



THIS AGREEMENT, effective as of _____, 2010, is entered into by and between Kudzu Interactive Inc. DBA (Snapfinger), its affiliates and Subscriber. Subscriber wishes to have their restaurant's menu included on the Snapfinger remote web and mobile ordering portal. Snapfinger hereby agrees to provide access to Snapfinger as described herein.

1. **Fees & Payment Terms.** The term for the services provided herein is month to month with no further obligation by Subscriber unless otherwise specified. The Standard Application Service fees are: (a) Orders received and processed via the Snapfinger website or affiliate websites = 7% of the order before taxes; Optional Application Service fees include: (b) Orders process via Subscriber's website = 5% of the order before taxes; (c) Optional Custom Menu Build = \$500; (d) POS Integration = \$500; (e) Menu Maintenance = \$75 per hour. The fee for POS Integration does not include any API license fees that may be required from Subscriber's POS provider. All Custom Menu Build and POS Integration fees shall be paid by Subscriber in advance unless otherwise specified. Prior to initiation of service, Customer shall fill out an ACH Authorization Letter authorizing Snapfinger to debit Subscriber's account for all fees incurred on a monthly basis. Snapfinger will email Subscriber a monthly billing statement 14 days prior to initiating payment draft. Snapfinger may suspend all services immediately if Subscriber's ACH authorization lapses or if Snapfinger is unable for any reason to initiate ACH debits from Subscriber's account. Overdue amounts shall incur interest at the lesser of 1% per month or the highest rate allowed under applicable law. Subscriber shall be responsible for collecting and remitting all sales, use and other taxes related to all transactions processed using Snapfinger.

2. **Subscriber's Duties.** Subscriber must complete and return the attached Snapfinger Sign Up Sheet indicating the services Subscriber has elected to receive. Subscriber shall provide the following: all requested information, items, databases, logos, artwork, menus, pricing, and other content necessary to allow Snapfinger to implement such requested services; and as applicable the POS Systems, software, hardware, internet and network connectivity, fax machines, email systems, and printers specified by Snapfinger, in order to enable Subscriber to receive remote orders via the method chosen by Subscriber, including payment of any license fee or charge by Subscriber's POS System vendor to allow Snapfinger to integrate with or connect to Subscriber's POS System. Subscriber is responsible for all information, content, marks, copy, and logos provided by Subscriber to Snapfinger under this Agreement, including compliance of such material with all laws and third party intellectual property rights. Snapfinger may remove any content which it determines in its sole discretion to be illegal, unethical or immoral.

3. **Snapfinger's Duties.** Snapfinger shall provide web and mobile online ordering services from Subscriber's menu to the general public via the Snapfinger portal as well as optional services thru the Subscriber's web site. Snapfinger will retain ownership of customer data and make it available to Subscriber for marketing purposes at no additional charge. Snapfinger may also provide an optional PCI compliant payment gateway to Subscriber's merchant account for direct customer credit card payment. Subscriber's customers pay Subscriber directly. Snapfinger does not accept any payments from the Subscriber's customers aka general public. The services as set forth herein and technical support via the Snapfinger support staff at support@Snapfinger.com or 678-739-4650.

4. **Intellectual Property/Trademarks/Trade Dress.** Snapfinger and the Snapfinger System and any associated intellectual property are (i) copyrighted works of Snapfinger and (ii) contain trademarks, trade secrets, trade dress and confidential information of Snapfinger. Snapfinger retains all right, title, and interest in and to its System and documentation, and all copyright, trade secret, patent and other intellectual property rights therein. Subscriber is not granted any right, license, or interest in any of the foregoing. Subscriber shall own the rights to all trademarks, logos, content and trade dress provided to Snapfinger pursuant to this Agreement. Subscriber grants Snapfinger and its affiliates a limited right and license to use such materials to provide the services hereunder and shall comply with any usage restrictions provided to Snapfinger by Subscriber. Neither party is granted any license to use the marks nor trade dress of the other except as provided herein.

5. **Indemnities.** Snapfinger shall indemnify Subscriber for any costs, losses or damages suffered by Subscriber arising out of any third party claim that Snapfinger or any related Snapfinger System, documentation, or trademark of Snapfinger infringes any intellectual property right of any third party. THIS SECTION STATES SNAPFINGER ENTIRE OBLIGATION TO SUBSCRIBER AND SUBSCRIBER'S ENTIRE REMEDY WITH RESPECT TO MATTERS OF TITLE OR ANY CLAIM OF INFRINGEMENT THEREOF. Subscriber shall indemnify Snapfinger for any costs, losses, or damages suffered by Snapfinger

arising out of any third party claim that any marks, logos, copy, content or other property provided by Subscriber to Snapfinger pursuant to this Agreement infringes any intellectual property right of any third party. THIS SECTION STATES SUBSCRIBER'S ENTIRE OBLIGATION TO SNAPFINGER AND SNAPFINGER'S ENTIRE REMEDY WITH RESPECT TO MATTERS OF TITLE OR ANY CLAIM OF INFRINGEMENT THEREOF.

6. **Warranty/Disclaimer/Limitation of Liability.** Snapfinger does not warrant that Snapfinger or the System will operate without interruption or be error-free. SNAPFINGER DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SNAPFINGER SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, DAMAGES BASED ON LOSS OF PROFIT, LOSS OF DATA OR COMPUTER TIME, OR ALTERATION OR ERRONEOUS TRANSMISSION OF DATA, EVEN IF SNAPFINGER IS ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. SNAPFINGER'S TOTAL LIABILITY TO SUBSCRIBER UNDER ANY PROVISION OF THIS AGREEMENT (OTHER THAN INDEMNIFICATION UNDER SECTION 5) OR FOR ANY AND ALL CLAIMS, LOSSES OR DAMAGES RELATING TO THE SYSTEM OR SNAPFINGER (WHETHER BASED ON TORT, CONTRACT, OR OTHERWISE), EXCLUDING CLAIMS BASED UPON THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SNAPFINGER, SHALL BE LIMITED TO THE AMOUNT PAID BY SUBSCRIBER TO SNAPFINGER WITHIN THE PRIOR 3 MONTH PERIOD FOR THE SERVICES GIVING RISE TO THE LIABILITY. EACH OF THE PARTIES RELIED ON THIS LIMITATION IN ENTERING INTO THIS AGREEMENT.

7. **Term/Termination.** This Agreement shall continue until terminated by either party upon 30 days prior written notice, except that either party may immediately terminate this Agreement upon notice of any third party infringement claim.

8. **Miscellaneous.** A waiver of one or more defaults by Snapfinger shall not be deemed a waiver of any other or subsequent default. This Agreement supersedes any and all oral and/or prior written agreements between the parties with respect to its subject matter. This Agreement constitutes the entire agreement between the parties. No modification of this Agreement shall be binding unless it is in writing and accepted by both parties. This Agreement shall be governed by the laws of the State of Georgia. Snapfinger operates in compliance with "Payment Card Industry" (PCI) requirements and all VISA regulations. The parties shall comply with the CAN-SPAM Act and shall not use the Snapfinger System to send email messages to any person who has not agreed to receive such emails or who has requested to be removed from any mailing list. All email recipients shall be given the option to opt out of receiving emails, and such opt out requests shall be honored and communicated to Snapfinger. All customer information and transaction information resulting from Subscriber's use of Snapfinger shall be added to Snapfinger global customer database. Snapfinger and Subscriber shall co-own all such data and may only use it for promoting web based, mobile and call center ordering for Subscriber and www.Snapfinger.com. Snapfinger shall keep and use such information strictly in accordance with its privacy policies as in effect from time to time. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its control which could not be avoided by the exercise of due care. Snapfinger is an independent contractor and nothing herein is intended to create a partnership or joint venture relationship. Neither party shall have the right to assign or otherwise transfer its rights or obligations under this Agreement except to a subsidiary or affiliate or any successor in interest to all or substantially all of its business or assets. If any provision of this Agreement should be held to be invalid, illegal or unenforceable, then such provision shall be construed in such a way as to make such provision enforceable, or this Agreement shall be construed as if such provision had never been contained herein, and such invalidity, illegality or unenforceability shall not affect any other provision hereof. Sections that by their nature are intended to extend beyond termination shall survive termination of this Agreement.

Kudzu Interactive DBA Snapfinger

By: _____

Name/Title: _____

SUBSCRIBER

By: _____

Name/Title _____