhub or in any event immediately after termination of the Agreement delete and procure

the deletion of all other copies of Personal Information processed by Delivery Partner or any of its Subcontractors and provide written certification thereof to Grubhub.

- d. Ownership. All Confidential Information will remain the exclusive property of the disclosing Party. Nothing in this Agreement will be deemed to grant a Party any rights in or to the Confidential Information disclosed by the other Party, or any part thereof.
- e. Breach. In the event of a breach of this Section 10, the aggrieved Party will have the right to demand the immediate return of all Confidential Information and recover its actual damages incurred by reason of such breach in accordance with the Arbitration Provision (as defined and set forth in Section 12). The Parties specifically acknowledge that the unauthorized use or disclosure of Confidential Information would result in irreparable harm for which there is no adequate remedy at law, and in such event the aggrieved Party will be entitled to an injunction pending arbitration, or any other remedy available at law or in equity to prevent further unauthorized use or disclosure, and that no bond will be required. Failure to comply with any part of this Section 10 will constitute a material breach of this Agreement.

11. Term; Termination.

- a. Termination. This Agreement will commence on the Effective Date, or the date Delivery Partner satisfies the conditions set forth in Section 2 hereof, if later, and will continue until terminated by either Party in accordance with Section 2(d), Section 4(a) or this Section 11.
 - i. Material Breach. Either Party may terminate this Agreement immediately in the event of the other Party's material breach of any provision of this Agreement by giving written notice to the other Party identifying the

breach or breaches relied upon. Examples of material breach by Delivery Partner include, without limitation, the following:

1. Any violation of Section 2(d) or 4(a) of this Agreement;
2. Any violation of applicable law or regulation in connection with the performance of Delivery Services, whether or not such violation resulted in legal action;

3. Any action or omission negatively impacting Grubhub's reputation or relationship with Merchants or customers using the Platform (including rude, obscene, negligent or otherwise unprofessional conduct while performing Delivery Services);
4. Any action or omission that is fraudulent, deceptive, or materially impedes the operation of Grubhub's business;
5. Any action or omission threatening the safety of Delivery Partner or Subcontractor, or any Merchant personnel or customer (including without limitation, reckless driving or biking, threats or aggression, stalking and/or contacting individuals without permission);
6. Being under the influence of illegal substances or alcohol while performing Delivery Services; or
7. Any material violation of the Quality of Service standards in the Driver Terms of Use and Privacy Policy.

- ii. Survival. The rights and obligations set forth in Sections 5, 6, 8, 9, 10, 11, 12 and 13 of this Agreement will survive the termination of this Agreement and any Engagement(s) hereunder, and will continue in effect and inure to the benefit of and be binding upon the Parties and their legal representatives, heirs, successors and assigns.
- iii. Driver App. Notwithstanding anything to the contrary in this Agreement and without prior notice or liability to Delivery Partner, Grubhub may change, restrict, or pause Delivery Partner's access to the Driver App, either temporarily or permanently, if such Delivery Partner or Subcontractor is or is reasonably suspected of being in breach of this Agreement, for purposes of investigation where fraud or abuse is suspected, or when necessary to protect the safety and security of customers, Merchants, and the general public. Grubhub will provide

Delivery Partner the opportunity to appeal any termination of Delivery Partner's access to or Delivery Partner's restriction from the Driver App.

- b. Service Arrangement. The Parties acknowledge that the term of this

Agreement does not reflect an uninterrupted service arrangement. Grubhub may make Fee Offers in its sole discretion, and Delivery Partner may accept or reject Fee Offers in its sole discretion. In no event will Grubhub be required to make any particular volume of Fee Offers to Delivery Partner, nor will Delivery Partner be required to accept any particular volume of Engagements. No Delivery Services will be performed without the Parties' mutual agreement to an Engagement.

12. Arbitration. To the fullest extent permitted by law, the Parties mutually agree to resolve any and all disputes between or among them exclusively through final and binding arbitration before the American Arbitration Association ("AAA"), rather than in court or before any administrative or regulatory body (except as otherwise provided below). This agreement to arbitrate ("Arbitration Provision") will extend to any dispute involving Delivery Partner, any Subcontractor, Grubhub and/or any affiliate of Grubhub for which Delivery Partner performs Delivery Services. This Arbitration Provision is governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 ("FAA"), and will apply to any and all claims including but not limited to those arising out of or relating to this Agreement (including the termination of this Agreement), Delivery Partner's independent contractor classification and status with Grubhub or its affiliates, the provision of Delivery Services hereunder or any other aspect of the relationship between the Delivery Partner, any Subcontractor, Grubhub and/or any affiliate of Grubhub, whether arising under federal, state or local statutory and/or common law. If a court of competent jurisdiction or an arbitrator refuses to apply the FAA to this Agreement, then the law governing agreements to arbitrate in the state in which Delivery Partner last performed Delivery Services for Grubhub customers will apply. In the event any portion of this Arbitration Provision is deemed unenforceable, it shall be severed from the Agreement such that the remainder of this Arbitration Provision shall be enforceable to the fullest extent permitted by law. Only an arbitrator, and not any federal, state, or local court or agency, shall have the exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this Arbitration Provision. However, notwithstanding the preceding sentence, all disputes relating to or arising out of the Class Action Waiver below—including, but not limited to, any claim that the Class Action Waiver is unenforceable, unconscionable, illegal, void, or voidable—shall be decided only by a court of competent jurisdiction and not an arbitrator. Moreover, all disputes relating to or arising out of the payment of arbitration fees shall be decided only by a court of competent jurisdiction and not an arbitrator. The parties agree that any and all due dates for arbitration fees shall be tolled while the parties resolve a dispute relating to or arising out of the Class Action Waiver or the payment of arbitration fees. This Agreement does not cover disputes that, as a matter of law (after application of FAA preemption principles), may not be subject to pre-dispute arbitration agreements. Regardless of any other terms of this Agreement, nothing prevents Delivery Partner from

making a report to or filing a claim or charge with the Equal Employment Opportunity Commission, U.S. Department of Labor, Securities Exchange Commission, National Labor Relations Board, or Office of Federal Contract Compliance Programs. Nothing in this Agreement prevents the investigation by a government agency of any report, claim or charge otherwise covered by this arbitration provision. Nothing in this Agreement prevents Delivery Partner from notifying any state agency, other public prosecutor, law enforcement agency, or any other governmental entity of any alleged violation of law.

- a. Pre-Arbitration Informal Dispute Resolution Conference. Before commencing individual arbitration with the AAA, the Parties must engage in a good-faith effort to resolve any claim covered by this Arbitration Provision through an informal telephonic dispute resolution conference between Delivery Partner and Grubhub. This informal telephonic dispute resolution conference requirement shall mutually apply to both Grubhub and Delivery Partner. The Party initiating the claim must give notice to the other Party in writing of its, his, or her intent to initiate an informal telephonic dispute resolution conference, which shall occur within seven days of the other Party receiving such notice. Engaging in an informal telephonic dispute resolution conference is a condition precedent that must be fulfilled before commencing individual arbitration. The statute of limitations shall be tolled while the Parties engage in the informal dispute resolution process required by this paragraph.

- b. Notice. Only after the Parties have engaged in a good-faith effort to resolve the dispute through an informal telephonic dispute resolution conference, and only if those efforts fail, either Party may initiate arbitration by notifying the other Party in writing via certified mail, return receipt requested, or hand delivery within the applicable statute of limitations period. The demand for arbitration must include (i) the name, telephone number, mailing address, and e-mail address of the person or entity seeking arbitration (if Delivery Partner is seeking arbitration, the e-mail address provided must be the e-mail address associated with Delivery Partner's Grubhub account); (ii) a statement of the legal claims being asserted and the factual bases of those claims; (iii) a description of the remedy sought and an accurate, good faith calculation of the amount-in-controversy, enumerated in United States Dollars; (iv) the original personal signature of the Party seeking arbitration (a digital, electronic, copied, or facsimile signature is not sufficient); and (v) the Party's portion of the AAA filing fee. Any request for injunctive relief or attorney fees shall not count toward the calculation of the amount in controversy unless such injunctive relief seeks the payment of money. If the Party seeking arbitration is represented by

counsel, counsel must also provide an original personal signature on the demand for arbitration (a digital, electronic, copied, or facsimile signature is not sufficient). By signing the demand for arbitration, counsel certifies to the best of counsel's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that (1) the demand for arbitration is not being presented for any improper purpose, such as

to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution; (2) the claims and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery. Any demand for arbitration directed at Grubhub must be delivered to 5 Bryant Park, 15th Floor, New York, NY 10018, Attn: General Counsel. Any demand for arbitration by Grubhub must be delivered to Delivery Partner's last known business address. This Section 12(b) will also constitute the notice provision for all notices hereunder, except that notices other than initiating arbitration may also be made via email to a designated email address.

- c. Class Action Waiver. The Parties mutually agree that any and all disputes or claims between the Parties shall be resolved in individual arbitration. The Parties further agree that in connection with entering into this Arbitration Provision, they waive their right to have any dispute or claim brought, heard, administered, or arbitrated as a class action, collective action, mass action, and/or representative action, and an arbitrator will not have any authority to hear or arbitrate any class, collective, mass, and/or representative action, including but not limited to, claims brought under any state's Private Attorneys General Act (PAGA) ("Class Action Waiver"). This Class Action Waiver does not prevent the Parties from participating in a classwide settlement of claims. The Parties agree that the definition of a "class, collective, mass, and/or representative action" includes, but is not limited to, instances in which Delivery Partner is represented by a law firm or collection of law firms that has filed more than 25 arbitration demands of a substantially similar nature against Grubhub within 180 days of the arbitration demand filed on Delivery Partner's behalf, and the law firm or collective of law firms seeks to simultaneously administer and/or arbitrate all the arbitration demands together. In any case in which (i) the dispute is filed as a class, collective, mass, and/or representative action and (ii) there is a final judicial determination that all or part of this Class Action Waiver is unenforceable, the class, collective, mass, and/or representative action must be litigated in a civil court of competent jurisdiction, but only to the

extent the Class Action Waiver is deemed unenforceable, and the portion of the Class Action Waiver that is enforceable will be enforced in arbitration.

d. Procedure. Any arbitration shall be governed by the AAA Commercial Arbitration Rules (“AAA Rules”), which may be found at www.adr.org or by request from Grubhub, except as follows:

i. The Parties shall be required to meet and confer to select a neutral arbitrator from among AAA candidates. If the parties are unable to mutually agree to an arbitrator, the arbitration will be heard by one

arbitrator selected in accordance with the AAA Rules. The arbitrator will be an attorney or retired judge with experience in the law underlying the dispute.

ii. If the Parties cannot otherwise agree on a location for the arbitration, the arbitration will take place in the county in which Delivery Partner provided Delivery Services under this Agreement.

iii. Unless applicable law provides otherwise, as determined by the arbitrator, Grubhub and Delivery Partner shall equally share such filing fees and other similar and usual administrative costs, as are common to both court and administrative proceedings. Grubhub shall pay any costs uniquely associated with arbitration, such as the arbitrator’s fees and costs.

iv. If a Party timely serves an offer of judgment under Federal Rule of Civil Procedure 68, or any other state-law equivalent, and the judgment that the other Party finally obtains is not more favorable than the unaccepted offer, then the other Party shall pay the costs, including filing fees, incurred after the offer was paid.

v. Both Parties agree not to oppose or interfere with any negotiations or agreements between the other Party and AAA, a AAA administrator, or an individual arbitrator relating to a Party’s portion of the fees. The arbitrator, however, may disallow any private agreement between AAA or a AAA administrator, on the one hand, and the negotiating Party, on the other hand, if the arbitrator believes that the private agreement undermines his or her neutrality as an arbitrator.

vi. The arbitrator may issue orders (including subpoenas to third parties)

allowing the Parties to conduct discovery sufficient to allow each Party to prepare that Party's claims and/or defenses, taking into consideration that arbitration is designed to be a speedy and efficient method for resolving disputes.

vii. Except as provided in the Class Action Waiver, the arbitrator may award all remedies to which a party to the arbitration is entitled under applicable law and which would otherwise be available in a court of law, but will not be empowered to award any remedies that would not have been available in a court of law for the claims presented in arbitration. The arbitrator will apply the state or federal substantive law, or both, as applicable. Such remedies include, but are not limited to, sanctions available under Federal Rule of Civil Procedure 11.

viii. Any finding that a claim or counterclaim was filed for purposes of harassment or is patently frivolous shall entitle the other Party to recover its, his, or her attorneys' fees, costs, and expenses.

ix. The arbitrator may hear motions to dismiss and/or motions for summary judgment. An arbitrator may not permit the filing of a motion for summary judgment until after the parties have conducted discovery to support their claims and defenses, and after the prerequisites for filing dispositive motions under AAA's rules have been met. Any motion to dismiss and/or motion for summary judgment shall otherwise be governed by the standards of the Federal Rules of Civil Procedures governing such motions.

x. The arbitrator's decision or award will be in writing with findings of fact and conclusions of law.

xi. The arbitrator is not bound by decisions reached in separate arbitrations, and the arbitrator's decision shall be binding only upon the parties to the arbitration that are the subject of the decision.

xii. The Parties may apply to a court of competent jurisdiction for temporary or preliminary injunctive relief if necessary to preserve the status quo or to prevent the possibility of irreparable harm pending final resolution of arbitration proceedings. If at any time the arbitrator or arbitration administrator fails to enforce the terms of this Agreement, either Party may seek to enjoin the arbitration proceeding in a court of competent jurisdiction, and the arbitration shall be automatically stayed pending the outcome of that

proceeding.

- e. Mass Arbitration. In the event that more than 25 substantially similar arbitration demands are filed with AAA against Grubhub by the same law firm or collection of law firms within 180 days of one another, then the Class Action Waiver shall apply and each arbitration demand must be filed, administered, arbitrated, and resolved in an individual manner according to AAA's Rules, subject to the following: (1) each arbitration demand shall be administered and arbitrated in an individual manner; and (2) AAA's Employment/Workplace Fee Schedule for individual arbitrations, not the Employment/Workplace Group Administrative Fee Schedule, shall apply, except that (a) Grubhub shall pay an initial administrative filing fee of \$400 per individual arbitration, and (b) Grubhub shall pay the remaining administrative filing fee for the individual arbitration only after an arbitrator has been appointed to the case. Any and all disputes arising out of or relating to this paragraph—including, but not limited to, disputes concerning the applicability and enforceability of this paragraph—shall be resolved by a court of competent jurisdiction, not an arbitrator. In the event that any part of this paragraph is found unenforceable for any reason, that part shall be severed from the Agreement such

that the remainder of this Arbitration Agreement shall remain enforceable to the fullest extent permitted by law.

- f. Right to Opt Out. Delivery Partner has the right to opt out of this Arbitration Provision by sending an email notice to driverinfo@grubhub.com stating such intention to opt out. Delivery Partner may also opt out by sending a written notice to Grubhub at 5 Bryant Park, 15th Floor, New York, NY 10018, Attn: General Counsel, or such other address as may be communicated by Grubhub. In order to be effective, such opt out notice must be provided within 30 days of Delivery Partner's acceptance of this Agreement. If Delivery Partner timely opts out as provided in this Section 12(f), it will not be subject to any adverse consequences as a result of that decision and may pursue available legal remedies without regard to this Arbitration Provision. Should Delivery Partner not opt out of this Arbitration Provision within 30 days of Delivery Partner's acceptance of this Agreement, such acceptance of this Agreement will constitute mutual acceptance of the terms of this Arbitration Provision by Grubhub and Delivery Partner.
- g. Right to Consult with an Attorney. Delivery Partner acknowledges that it has been given the opportunity to consult with private counsel of its choice with respect to whether to agree to, any aspect of and any claim that may be

subject to this Arbitration Provision. Except as described in subsection (c) above, in the event any portion of this Arbitration Provision is deemed unenforceable, the remainder of this Arbitration Provision will be enforceable.

- h. Impact on Pending Litigation. This Arbitration Provision shall not affect Delivery Partner's standing with respect to any litigation against Grubhub brought by Delivery Partner or on Delivery Partner's behalf that is pending in a state or federal court or arbitration as of the date of Delivery Partner's receipt of this Arbitration Provision ("Pending Litigation"). Therefore, if Delivery Partner is or previously was authorized to use the Grubhub Platform and Driver App, and at the time of Delivery Partner's receipt of this Agreement Delivery Partner was not bound by an existing Arbitration Provision with Grubhub, Delivery Partner shall remain eligible to participate in any Pending Litigation to which Delivery Partner was a party or putative class, collective, or representative action member regardless whether Delivery Partner opts out of this Arbitration Provision. If, at the time of Delivery Partner's receipt of this Agreement, Delivery Partner was bound by an existing Arbitration Provision with Grubhub, that Arbitration Provision will continue to apply to any Pending Litigation, even if Delivery Partner opts out of this Arbitration Provision. If, at the time of Delivery Partner's receipt of this Agreement, Delivery Partner was not previously authorized to use the Grubhub Platform and Driver App, then this Arbitration Provision will apply to all claims and any Pending Litigation unless Delivery Partner opts out of this Arbitration Provision as provided above.

13. Modifications

- a. Grubhub may modify this Agreement at any time. When Grubhub makes material changes to this Agreement (the "Revised Agreement"), it will post the Revised Agreement on the Grubhub Platform, and will update the "Effective Date" at the top of the Agreement. Grubhub will provide Delivery Partner with notice of any material changes to this Agreement. If Delivery Partner does not wish to accept the Revised Agreement, Delivery Partner will have the option of terminating this Agreement by submitting a request online at <https://driver.support.grubhub.com/hc/en-us/requests/new>. Delivery Partner agrees that by continuing to use or access the Platform after receiving notice of the Revised Agreement, Delivery Partner thereby accepts the changes to this Agreement and agrees to be bound by them. Except as provided otherwise in the "Arbitration" section above, the Revised Agreement will

govern any disputes between Delivery Partner and Grubhub, even if the dispute arises out of or involves facts dated before the Effective Date of the Revised Agreement.

14. Miscellaneous.

- a. Assignment. Delivery Partner may not assign this Agreement without the prior written consent of Grubhub. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of any permitted successors and assigns.
- b. Severance. If any provision of this Agreement is found to be unenforceable or unlawful, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- c. Waiver. Failure of either Party to enforce any provision of this Agreement will not be construed as a waiver thereof, or as excusing the other Party from future performance.
- d. Headings. Headings appearing in this Agreement are for convenience only and do not in any way limit, amplify, modify or otherwise affect the terms and provisions of this Agreement.
- e. Entire Agreement. This Agreement, together with any appendices attached hereto, sets forth the default provisions governing Grubhub's engagement of Delivery Partner for the provision of Delivery Services, and supersedes any and all previous agreements between the Parties, whether written or oral. Together with the terms of any Engagements agreed to between the Parties, this Agreement is the entire Agreement between the Parties with respect to the subject matter herein.

DELIVERY PARTNER ACKNOWLEDGES, REPRESENTS AND WARRANTS THAT IT HAS THE RIGHT, AUTHORITY AND CAPACITY TO ENTER INTO THIS AGREEMENT, HAS READ AND FULLY UNDERSTANDS THE PROVISIONS OF THIS AGREEMENT AND HAS HAD SUFFICIENT TIME AND OPPORTUNITY TO CONSULT WITH PERSONAL FINANCIAL, TAX AND LEGAL ADVISORS PRIOR TO ACCEPTING THIS AGREEMENT.

By checking this box, I certify that I have read this Delivery Partner Agreement, and I agree to all the terms contained herein.

