

White Label Terms and Conditions

This White Label Terms and Conditions (the “**WL-TC**”) together with the Main Services Agreement (“**MSA**”) govern branding of the Cloud Service with Supplier’s name and logo (the “**WL-App**”), licensing of the WL-App to Supplier’s Customers and the operation and maintenance of the WL-App.

The WL-TC constitutes a Service Specific Term and is incorporated into the Agreement entered into by and between Choco and Supplier by reference. Capitalized terms not otherwise defined herein shall have the respective meanings assigned to them elsewhere in the Agreement. In the event of any inconsistency or conflict between the WL-TC and the MSA, WL-TC shall prevail.

1. License Grant. Choco hereby grants to Supplier a limited, revocable, non-exclusive, non-transferable license to use the WL-App, and grants Supplier the right to sublicense the WL-App to Supplier’s Customers during the term of the Agreement to access and use it solely for placing orders from Supplier and for communication with Supplier, subject to the Choco’s End-User Terms (as defined below) and the terms agreed herein. The WL-App may not be used on behalf of or for the benefit of a third party other than Supplier.

2. Branding. The WL-App will be branded with the Supplier’s name and logo. It will include an acknowledgement as “Powered by Choco”. Supplier is solely responsible for securing its own copyrights, trademarks and all other intellectual property rights for use of Supplier’s name and logo in the WL-App.

3. Hosting and support. The WL-App will be operated, hosted and maintained by Choco and any customer support to Supplier’s Customers will be provided by Choco in accordance with Choco’s standard support policies.

4. App submission. Where required by the respective mobile application store, the WL-App will be submitted to the mobile application store by Choco under Supplier’s development account. Supplier will be responsible for maintaining its developer accounts in good standing and will provide administrator access to Choco for publishing and maintenance of the WL-App. Choco shall be responsible for submitting the WL-App to be listed on the respective App Store(s).

5. Marketing. Supplier may market and promote the WL-App on any form of media, but shall not claim any ownership of the WL-App.

6. Exclusivity. During the term of the Agreement, Supplier will not use, publish or make available any other SaaS, mobile application, website or any other software programs that enable only ordering from Supplier.

7. Use by Customers. Supplier’s Customers shall not further sublicense nor distribute the WL-App, and use of the WL-App by the Customers shall be subject to Choco’s “[Terms of Service](#)” or any other end user terms as determined by Choco (“**Choco End-User Terms**”). The WL-App will be provided to Supplier’s Customers and such individual end users who are personnel of the Customers, on a strictly “as is” basis, and for free (i.e. Supplier cannot charge its Customers for the WL-App licensed hereunder). Supplier will remain responsible and liable towards Choco for all of its Customers and their end users’ (whether authorized or not) use of the WL-App in accordance with Choco End-User Terms and for their acts and omissions. Supplier shall notify its Customers that Choco shall be entitled to enforce its Choco End-User Terms against Supplier’s Customers and that it reserves the right to suspend Suppliers’ Customers access to the WL-App in the event of any violation of Choco End-User Terms.

8. Functionality of WL-App. WL-App will enable Supplier’s Customers to communicate with the Supplier and place orders to Supplier. Choco may make additional functionalities available in the WL-App at its own discretion, but it makes no commitment or gives no guarantee to do so. Supplier acknowledges and accepts that not all of the functionalities available in the Cloud Service will be available in the WL-App and that Choco is under no obligation to make any additional functionalities available other than the ones indicated in the first sentence of this section.

9. Fees. The Fees for making the WL-App available will be agreed in the Order Form signed between the Parties. Unless specifically agreed otherwise, the same Fees that apply to the Cloud Service will apply for the WL-App as well.

10. Use by Supplier. The terms of the MSA will continue to govern the use of the WL-App by Supplier and its Authorized Users.

11. Limitation of liability. Choco's warranties regarding use of the WL-App by Supplier's Customers and its sole liability arising out of use of the WL-App by Supplier's Customers are limited to those set out in the Choco End-User Terms. Specifically, Supplier understands that the WL-App is provided to Supplier's Customers on an "as is" and "as available" basis without any warranties of any kind, whether express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, or non-infringement. Supplier shall be solely liable towards its Customers for any amounts and claims beyond what is undertaken in Choco End-User Terms.

12. Intellectual property. Supplier acknowledges and agrees that Choco and/or its licensors own or otherwise have all the necessary intellectual property rights in the WL-App and all derivative works thereto. Supplier does not have any rights in or to the WL-App, except for the limited express rights granted in this WL-TC.

13. Indemnification by Supplier. Supplier will indemnify, hold harmless, and defend Choco, its licensors, service providers, and their respective affiliates, directors, officers, agents, and employees, from and against any third party claim, suit, or proceeding arising out of or related to (i) any claims related to any infringement or violation of a copyright, trademark, trade secret, or confidentiality obligation by any Supplier branding and any other materials provided or published by Supplier on the WL-App, (ii) claims by Supplier's Authorized Users or Customers, including claims related to unauthorized disclosure of personally identifiable or other private information, (iii) Supplier's or its Customers' and their users negligent acts or omissions in the operation of the WL-App, and their material breach of Supplier's obligations, representations, warranties or covenants contained herein.

14. Miscellaneous. Unless specifically set forth in this WL-TC, all references to the Cloud Service in the Agreement shall include the WL-App as well.