



# GENERAL TERMS AND CONDITIONS DIGITAL SOLUTIONS

These Conditions apply to all Agreements, Clients, Authorized Users and persons that use or want to use or gain access to the Platform.

By using the Platform and/or by concluding an Agreement, the Authorized User agrees to these Conditions (on behalf of Licensee). If an Authorized User accepts these Conditions on behalf of a Licensee, the Authorized User represents and warrants that it has full authority to bind Licensee to these Conditions. If the person accepting these Conditions does not have such authority, or does not agree with these Conditions, such person must not accept these Conditions and may not use the Platform. The Authorized User and/or person who breaches the provisions of these Conditions indemnifies FSSC and holds FSSC harmless for all costs and damages that FSSC might suffer as a result of such breach.

## 1. DEFINITIONS

“Agreement” means the FSSC Platform License Agreement between FSSC and Licensee.

“Authorized User” means all natural persons that are entitled to represent a Licensee for the use of the Platform and/or to conclude an Agreement.

“Certification Body” means the company or legal entity that has certified a Certified Organization based on a license from FSSC and which has made the Content available to the Platform.

“Certified Organization” means the company or legal entity that has been certified by a certification body.

“Clients” means joint reference to Licensees and Authorized Users.

“Conditions” means these General terms and Conditions Digital Solutions.

“Content” means FSSC Public Information and FSSC Non-Public Information.

“FSSC” means the private company with limited liability FSSC Scheme Services B.V. with its place of business in (5223 DR) 's-Hertogenbosch at the Leonardo da Vinci plein 60, registered at the trade register of the Dutch chamber of Commerce with number 86845640.

“FSSC Non-Public Information” means the audit reports and other relevant information that the Certification Body has made available to FSSC in relation to the certification of a Certified Organization and which can be accessed by and disclosed by a Certified Organization to a Partner via the Platform depending on the (type of) Subscription.

“FSSC Public Information” means all general information regarding Certified Organizations that is made publicly available on the Platform by FSSC. Partners who have a required Subscription can obtain updated FSSC Public Information automatically.

“Licensee” means the company or legal entity (Certified Organization and/or Partner) that enters into an Agreement with FSSC for the use of the Platform.

“Non-FSSC Application” means any third-party software application that is used by

Licensee to obtain access to the Platform.

“Partner” means all retailer, food service and industry partners that require access to FSSC Public Information and/or FSSC Non-Public Information.

“Services” means making the Platform available to Clients.

“Subscription” means the different service subscriptions offered by FSSC from time to time in relation to the Platform.

All words and expressions defined or used in these Conditions in the singular shall, where the context permits or requires, also refer to the plural and vice versa.

## 2. FSSC RESPONSIBILITIES

- 2.1 **Provision of Services.** FSSC will (a) make the Platform and Content available to Licensee pursuant to the Agreement and these Conditions. FSSC may at its sole discretion, amend functionalities of the Platform without being obliged to compensate Licensee for this in so far as the main functions of the Platform are still in place and in line with the Subscription. FSSC warrants to Licensee that FSSC holds all permits, licenses, approvals and so on required for FSSC to sustain operation and maintenance of the Platform.
- 2.2 FSSC will use commercially reasonable efforts to make the Platform available twenty-four (24) hours a day, seven (7) days a week, except for: (i) planned downtime (of which FSSC shall give advance electronic notice when possible), and (ii) any unavailability caused by circumstances beyond FSSC’s reasonable control, including but not limited to, act of government, flood, fire, earthquake or other natural phenomena, civil unrest, act of terror, strike or other labor problems (other than one involving FSSC employees), internet service provider or electrical failure or delay and all circumstances that are beyond control of FSSC.
- 2.3 **Protection of Content.** FSSC will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of all Content as well as all information regarding Clients that is made available on the Platform. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Content. FSSC will take all reasonable security measures to protect the Platform in accordance with the security statement that is made available on the FSSC website (<https://www.fssc.com/security-statement/>) from time to time.
- 2.4 **FSSC personnel.** FSSC will be responsible for the performance of persons who work for or on behalf of FSSC and their compliance with FSSC’s obligations under the Agreement and these Conditions, except as otherwise specified in these Conditions.
- 2.5 FSSC reserves the right to amend and upgrade the Platform in the context of

maintenance. FSSC may, at its discretion, interrupt access to the Platform for maintenance or upgrades, without being liable for any costs and damages on behalf of Licensee. FSSC will use commercially reasonable efforts to inform Licensee and/or Authorized Users of any interruption which is predicted.

### 3. USE OF SERVICES AND CONTENT

- 3.1 **FSSC Non-Public Information.** Licensees can only obtain access to FSSC Non-Public Information if they have the necessary Subscription and after a Certified Organization has granted permission to a Licensee for such access. Certified Organizations are solely and fully responsible for the grant of permission to Licensees. FSSC does not warrant that a Licensee will gain access to FSSC Non-Public Information as such decisions are made by the Certified Organizations only. Certified Organizations are obliged to verify that all information about Licensee that an FSSC Non-Public Information will be disclosed to is correct prior to providing access to the FSSC Non-Public Information. Certified Organizations may decide to withdraw access to FSSC Non-Public Information at any point in time. Certification Bodies and Certified Organizations are responsible for the contents and accuracy of the FSSC Non-Public Information. FSSC plays no role in respect to the content and use of FSSC Non-Public Information. FSSC's sole responsibility in respect of the Agreement and Services is to make the Platform available to Clients. Clients indemnify and hold FSSC harmless for all valid claims, costs and damages in respect of improper access and use of FSSC Non-Public Information.
- 3.2 **Subscriptions.** Unless otherwise provided in the applicable Agreement, Services and access to the Platform are Subscriptions for the term stated in the Agreement or in the Subscription information. Licensee agrees that Subscriptions are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by FSSC regarding future functionality or features.
- 3.3 **Usage limits.** Services may be subject to usage limits. If Licensee exceeds a reasonable usage limit, FSSC may work with Licensee to seek to reduce Licensee's usage so that it conforms to that limit. If, notwithstanding FSSC's efforts, Licensee is unable or unwilling to abide by a usage limit, Licensee may be charged by FSSC for excess usage.
- 3.4 **Responsibilities regarding Authorized Users.** Licensees are responsible for Authorized Users' compliance with the Agreement and these Conditions when Authorized Users conclude Agreements and/or use of the Platform. Licensees are obliged to prevent unauthorized access to or use of the Platform and Content and notify FSSC promptly of any such unauthorized access or use. Any use of the Platform in breach of the foregoing by Authorized Users that in FSSC's opinion threatens or might threaten the security, integrity or availability

of the Services, may result in FSSC's immediate suspension of the Services for the Client at hand, however, FSSC will use commercially reasonable efforts under the circumstances to provide such Client with notice and an opportunity to remedy such violation or threat prior to any such suspension.

- 3.5 **Usage Restrictions.** Clients will not make any access to the Platform available to anyone other than Authorized Users within their organization. It is prohibited to sell, resell, license, sublicense, distribute, make available, rent or lease rights regarding the Platform and/or Content and/or to use the Platform to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, to interfere with or disrupt the integrity or performance of the Platform and/or Content, to attempt to gain unauthorized access to the Platform and/or Content or its related systems or networks, to permit direct or indirect access to or use of the Platform and/or Content in a way that circumvents any restriction or obligation of the Agreement and/or these Conditions, to modify, copy, or create derivative works based on the Platform or any part, feature, function or user interface thereof, to copy Content without permission of FSSC, to frame or mirror any part of the Platform and/or Content, to disassemble, reverse engineer, or decompile a the Platform and/or Content, in so far as this might be restricted by law, to build a competitive Platform, or service using similar ideas, features, functions or graphics of the Platform and to make the Content available to third-party (AI) tools, websites and platforms such as ChatGPT.

## 4. NON-FSSC PRODUCTS AND SERVICES

- 4.1 **Non-FSSC Products and services.** FSSC or third parties may make available third-party products or services, including, for example, Non-FSSC Applications and implementation and other consulting services. Any acquisition by Licensee of such products or services, and any exchange of data between Licensee and any third-party provider, product or service is solely between Licensee and the applicable third party. FSSC does not warrant the correct functioning of Non-FSSC Applications or third-party products or services, whether or not they are designated by FSSC as "certified" or otherwise. FSSC is not responsible for any disclosure, modification, or deletion of Content resulting from access by such Non-FSSC Application or its provider.
- 4.2 **Integration with Non-FSSC Applications.** The Services may contain features designed to interoperate with Non-FSSC Applications. FSSC cannot guarantee the continued availability of such features and may cease providing them without entitling Licensee to any refund, credit, or other compensation if for example and without limitation, the provider of a Non-FSSC Application ceases to make the Non-FSSC Application available for interoperation with the corresponding Service features in a manner acceptable to FSSC.

## 5. FEES AND PAYMENT

- 5.1 **Fees.** Licensee will pay all fees specified in the Agreement or as specified by FSSC from time to time for example via e-mail, the Platform or on the website of FSSC. All fees are based on the agreed upon Subscription and not actual usage (with the restriction of the usage limits set out in article 3.3). All fees are non- cancelable and non-refundable.
- 5.2 **Invoicing and payment.** Licensee will provide FSSC with valid and updated credit card information or with a valid purchase order or alternative document reasonably acceptable to FSSC. If Licensee provides credit card information to FSSC, Licensee authorizes FSSC to charge such credit card for all Services for the initial Subscription term and any renewal Subscription term(s) as set forth in the Agreement or Subscription information. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Agreement or Subscription information. If the Agreement or Subscription information specifies that payment will be by a method other than a credit card, FSSC will invoice Licensee in advance and otherwise in accordance with the relevant Agreement or Subscription information. Unless otherwise stated in the Agreement or Subscription information, invoiced fees are due thirty (30) days from the invoice date. Licensee is responsible for providing complete and accurate billing and contact information to FSSC and notifying FSSC of any changes to such information.
- 5.3 **Overdue charges and suspension.** If any invoiced amount is not received by FSSC by the due date, then without limiting FSSC's rights or remedies, those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is higher. Licensee is also due all legal and court costs of FSSC that FSSC has to make to collect any outstanding amounts. FSSC is furthermore entitled at all times, irrespective of any payment arrangements made previously, to demand full or partial payment or substitute security at a time and in a manner of FSSC's discretion, as well as to suspend all its obligations under the Agreement until it has received payment or substitute security, without owing the Licensee any compensation in this regard.
- 5.4 **Taxes.** FSSC's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively "Taxes"). Licensee is responsible for paying all Taxes associated with its purchases hereunder. If FSSC has the legal obligation to pay or collect Taxes for which Licensee is responsible under this section, FSSC will invoice Licensee and Licensee will pay that amount unless Licensee provides FSSC with a valid tax exemption certificate authorized by the appropriate taxing authority. For the sake of clarity, FSSC is solely responsible



for taxes assessable against it based on its income, property and employees.

- 5.5 **Amount of Users.** At the request of FSSC within the timeframe specified by FSSC, Licensee is obliged to provide an auditor's report with information about the actual use of the Platform. If FSSC has reason to believe that the actual amount of Authorized Users is higher than the agreed upon amount of Authorized Users, the Parties will negotiate in good faith to resolve any disputes.

## 6. PROPRIETARY RIGHTS AND LICENSES

- 6.1 **Reservation of rights.** Subject to the limited rights expressly granted hereunder, FSSC its licensors (if any) and Content providers reserve all of their right, title and interest in and to the Services and Content, including all of their related intellectual property rights. No rights are granted to Licensee hereunder other than as expressly set forth herein.
- 6.2 **Access to and use of Content.** Licensee has the right to access and use applicable Content subject to the terms of the Agreement and these Conditions.

## 7. CONFIDENTIALITY

- 7.1 **Definition of Confidential Information.** "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes FSSC Non-Public Information and all information that FSSC, Licensee, the Certifying Body and the Certified Organization disclose to each other in so far as this information is not intended to be disclosed to other parties that the party that the information was disclosed to. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party. For the avoidance of doubt, the non-disclosure obligations set forth in this "Confidentiality" section apply to Confidential Information exchanged between the parties in connection with the evaluation of additional FSSC services.
- 7.2 **Protection of Confidential Information.** Each party to the Agreement retains all ownership rights in and to its Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the

confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its employees and contractors who need that access for purposes consistent with the Agreement and the Conditions and who have signed confidentiality Agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of the Agreement and the Conditions to any third party other than its legal counsels and accountants provided that a party will remain responsible for such legal counsel's or accountant's compliance with this "Confidentiality" section.

- 7.3 **Compelled disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## 8. DISCLAIMERS

- 8.1 **Disclaimers.** Except as expressly provided herein, FSSC does not make any warranty of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by applicable law.

## 9. INDEMNIFICATION

- 9.1 **Indemnification by clients.** Clients will each indemnify FSSC against any claim, demand, suit, or proceeding made or brought against FSSC by a third party arising from the use of the platform and/or content in an unlawful manner or in violation of the Agreement and these Conditions.



## 10. LIMITATION OF LIABILITY

- 10.1 **Limitation of liability.** In no event shall the aggregate liability of the parties arising out of or related to the Agreement, these Conditions and the Services exceed the total amount paid by Licensee for the Services in the twelve months preceding the first incident out of which the liability arose.
- 10.2 **Exclusion of consequential damages.** The parties will only be liable for direct damages. In no event will the parties have any liability arising out of or related to the Agreement, these Conditions and the Services for indirect damages, such as but not limited to, loss of profits, loss of revenues, loss of goodwill, loss due to business interruption and/or indirect, special, incidental, consequential, cover, or punitive damages.
- 10.3 The foregoing limitations will apply whether an action is in contract or tort and regardless of the legal basis of liability. However, nothing shall exclude or limit the liability of the parties for death or personal injury resulting from gross negligence or fraud.
- 10.4 The limitation of liability does not apply to Clause 9.1

## 11. TERM AND TERMINATION

- 11.1 **Term of Agreement.** The Agreement commences on the date as described in the Agreement.
- 11.2 **Term of subscriptions.** The term of each Subscription shall be as specified in the applicable Agreement or Subscription information on the FSSC website and/or platform. Except as otherwise specified in the Agreement, Subscriptions will automatically renew for additional periods equal to the expiring Subscription term, unless either party gives the other written notice (e-mail acceptable) before the end of the relevant subscription term taking into account a notice period of one (1) month. Except as expressly provided otherwise in the Agreement, renewal of promotional or one-time priced Subscriptions will be at FSSC's applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which Subscription volume or subscription length for any Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per-unit pricing.
- 11.3 **Surviving provisions.** The provisions of these Conditions which by nature are meant to remain in force after termination of the Agreement, shall remain in force between FSSC and Licensee. This includes but is not limited to the following sections in these Conditions: "fees and payment," "proprietary rights and licenses," "confidentiality," "disclaimers," "indemnification," "limitation of liability," "term and termination" and "general provisions".

## 12. GENERAL PROVISIONS

- 12.1 **Anti-corruption.** Each party to the Agreement will act in conformity with the FSSC code of ethics (which is made available on the FSSC website [www.fssc.com](http://www.fssc.com) from time to time). Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party

- in connection with the Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.
- 12.2 **Clientship of the parties.** The parties to the Agreement are independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.
- 12.3 **Third-Party beneficiaries.** There are no third-party beneficiaries under the Agreement.
- 12.4 **Waiver.** No failure or delay by either party to the Agreement in exercising any right under the Agreement and the Conditions will constitute a waiver of that right.
- 12.5 **Severability.** If any provision of the Agreement and/or these Conditions and/or the Subscription is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of the document at hand will remain in effect.
- 12.6 **Assignment.** Licensee is not entitled to transfer any right or obligation resulting from the Agreement and the Conditions to any third party, without the written approval of FSSC. FSSC is entitled to impose conditions to that approval. A limitation of the transferability of rights of claim has effect both under the law of obligations and under property law as described in Section 3:83, subsection 2 of the Dutch Civil Code. Licensee hereby irrevocably grants FSSC the right to transfer any this Agreement or one or more of its rights and/or obligations under this Agreement to any third party if FSSC deems such reasonably necessary.
- 12.7 **Governing law and venue.** The Agreement and the Conditions shall be exclusively governed by, and construed in all respects in accordance with the laws of the Netherlands. Any claims, controversies, or disputes arising out of or in connection with the Agreement and Conditions and which cannot be settled amicably between the parties shall be subject to the exclusive jurisdiction of the competent court of the court of Oost-Brabant , 's Hertogenbosch location, in the Netherlands.
- 12.8 **Manner of giving notice.** Except as otherwise specified in the Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery or (b) the business day after mailing, except for notices of termination or an indemnifiable claim ("Legal Notices") which shall clearly be identifiable as Legal Notices which are effective on the day of sending by e-mail. Billing-related notices to the Licensee will be addressed to the relevant billing contact designated by the Licensee. All other notices to the Licensee will be addressed to the relevant Services system administrator designated by the Licensee.