



SOFTWARE LICENSE AND SERVICES AGREEMENT

This Exclusive Licensing Agreement (the "License Agreement") is made effective as of the ____ day of _____, by and between **Kimberg, L.L.C.** (hereinafter referred to as "LetsGet"), a Missouri Limited Liability Company with its principal place of business in **St. Louis, Missouri**, and _____ (hereinafter referred to as "Licensee"), a _____ with its headquarters located at _____.

WHEREAS LetsGet owns exclusive, proprietary rights to software including, but not limited to object code, source code, and related documentation (hereinafter referred to as "Software") for a web-based program that allows customers of various restaurants to place on-line orders for food;

WHEREAS, Licensee is a restaurant that is desirous of using the Software on its website (hereinafter referred to as "Website") and through the LetsGet website so that customers may place orders for food on-line;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, including the mutual promises and agreements set forth herein, the parties hereto covenant and agree as follows:

1. Grant of License. Subject to the terms and conditions of this License Agreement, LetsGet hereby grants Licensee a limited, non-exclusive license to use the Software on its website and through LetsGet.
2. Sponsorship of LetsGet. Licensee shall include on their cash registers or a place similarly visible to its customers a sticker or other promotional display provided by LetsGet and consents to include the phrase "Powered by LetsGet" and the LetsGet logo at the bottom of Licensee's online menus on Licensee's Website.
3. Term of License and Termination. This License Agreement is effective _____ months from the date the agreement is signed (hereinafter referred to as "Initial Term") or until otherwise terminated as set forth herein. This License Agreement shall terminate sixty (60) days after notice by LetsGet or Licensee to the other that such party has failed to comply with any of the terms hereof and such failure is not cured within said sixty (60) days. After the Initial Term, Licensee may cancel the Agreement at any time for any reason or no reason with advance notice of **thirty (30) days** in writing to LetsGet.
4. Support. LetsGet will complete initial menu setup with Licensee for no extra charge regarding Licensee's menu as displayed on the website, menu setup, Software-Website integration, and Licensee menu acceptance. Licensee shall at all times be solely responsible for accounting, management and operation of its Website during the term of this License Agreement.
 - a. Call Center / Help Desk Support. Licensee shall be entitled to 20 minutes (hereinafter referred to as Included Minutes) of call center support per location per month. The call center will provide services including, but not limited to password resets, order resends, tracking for defect reporting or submission and tracking of enhancement requests. Additional minutes beyond the included minutes will be charged to Licensee at a rate of **\$ 1.00 per minute.**
 - b. Additional Services. Licensee may request additional support services from LetsGet at additional cost to Licensee. These additional services include: training classes, implementation and rollout support, configurations and customizations of the LetsGet product, and customizations to Licensee's menus after the initial menu acceptance. The nature and cost of these additional services will be addressed in a separate writing, and will be charged on a time and material basis at a price which is not to exceed **\$ 100.00 per hour.**
5. License Restrictions. Licensee acknowledges LetsGet's sole ownership of the Software and agrees that it shall only utilize the Software in accordance with this License Agreement and shall not in any way attempt to duplicate, market, sell or provide the Software to a third party in any form under any circumstances.
6. License Fees. Licensee agrees to pay LetsGet a fee \$ _____ per transaction and \$ _____ per location per month for all of Licensee's locations at which consumers can use the Software to place on-line orders. Licensee shall be responsible for paying all transaction fees, including any credit card, and/or telephone call fees related to receipt and transfer of orders from LetsGet to Licensee under this Agreement.



7. Web Site Fees. If Licensee wishes to integrate online ordering into Licensee's current website, Licensee agrees to pay LetsGet a fee of \$ _____. In said circumstance, Licensee agrees to secure cooperation from the Licensee's current web hosting provider (hereinafter referred to as "Web Administrator") for said integration, as well as paying any fees charged by the Web Administrator for said cooperation. Alternatively, LetsGet can create a website for Licensee. If so requested, Licensee shall pay LetsGet a website creation fee in two installments: \$ _____ upon signing this Agreement, and \$ _____ upon Licensee approval and activation of said website.
8. Menu Setup Fees. Licensee shall pay LetsGet a menu setup fee in two installments: \$ _____ upon signing this Agreement, and \$ _____ upon Licensee approval and activation of said menus. ***** LICENSEE UNDERSTANDS THAT THE SITE WILL BE CONSIDERED APPROVED AND ACTIVATED NO LATER THAN 2 WEEKS AFTER THE FIRST DRAFT OF WEBSITE AND ONLINE ORDERING HAS BEEN PROVIDED TO LICENSEE, AT WHICH POINT THE REMAINING MENU SETUP FEE WILL BE DUE, AND THE LICENSE FEE PAYMENTS DESCRIBED IN SECTION 6 WILL START. *****
9. Order Transmission. All orders will be transferred to the Licensee's restaurant through Aldelo POS integration. Licensee understands that Internet access will be needed on the Aldelo server, and that Licensee will need to provide remote access into the Aldelo server to LetsGet.
10. Payment Terms. Upon activation of menus as described in Section 8, Licensee shall pay LetsGet **monthly in advance** as determined by the pricing described in Section 6 (the number of Licensee's locations at which consumers will be able to place on-line orders through the Software and the term of the license). This Agreement will automatically renew for additional months after the Initial Term is completed. All payments from Licensee to LetsGet will be made via an "ACH Transaction." **ACH Transaction** means an electronic funds transfer ("EFT") transaction submitted in accordance with the rules and procedures of the Automated Clearing House Association and U.S. Federal Reserve Bank. ***** LICENSEE WILL PROVIDE A VOIDED BANK CHECK FOR THE BANK ACCOUNT FROM WHICH THE PAYMENTS WILL BE TAKEN VIA ACH ***.**
11. Website Transactions and Transaction Fees. LetsGet can accept payment by credit card on the website for orders placed online by Licensee's customers. Licensee will have two option for how the online proceeds can be transferred to Licensee (circle one):
 - Option 1 – LetsGet will integrate with Aldelo EDC in the restaurant - only available if Licensee utilizes Aldelo EDC.
 - Option 2 - Licensee be responsible for providing a suitable bank account and gateway account such that LetsGet can transfer the website proceeds to Licensee. LetsGet will provide Licensee with a monthly statement by email listing orders for that month. LetsGet will provide Licensee with a separate application for acquiring a suitable bank account from either Optimal Payments Corp or Mercury Payments Corporation. Alternatively, if Licensee prefers an alternative banking arrangement for whatever reason, the alternative bank must be compatible with Cybersource, and Licensee will be required to provide a Cybersource account which is integrated with said bank account.
12. Returns and/or Cancellations. Licensee, and not LetsGet, shall be responsible for any returns or cancellations of Licensee's customer's orders, and shall directly handle the same.
13. **Credit Card Fraud. Licensee, and not LetsGet, shall be responsible for resolving any claims of credit card fraud.**
14. Compliance with Laws. Licensee shall comply with all applicable laws, ordinances and regulations.
15. No Sublicense or Assignment Rights. Licensee may not modify the Software in any way. Licensee acknowledges that it shall have no rights to grant any sub-license to any other party for the use of the Software without prior written approval from LetsGet. Licensee acknowledges that this License Agreement and the license granted hereunder are not assignable or transferable in any manner, except that the license granted hereunder may be assigned to a corporation wholly owned by Licensee.



16. Warranties and Indemnification.

c. Licensee hereby warrants, represents and covenants to LetsGet as follows:

- i. Licensee shall fully cooperate with and follow the instructions of LetsGet in the event that modifications, changes or updates need to be made to the Software. Licensee agrees that its failure to cooperate or follow instructions will excuse any performance obligation of LetsGet.
- ii. Licensee shall indemnify and hold harmless LetsGet from all loss, cost, liability and expense, including attorneys' fees, arising out of any claim or demand in connection with, or arising out of any third parties' use of Licensee's Website or the quality of Licensee's goods and services provided in conjunction therewith. Licensee acknowledges and agrees that LetsGet will not be liable for any damages of any kind including, but not limited to direct, indirect, incidental, punitive, and consequential damages arising from the use or inability of any third party to use the Website, or unauthorized access to or alteration of third party transmissions or data.
- iii. Licensee shall abide by LetsGet's "Terms of Use" and "Privacy Policy" (as found on the website www.letsget.net).
- iv. Licensee shall make all efforts to promote market and otherwise favorably represent the services provided in conjunction with the Software to Licensee's current and potential customers.

d. LetsGet hereby warrants, represents and covenants to Licensee as follows:

- i. Licensee's use of the Software shall not involve any obscene, indecent, pornographic, discriminatory or otherwise offensive or illegal content.
- ii. LetsGet shall indemnify and hold harmless Licensee from all loss, cost, liability and expense, including attorneys' fees, arising out of any claim or demand that the Software infringes any patent, copyright, trade secret, or other proprietary right of any third party.

17. Confidentiality Provision. The parties acknowledge that during the course of this Agreement, each party may reveal trade secrets and other proprietary information to the other party, including but not limited to menu selection marketing, customer contacts, source code and necessary documentation of the Software, business plans, and pricing information (hereinafter referred to as "Trade Secrets"). The parties agree to maintain all Trade Secrets of the other party in confidence, and that all Trade Secrets will remain the property of the party disclosing the same. The parties further agree that breach of this covenant is likely to cause misappropriation of their respective Trade Secrets can cause irreparable harm for which no amount of monetary damages would be sufficient to compensate. Therefore, the parties acknowledge that injunctive relief from a court of competent jurisdiction is appropriate to prevent or cease any such breach.

18. Notices. All notices and other communications hereunder shall be in writing and shall be sufficiently given if delivered in person or sent by facsimile transfer or by certified or registered mail, return receipt requested, as follows:

If to LetsGet:	Kimberg, LLC 1043 Nooning Tree Drive Chesterfield, MO 63017
If to Licensee:	_____

with a copy to:	_____

Either party may change such address upon written notice to the other.

19. Limitation of Liability. In no event shall LetsGet be liable to Licensee for any indirect, special or consequential damages or lost profits arising out of, or related to, this License Agreement or the performance or breach thereof, even if LetsGet has been advised of the possibility thereof.



- 20. Relationship of the Parties. This License Agreement creates strictly a license arrangement, and nothing herein shall be construed as creating a partnership, joint venture, or other business group or concerted action.
- 21. Construction. This License Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, and assigns. Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. This License Agreement shall be construed without regard to any presumption or other rule requiring construction against the party who drafted it.
- 22. Governing Law. This License Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.
- 23. Severability. It is understood and agreed by the parties that if any part term, or provision of this License Agreement is held by the courts to be illegal, invalid, or in conflict with any laws, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term or provision held to be invalid.
- 24. Corporate Authority. The parties hereto warrant and represent to the other that they have the authority to enter into this License Agreement and are further authorized to undertake all actions which may be required by the terms and conditions of this License Agreement.
- 25. Captions and Headings. The captions and headings in this License Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this License Agreement.
- 26. Further Assurances. Each of the parties hereto shall fully cooperate with the other and with the respective counsel and accountants in connection with any steps required to be taken as part of the obligations under this License Agreement.
- 27. Entire Agreement. This License Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof, and supersedes any and all prior agreements between the parties, whether oral or written. This License Agreement may not be altered, amended or modified except by written agreement signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this License Agreement as of the day and year first written above.

KIMBERG, LLC

By: _____
 Print Name: Jordan Kimberg
 Title: President

 By: _____
 Print Name:
 Title: