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Mobile Application License Agreement

1. Grant of License; Related Provisions.

a. License Grant. SAGE Dining Services, Inc. (“*SAGE*”), subject to the terms and conditions of this Agreement, grants you a non-exclusive, non-transferable license (without right of sublicense) to use the Application on a device you personally control, for your individual benefit and not for sharing or resale.

b. Restrictions. you may not, and may not authorize or assist any other party to (i) duplicate the Application for any purpose other than as necessary to use it on your mobile device, (ii) publish the Application or use it other than for the purposes described in Section 1 of this Agreement, (iii) reverse engineer, disassemble, decompile or translate the Application, (iv) change, modify or otherwise alter the Application, (v) transfer, pledge, rent, share or sublicense the Application, or (vi) use or abuse the Application to (A) store or transmit content that is unlawful, threatening, abusive, harassing, defamatory, obscene or indecent, libelous, hurtful or otherwise objectionable, (B) impersonate another individual or misrepresent your identity or your affiliations, or (C) knowingly or recklessly transmit false information.

c. Your Responsibilities. Effective use of the Application requires that you (i) enter all of the information the Application requests, (ii) ensure that your device is properly configured and charged, and subscribe to voice and data service fully covering the areas in which you use the Application, and (iii) paying the subscription fees, calling charges, text message charges and other fees imposed by your wireless service provider, and otherwise complying with the provider’s terms of service. You are solely responsible for fulfilling these responsibilities.

d. Privacy. By downloading and using the Application, you are providing SAGE with certain information, including personally identifiable information and information the Application automatically collects. SAGE’s collection, use and disclosure of this information is governed by the Privacy Policy you will find [here](#).

2. SAGE Disclaimers.

a. No Warranties. SAGE PROVIDES THE APPLICATION ON AN “AS IS, WHERE IS” BASIS WITHOUT WARRANTY OF ANY KIND. SAGE DISCLAIMS ALL WARRANTIES AND CONDITIONS EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY OF NONINFRINGEMENT, ANY WARRANTY THAT THE APPLICATION WILL OPERATE UNINTERRUPTED OR ERROR-FREE.

b. No Obligations. SAGE accepts no obligation regarding your use of the Application. In particular, SAGE disclaims any obligation to monitor the operation of the Application or address any failures or faults that come to its attention.

3. Limitation of Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, UNDER NO CIRCUMSTANCES WILL EITHER PARTY OR, IN THE CASE OF SAGE, ITS SUPPLIERS, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES OR AGENTS HAVE ANY OBLIGATION OR LIABILITY TO THE OTHER HEREUNDER FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES INCURRED BY THE OTHER PARTY (INCLUDING DAMAGES FOR DEATH, INJURY TO PERSON OR PROPERTY, LOST BUSINESS, LOST PROFITS OR DAMAGES TO BUSINESS REPUTATION), REGARDLESS OF HOW SUCH DAMAGES ARISE AND REGARDLESS OF WHETHER OR NOT A PARTY WAS ADVISED SUCH DAMAGES MIGHT ARISE. IN THE EVENT THAT SAGE IS FOUND LIABLE FOR ANY REASON UNDER THIS AGREEMENT, IN NO CASE SHALL SAGE’S LIABILITY FOR ACTUAL DAMAGES IN THE AGGREGATE EXCEED THE

AMOUNTS YOU PAID FOR THE APPLICATION OR, IF YOU RECEIVED THE APPLICATION FOR FREE, IN NO CASE WILL SAGE'S LIABILITY EXCEED \$10.00.

4. Ownership. SAGE, as between SAGE and you, shall own all right, title and interest in the Application, including without limitation all error corrections, updates, upgrades and custom features and functions, and all patents, copyrights and other intellectual property rights, and any improvements to the Application that you might suggest to SAGE. You may not remove or modify any program markings or any notice of proprietary rights, and shall reproduce such markings and notices on all copies of the Application you make.

5. Intellectual Property. If a court of competent jurisdiction makes a determination that any Application infringes, or if SAGE determines that the Application likely infringes, the intellectual property rights of a third party, SAGE, at its option and expense, shall: (i) modify the infringing portion of the Application to make it noninfringing, (ii) replace the infringing product with a non-infringing product having substantially similar functionality, (iii) obtain the right to continue using the infringing portion of the Application, or (iv) terminate this Agreement (including the license granted hereunder) and refund to you the fees, if any, you paid for the Application.

6. Miscellaneous Provisions.

a. Dispute Resolution. This Agreement and the relationship between you and SAGE will be governed by the laws of the State of Maryland, excluding its conflicts of law provisions. You agree to submit to the personal and exclusive jurisdiction of the courts located in Baltimore, Maryland to resolve any dispute or claim arising from this Agreement. As to intellectual property rights, you specifically agree that SAGE may file an action in any jurisdiction to protect or enforce its rights. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. You agree that any claim or cause of action related to this Agreement or the use of the Application must be filed within one (1) year after the cause of action arose or be forever barred. You

b. Assignment. You may not assign this Agreement or your rights or obligations under this Agreement without SAGE's prior written permission.

c. Force Majeure. Neither party shall be responsible for delays or failure in performance resulting from acts beyond the control of such party, including without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, fire, communication line failures, power surges or failures, earthquakes or other disasters.

d. Sole Agreement; Amendment; Waiver. This Agreement constitutes the sole and complete agreement between the parties regarding the Application, and may not be modified or amended except by a writing signed by both parties. This Agreement may not be explained or supplemented by a prior performance, trade usage, or course of dealing between the parties, or by any prior performance between the parties under this Agreement or otherwise. No amendment to this Agreement shall be effective unless it is in writing signed by duly authorized representatives of both parties. No waiver of any breach of any provision by either party or the failure of either party to insist on the exact performance of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of performance of the same or any other provisions, and no waiver shall be effective unless made in writing.

e. Severability. If any of the provisions of this Agreement shall be or become invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the remaining provisions of this Agreement. Instead, this entire Agreement shall be construed as though not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties shall be construed and enforced accordingly.

f. Notices. All notices under this Agreement may be sent to you through the Application, and to SAGE at TouchofSAGE@sagedining.com.