

## Terms & Conditions – UW Food Services Mobile App

Date: 8/29/2019

This Terms and Conditions (the “Agreement”, “Terms”, “Terms and Conditions”) is a binding legal agreement between University of Waterloo (“UWaterloo”) and the mobile user (the “End User”) downloading the University of Waterloo Food Services Application (the ‘App’) outlining the terms and conditions for the use of the App, powered by app development company, Hangry (the “developer”, the “development company”). This mobile application has been developed by Hangry, a mobile app development company in partnership with and operated by UW Food Services (“us”, “we”, “our”). Downloadable through Google Play or the App Store under ‘UW Food Services’. Please carefully read this Agreement prior to registration and usage of the App. By clicking "I AGREE", the End User is agreeing, henceforth, to be bound by the terms and conditions contained in this Agreement. **IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, PLEASE EXIT THE APP AND DO NOT CLICK "I AGREE."**

### 1. INTRODUCTION AND THE SERVICES PROVIDED

1.1. The App is an ordering solution whereby the End User is able to pre-order and submit payment for food and beverage products at participating locations (the "Participating Restaurants") (collectively, the "Services").

1.2. Upon registration, the End User will have an individual account with UW (see Article 2) that will enable the End User to access, browse and select menu options at each Participating Restaurant on the App (the "Menu") as well as submit and pre-pay for orders.

1.3. To use the Services, the End User will select a Participating Restaurant and click the desired menu items from the list one at a time. A Checkout Screen, containing the selected menu items and the total purchase price comprised of the subtotal, service fees and sales tax will be presented to the End User for review. (the "Checkout Screen"). To proceed with the order, the End User will click "Submit" on the Checkout Screen and the total purchase price will be deducted from the End User's account balance.

1.4. Once the order is submitted, the End User will receive a digital receipt confirming the name, address and phone number of the Participating Restaurant, the End User's order and order number, and the total purchase price. The digital receipt will be sent to the End User's email account and will also be displayed on the App. The End User will receive a push message notification from the Participating Restaurant when the order is "Complete". The End User will then attend at the Participating Restaurant, by-pass the queue, and present the digital receipt to retrieve the order. **THE USER MUST RETRIEVE THE ORDER FROM THE PARTICIPATING RESTAURANT WITHIN THIRTY (30) MINUTES OF THE ORDER'S COMPLETION OTHERWISE THE ORDER MAY BE DISCARDED. IF THE PARTICIPATING RESTAURANT DISPOSES OF AN ORDER AFTER THIRTY MINUTES, THE USER SHALL NOT BE ENTITLED TO A REFUND AND THE ORDER WILL BE DEEMED FORFEITED. THE USER ACKNOWLEDGES THAT UW IS NOT RESPONSIBLE FOR ANY FORFEITED ORDERS AND AGREES THAT THE END USER IS NOT ENTITLED TO ANY REFUND OR PAYMENT REGARDLESS OF THE TIME, PLACE, AMOUNT OR NATURE OF THE ORDER.**

1.5. The End User may only submit orders during the Participating Restaurant's hours of operation; however, the App will not permit the End User to submit an order within a half hour of closing time. The App will also not permit the End User to submit an order for a subsequent business day.

1.6. If an order cannot be processed for whatever reason, the End User will receive a notification indicating the order was unsuccessful. In the event of an unsuccessful order, the End User's account will not be charged or refunded and the services will not be provided.

## **2. REGISTRATION AND ELIGIBILITY**

2.1. Prior to accessing and using the Services, the End User must register for a UW account. Registration involves downloading the free App, providing your full name, email address and creating a secure password. There are two log-in options; Log in the Campus ID and Register with Email. End Users who have a University of Waterloo Watcard associated with a student number are able to register through 'Campus ID', all other End Users must register with an email address.

2.2. Upon entering the information set forth in Article 2.1, the End User will read and enter into this Agreement and agree to UW's [Privacy Policy](#). Upon entering into this Agreement, the End User will be required to provide payment card, of credit card or a Watcard with a Meal Plan or Flex dollars linked, information including, the cardholder's name, the billing address, the card number, its expiration date and verification code. The App will be unable to submit orders until this process is complete.

2.3. Credit card information is encrypted and tokenized. The tokenized information is store in the app to be used for payment and refund purposes relating to App purchases. BY CLICKING "I AGREE" DURING THE REGISTRATION PROCESS OR WHEN ACCESSING OR USING THE SERVICES, THE USER EXPRESSLY AGREES THAT THE USER UNDERSTANDS AND ACCEPTS UW'S PRIVACY POLICY.

2.4. Subject to the completion of the account registration contemplated by Article 2.1, Article 2.2 and the continued compliance of all the terms and conditions set forth in this Agreement, UW will provide the End User with a personal, non-transferable, non-sublicensable and nonexclusive, revocable license to download, install and use the App, and use the Services, for End User's own personal use. The license shall be in the form of an account and will govern the End User's access and use of the Services. This license may be revoked or rescinded by either party in accordance with the terms of this Agreement. The App is licensed and not sold under this Agreement.

2.5. By registering an account with UW, the End User represents and warrants that the End User:

2.5.1. Is at least eighteen (18) years old; or has parental/guardian consent

2.5.2. Is the named cardholder of the payment card and any other information provided to UW; and,

2.5.3. Is capable of entering into legally binding contracts.

2.6 The End User represents and warrant that all of the information and data submitted as part of the Service enrollment process is accurate and complete and that the End User has the authority to submit all such information and data. The End User acknowledges and agree that UW has the right to take all steps necessary to confirm the End User's identity and otherwise verify all information and data the End User provides.

### **3. PRICE AND PAYMENT**

3.1. Registration for the Services is free of charge. UW will not charge a fee to new End Users who set up an account by clicking "I AGREE"; however, the End User is required to provide their credit card or their University of Waterloo Student Card, the WatCard, information upon registration for the purposes of submitting orders through the App.

3.2. The End User will determine from the menus provided what to order and the associated price with that/those items. The subtotal and proper sales tax will be added, as well as any meal plan discounts will be deducted. The End User is aware of the total before finalizing submission and that amount that will be posted to the End Users credit card or deducted from their meal plan. The amount will appear on the End User's credit card statement with the merchant name "UW Food Services Mobile Order".

3.3. The App will specify the purchase price for each menu item. The Checkout Screen will enumerate the subtotal of all menu items, the service fees, the sales tax and the total purchase price.

3.4. The End User acknowledges that submitted orders cannot be cancelled or refunded once "Submit" has been clicked. Under no circumstances will UW be responsible for reversing a transaction or refunding an order once submitted.

### **4. THE END USER'S RESPONSIBILITIES AND WARRANTIES**

4.1. Before submitting an order on the App, the End User may change or cancel an order by using the backwards arrow at the top of the Checkout Screen or by exiting the App. It is the End User's responsibility to review the menu items listed on the Checkout Screen to ensure it accords with the desired selections. Clicking submit will send the order to the Participating Restaurant. Modifications and/or cancellations will not be permitted after the order is submitted.

4.2. The End User acknowledges and agrees that they will not be able to cancel an order or request a refund once an order is successfully submitted. UW will not be responsible for any losses incurred by the End User as a result of using its Services. Pursuant to this Agreement, the End User shall not file any claim against UW for any such losses or damages.

4.3. The End User accepts responsibility for retrieving its order(s) from the designated Pick-Up Locations during regular business hours and not later than thirty (30) minutes after receiving the push message notification that the order is complete.

4.4. The End User shall assume sole responsibility for any authorized or unauthorized access to and use of the End User's account. This applies whether the End User or any other person is physically accessing and using the Services. Any activity on the account is deemed to be done by the End User whether it is the End User or not. The End User therefore is responsible for maintaining control of its account, the confidentiality of its payment card information, the charges to its payment cards and the orders that are submitted. THE USER AGREES TO INDEMNIFY AND HOLD HARMLESS THE UNIVERSITY OF WATERLOO, AND EACH OF THEIR RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY ACTION, CAUSE, CLAIM, DAMAGE, DEBT, DEMAND OR LIABILITY, INCLUDING REASONABLE COSTS AND ATTORNEY'S FEES, ASSERTED BY ANY PERSON, ARISING OUT OF THE END USER'S USE OF THE APP AND/OR ITS SERVICES.

4.5. The End User acknowledges and agrees that UW shall assume no responsibility, legal or otherwise, for any harm that may arise from any use, direct or indirect, of the Services, including, but not limited to, any unauthorized use of the End User's account, any Item disposed of by the Eatery. THE END USER WAIVES AND FORFEITS ANY RIGHT TO PURSUE A CLAIM AGAINST UW, ITS DIRECTORS OR OFFICERS, OR ANY SUBSIDIARY OF UW, FOR ANY LOSS OR DAMAGE CAUSED BY ANY DIRECT OR INDIRECT USE OF THE APP AND/OR ITS SERVICES.

4.6. The End User is prohibited from posting, uploading or transmitting any information or content to and/or from the UW App, the website of UW or its licensors: that it breaches any applicable local, national or international law; is unlawful or fraudulent; amounts to unauthorized advertising; contains viruses or any other harmful programs; contains any defamatory, obscene or offensive material; promotes violence or discrimination; infringes on the intellectual property rights of any entity; promotes illegal activity or infringes on privacy rights; or contains misrepresentations about the End User or UW, the App or the Services.

4.7. The End User shall not: (i) copy, modify, transmit, adapt, vary or create derivative works based on the App or Services in whole or part; (ii) use the App or Services to try to gain unauthorized access to any service, data, account or network by any means; (iii) rent, lease, sublicense, sell or otherwise transfer the App or Services to any third party; (iv) work around any technical limitations, including any piracy counter measures, in the App or Services; (v) reverse engineer, decompile, disassemble, debug, hook, spoof or pirate the App or Services; or (iv) use the App or Services in any way that could harm them or impair anyone else's use of them.

4.8. Contests, for End Users, are open to all legal residents of Canada (excluding residents of the province of Quebec) who are over the age of majority in their province or territory of residence (the "Eligible Participants" or "Participants"). Employees of the University of Waterloo (the "University"), and its officers, directors, governors, agents and contractors (including members of their respective immediate families regardless of where they live, or persons with whom any such person is domiciled (whether related to such persons or not)) are not eligible to enter this Contest. Any prize winner must sign and return to the University an affidavit of eligibility confirming compliance with the Terms and Conditions and must further sign a release form releasing the University of all liability in respect of the Contest. Non-compliance with this requirement will result in disqualification and forfeiture of the prize by the selected person and selection of an alternate winner.

4.9. The End User agrees that the University of Waterloo will retain order and loyalty points records for 7 years, or for 12 months after an account becomes inactive. Accounts and their records will be deleted after 12 months of inactivity.

## **5. INTELLECTUAL PROPERTY**

5.1. UW shall retain legal and proprietary rights to its intellectual property at all times. Intellectual property includes all copyrights, trademarks, patents, associated with its product, brand, technology, software and systems. This proprietary interest extends to all intellectual property that exists, is developed, owned or otherwise acquired by UW before, during and after the termination of this Agreement.

5.2. The End User is permitted to access, download, print, copy and share extracts from the App and/or the Website for the End User's personal use in association with the Services.

5.2.1. The End User shall not use, handle or modify any digital or hard copy of UW content obtained from the App or Website except in accordance with Article 5.2. None of UW's information, content, graphics, photographs, audio or video sequences shall be used for commercial or competing purposes or for financial gain.

5.2.2. Except as stated in Article 5.2, the End User shall not copy, reproduce, modify, republish, redistribute, reverse engineer, transmit, display, frame, sell the App or its contents in any form or by any means, in whole or in part, without UW's prior written consent.

5.3. Any right not expressly granted in this Agreement is reserved by UW.

## **6. DISCLAIMER OF WARRANTIES**

6.1. UW does not warrant that the App will contain every menu item that would otherwise be available to the End User by placing the order on-site at the Participating Restaurants.

6.2. UW does not warrant that orders will be immediately available upon the End User's arrival at the Pick-Up location or that the End User will be immediately served. While wait times are expected to be reduced as a result of the use of the Services, they are not guaranteed. UW is not responsible for any delay resulting from the operations and/or volume of orders at an Eatery.

6.3. UW does not warrant that all Units will be accessible on the App when the End User desires to use the Services.

6.4. The prices for individual menu items are at the sole discretion of the UW Food Services and franchise agreements and are subject to change.

6.5. UW does not warrant that the order will be available for pick-up at the Pick-Up Location thirty (30) minutes after a "Complete" push message notification is received by the End User. After thirty (30) minutes the Eatery reserves the discretion to dispose of an unclaimed order.

6.6. THE SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. USE OF THE SERVICES IS AT USER'S SOLE RISK. UW

AND ITS LICENSORS NEITHER WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, NOR THE RESULTS OBTAINED BY USE OF THE SERVICES WILL BE AS DESIRED.

## **7. TERMINATION**

7.1. If the End User does not agree to these Terms and Conditions, do not choose 'accept' in the registration process and discontinue registration. The End User has the right to terminate this Agreement for any reason at any time by deleting the App and allowing your account to go to inactive after 12 months. The End User accepts that UW has the right to modify or limit the Services at any time. The End User accepts that UW may terminate this Agreement or any portion of its Services at any time. THE USER ACCEPTS THAT UW MAY TERMINATE THE SERVICES AND BLOCK THE USER'S ACCOUNT IMMEDIATELY WITHOUT NOTICE, SHOULD THE USER BE FOUND IN VIOLATION OF ANY TERMS OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THOSE SET OUT IN ARTICLE 4 AND 5. THE USER ACCEPTS, TERMINATION BY EITHER PARTY, THAT THE END USER WILL FORFEIT ANY PROMOTIONAL CREDITS IN ACCOUNT.

7.2. If the End User's account is blocked by UW or this Agreement is terminated by UW because of the End User's violation of the Agreement or abuse of the Services, the End User shall be prohibited from re-activating their account or registering another account with the email address to access and use the Services.

## **8. LIABILITY**

8.1. Exclusion of liability: UW, the University of Waterloo, and their respective licensors, will under no circumstances be liable to the End User, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with the App, the Services (including the use, inability to use or the results of use of the App or Service), or this Agreement, for:

8.1.1. any loss of profits, sales, business, or revenue;

8.1.2. loss or corruption of data, information or software;

8.1.3. loss of business opportunity;

8.1.4. loss of anticipated savings;

8.1.5. loss of goodwill; or,

8.1.6. any special, indirect, punitive, incidental, exemplary or consequential damages, even if advised of the possibility of such damages or losses

8.2. Additional costs: The End User assumes full and sole responsibility for any additional or associated costs that may be incurred in connection with or as a result of the use of the App, including without limitation costs relating to the servicing, repair or adaptation of any mobile hardware, software or data that the End User may own, lease, license or otherwise use.

8.3. Indemnity: The End User agrees to defend, indemnify and hold harmless UW, the University of Waterloo, their licensors and respective affiliates, and each of their directors, officers, agents, contractors, partners, representatives and employees, from and against any loss, liability, threatened or actual claim, demand, damages, costs and expenses, including reasonable legal fees, arising out of or in connection with your breach of this Agreement or your violation of any law or the rights of any third party with respect to the App or the Services. UW, the University of Waterloo and their licensors reserve the right, at their own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification, and the End User shall cooperate as fully as reasonably required by UW, the University of Waterloo and their licensors, as applicable.

## **9. MODIFICATIONS**

UW may at any time and from time to time modify or discontinue, temporarily or permanently, the App or the Services, or any portion thereof, with or without notice. The End User agrees that UW shall not be liable to the End User or any third party for any modification, suspension or discontinuance of the App or Services.

## **10. THIRD PARTY SOFTWARE**

In order to obtain, access or use the App or Services (or portions thereof) the End User may be required to obtain, access and/or use third party software or services. The End User must ensure that he/she is permitted to obtain, access and use such third party software and that he/she complies with all usage rules governing any third party digital storefront from which End User acquire such third party software or services. The App may also include third party programs that UW, not the third party, licenses to you under this Agreement.

## **11. LOYALTY PLATFORM**

11.1. UW Food services may at any time and from time to time modify, discontinue, temporarily or permanently disable the Loyalty Platform.

11.2. The End user agrees that UW shall not be liable for any Points that remain in the End Users account if the Loyalty Platform is disabled. Loyalty Points do not have a monetary value. All Points collected will become null and void if the Loyalty Platform is disabled, if your account becomes inactive after one-year or if you are banned from the App.

11.3. A contest is an essential part of the mobile App loyalty platform since they provide incentive for users to want to earn more points through App challenges and orders. As users accumulate points they are able to enter contests to win monetary discounts on their next purchases, in the form of a 'Check-out Promo Code'.

11.4. Contests are predetermined by the Marketing and Communications team on an academic term basis. The contests are developed, scheduled and released to users minimum one per week to a maximum of five per week. Once a contest is posted to users, Marketing is unable to change the status/requirements of that contest. New contests will not be released during University holidays.

11.5. The Contest is open to all legal residents of Canada (excluding residents of the province of Quebec) who are over the age of majority in their province or territory of residence (the “Eligible Participants” or “Participants”). Employees of the University of Waterloo (the “University”), and its officers, directors, governors, agents and contractors (including members of their respective immediate families regardless of where they live, or persons with whom any such person is domiciled (whether related to such persons or not)) are not eligible to enter any contests within or associated with the App. Falling within the above guidelines, contests are open to registered user of the UW Food Services App who has accumulated the number of points required to enter a contest, and is not in default of any ‘Terms and Conditions’ for the use of the App. End Users have agreed to these conditions when they register for the App. They are also stated on each digital contest ballot.

11.6. UW Food Services employees who are ‘Administrators over the Points and Codes’ are unable to register as an End User of the UW Food Services mobile app. They will be unable to place orders, collect points or enter contest while holding their current position. This is overseen by the Business Development Coordinator and the Management of the unit on a regular basis.

11.7. Contests are released by the Marketing and Communications Department via the App Dashboard, each contest will instantly update within the App and appear in the ‘Contests’ section.

11.8. Users are able to see their Loyalty Point balance at any time within the App under the ‘Rewards’ section.

11.9. Loyalty Points do not expire. They will remain in your account until your account goes inactive after one year. Codes will expire at the end of each Academic Term.

11.10. Once a contest has reached the maximum number of entries the App Dashboard will automatically alert the Marketing team via email at [foodservices@uwaterloo.ca](mailto:foodservices@uwaterloo.ca) that a contest is ready to be drawn. This can also be seen in the App Dashboard in the loyalty – contest section, indicating ‘Ready to Draw’.

For safeguarding purposes the contests draws will be overseen by two employees who have permissions to from the Loyalty Points Administrators List, which two employees shall include a minimum of either the Marketing and Communications Coordinator or the Marketing and Communications Assistant.

The App Dashboard is able to draw a random winner from entries. The winner will be notified via messaging through the App and automatic email. The University of Waterloo does not have any liability for any problems, failures or technical malfunctions of the App, internet connection, servers or software which results in lost, misdirected, altered, late or destroyed contest entries or winner notifications. The App Dashboard contest area will now say ‘Drawn’. Marketing will notify the winner, the winner will be required to answer a skill testing question and agree to the ‘Terms and Conditions’, as stated on the contest digital ballot form. If the answer is correct, the Marketing Department will send the Check-out Code Promo with instructions on how to use it. If the winner is incorrect, they will forfeit the prize and the Marketing Department will set up another random draw and start the awarding process again. Once a winner is awarded, Marketing will then change this contest in the Dashboard to ‘Distributed’. This built in accountability feature alerts the Marketing Department to which step in the contest drawing process they are in.



Marketing will record all contests, prizes and winners in a separate Excel Sheet for record keeping purposes. Contests will be deleted off the App Dashboard at the end of each academic term.

11.4 All End Users agree to have their name and prize recorded for documentation reason in compliance with the Gift Reporting Form.

## **12. MISCELLANEOUS**

12.1. The End User agrees that Ontario law will govern this Agreement, the App and the Services. The End User also agrees that any dispute arising out of or relating to this Agreement, the App or the Services will be subject to the exclusive jurisdiction and venue of the Courts of Ontario without reference to conflict of laws principles.

12.2. The End User accepts that this Agreement comprises of the entire agreement between the End User and UW and supersede all previous and/or contemporaneous agreements and understandings, whether oral or written, between the parties hereto with respect to the subject matter of this Agreement.

12.3. Nothing in this Agreement should be interpreted so as to construe that the Parties are partners or have entered into a partnership.

12.4. If any of these terms and conditions are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law, and in which event in which event this Agreement shall be construed as if such severed term, condition or provision had never been contained herein

12.5. UW shall have the right to add to or modify the terms of this Agreement at any time, provided that UW posts the modified agreement at such URL as UW may provide. All End Users will be notified of such changes through the direct messaging system built within the App. Any changes or modifications to this Agreement will becoming binding either (i) by the End User's online acceptance of updated terms, or (ii) after the End User's continued use of the Services or the App after such terms have been updated by UW. UW MAY ADD TO OR MODIFY THE TERMS OF THIS AGREEMENT IMMEDIATELY AND WITHOUT PRIOR NOTICE (WITH THE EXCEPTION OF CLAUSES RELATED TO PAYMENT CARDS) IF IT HAS GOOD FAITH BELIEF THE AMENDMENT IS NECESSARY FOR THE SAFE AND REASONABLE ENJOYMENT OF THE SERVICES OR THE APP.

12.6. UW may assign its rights, obligations and entitlements under this Agreement to any affiliate, subsidiary or other entity, upon providing the End User seven (7) days written notice to their email account.

12.7. The End User shall not assign his or her license to use the Services, any debts, fees or charges owed through the Services or the App, or any other obligations owed to UW through the use of the Services, under any circumstance. For any questions concerning UW or any of the terms of use of this Agreement, the End User is encouraged to contact UW at the email address specified: [foodservices@uwaterloo.ca](mailto:foodservices@uwaterloo.ca)

## University of Waterloo's End User Privacy Policy

Under the Authority of the University of Waterloo Act (1972). The University of Waterloo processes information-including personal information recorded about an identifiable individual-for the purposes of operating the programs and business functions of the university. This collection, use, disclosure, retention, and destruction of information is done in compliance with (1) applicable Ontario and Canadian federal privacy legislation (Freedom of Information and Protection of Privacy Act, Personal Health Information Protection Act, Personal Information Protection and Electronic Documents Act), as well as in accordance with (2) University of Waterloo policy and guidelines regarding privacy (Policy 46, Notice of Collection, website privacy statement). Learn more about University of Waterloo Information and Privacy.

Questions about the collection, use, and disclosure of information associated with the Terms of Use Agreement between the University of Waterloo Food Services and the mobile user downloading the Hangry app should be directed to UW Food Services (519-888-4567, ext.35270, [foodservices@uwaterloo.ca](mailto:foodservices@uwaterloo.ca), Office Assistant). Questions about the collection, use, and disclosure of personal information by the university, should be directed to the Privacy Officer at [fippa@uwaterloo.ca](mailto:fippa@uwaterloo.ca).