

SOFTWARE AS A SERVICE SUBSCRIPTION AGREEMENT

This Software as a Service Subscription Agreement ("**SaaS Subscription Agreement**") is entered into by and between **CloseOut FSM d.o.o.**, RN: 21931845, ("**CO FSM**") and the Client set forth in the Proposal ("**the Client**", "**you**"), and it covers Client's SaaS Subscription. CO FSM and Client may be referred to collectively as the Parties or individually as a Party.

By accessing or otherwise using the CloseOut Platform, or any part thereof, the Client expressly agrees to be legally bound by the terms and conditions of the SaaS Subscription Agreement and Data Processing Agreement, which together with Proposal form entire Agreement.

All definitions given in the Agreement shall have the same meaning.

1. Definitions:

"Access Credentials" means the usernames, passwords, and other credentials enabling access to the CloseOut Platform;

"Agreement" means this SaaS Subscription Agreement, Data Processing Agreement and any accompanying Proposal.

"Anti-Corruption Laws" means all anti-bribery and anti-corruption laws and regulations binding on a Party's business in connection with the performance of its obligations or exercise of its rights under this SaaS Subscription Agreement;

"Authorized Third Parties" means officers, employees, agents, subcontractors and clients of the Client, and any other person permitted by the Client to access and use the SaaS Subscription;

"Brand Elements" means any and all trademarks, service marks, names, logos, marketing collateral, or similar materials provided or approved by CO FSM under this SaaS Subscription Agreement or Distributor/Reseller on behalf of CO FSM;

"Client Data" means all information, data, and materials that the Client or Authorized Third Parties create and store on the CloseOut Platform or data generated at the request of the Client.

"Confidential information" means non-public proprietary information of the disclosing party ("Discloser") obtained by the receiving party ("Recipient") in connection with the Agreement, which is (a) conspicuously marked as confidential or, if verbally disclosed, is summarized in writing to the Recipient and marked as confidential; or (b) is information which by its nature should reasonably be considered confidential whether disclosed in writing or verbally.

"Client" means entity who has been granted a SaaS Subscription to access and use the CloseOut Platform for internal business purposes only, without further distribution or resale;

"CloseOut Platform" means software-as-a-service (SaaS) platform developed and operated by CO FSM and hosted on Amazon Web Services (AWS) cloud infrastructure, that includes all features and functionalities made available to the Clients;

“Distributor/Reseller” means partner authorized by CO FSM to provide the Clients SaaS Subscription.

“Day(s)” means calendar day(s).

“Force Majeure” means an event beyond the affected party’s reasonable control, including (without limitation) accidents, severe weather events, actions of any government agency, epidemic, pandemic, acts of terrorism, or the stability or availability of the Internet or a portion thereof.

“User Account” means an officially created account that enables access to the CloseOut Platform under a SaaS Subscription via the internet by using a Supported Web Browser or Mobile app. Each User Account may be used by one individual only and may not be shared.

“Mobile App” means the mobile application known as “CloseOut” that is made available by CO FSM through the Google Play Store and the Apple App Store;

“Proposal” means an order for the provision of the SaaS Subscription, that sets forth the minimum number of User Accounts, applicable fees payable for SaaS Subscription, terms of payment and Term. The Proposal shall also encompass any other legal document signed between the Client and the Distributor/Reseller, provided that the SaaS Subscription is facilitated through the Distributor/Reseller;

“SaaS Subscription” means the right that allows a Client to access and use the CloseOut Platform via User Accounts;

“Support Services” means support in relation to the use of, and the identification and resolution of errors in the CloseOut Platform, which shall include the provision of training/onboarding services.

“Supported Web Browser” means the latest version of Google Chrome, supported by CO FSM.

“Term” means the duration of the Agreement;

2. SaaS Subscription

SaaS Subscription and right to use. CO FSM grants the Client a non-exclusive, non-transferable, and temporary a) subscription to use the CloseOut Platform b) right to use the CloseOut Platform, for its internal business use during the Term and as set out in the SaaS Subscription Agreement.

Use by Third Parties. The Client may permit Authorized Third Parties to use the CloseOut Platform provided that the Client is responsible for a) ensuring that such third parties comply with this SaaS Subscription Agreement and b) any breach of the SaaS Subscription Agreement by such third parties.

SaaS Subscription Generally. The Client will not transfer, sell, resell, reframe, distribute, rent, or lease the SaaS Subscription, or otherwise commercialize the SaaS Subscription. The Client must

not use the SaaS Subscription in any way that causes or may cause damage or impairment of the availability or accessibility of the CloseOut Platform.

The Client must not use the CloseOut Platform:

- in any way that is unlawful, illegal, fraudulent, or harmful; or
- in connection with any unlawful, illegal, fraudulent, or harmful purpose or activity

For the avoidance of doubt, the Client has no right to access the software code, either during or after the Term.

The SaaS Subscription may only be used through a Supported Web Browser or the Mobile App. The SaaS Subscription may only be used by the Authorized Third Parties.

SaaS Subscription restriction. The SaaS Subscription granted by CO FSM to the Client under this clause is subject to the following limitations. The Client must not: a) transfer its right to access and use the CloseOut Platform; b) permit any unauthorized person or application to access or use the CloseOut Platform; c) republish or redistribute any content or material from the CloseOut Platform; d) make any alteration to the CloseOut Platform, except as permitted by the CO FSM; e) conduct or request that any other person conduct any load testing or penetration testing on the CloseOut Platform without the prior written consent of CO FSM; f) use the CloseOut Platform to develop a similar or competing product or service; g) reverse engineer, decompile, disassemble, modify, or seek to access the source code.

3. Confidential information and use of Client's data

Confidentiality. The Recipient will hold in confidence and use no less than reasonable care to avoid disclosure of any Confidential Information to any third party, except for its employees, affiliates, and contractors who have a need to know ("**Permitted Recipients**"). Recipient: (a) must ensure that its Permitted Recipients are subject to written confidentiality obligations no less restrictive than the Recipient's obligations under this SaaS Subscription Agreement, and (b) is liable for any breach of this section by its Permitted Recipients. Such nondisclosure obligations will not apply to information that: (i) is known by Recipient without confidentiality obligations; (ii) is or has become public knowledge through no fault of Recipient; or (iii) is independently developed by Recipient. The Recipient may disclose Discloser's Confidential Information if required under regulation, law or court order provided that the Recipient provides prior notice to Discloser (to the extent legally permissible) and reasonably cooperates, at Discloser's expense, regarding protective actions pursued by Discloser. Upon the reasonable request of the Discloser, the Recipient will either return, delete, or destroy all Confidential Information of the Discloser and certify the same.

Usage of Client's data. The Client is responsible for Client Data. CO FSM does not endorse and has no control over what Authorized Third Parties submit through the CloseOut Platform. The Client shall retain all rights to the Client Data. The Client grants CO FSM the right to use, modify, replicate, and transfer the Client Data only as reasonably required to provide the SaaS Subscription. The Client warrants to CO FSM that the Client Data when used by CO FSM in accordance with this SaaS Subscription Agreement will not infringe the intellectual property rights or other legal rights of any person, and will not breach the provisions of any law, statute, or regulation in any jurisdiction and under any applicable law. To the extent the Client's use of the SaaS Subscription requires it, the Client is responsible for providing notice to and obtaining consent from individuals regarding the collection, processing, transfer, and storage of their data through the Client's use of CloseOut Platform.

Safety and protection of Client's data. The CloseOut Platform has a clearly defined system for Client authentication and authorization. When a User Account is created, only the hash password value is recorded in the database. Passwords are saved in the encrypted format without the possibility of deciphering by any other Authorized Third Parties on the system. Client's Data and documentation are only accessible through the CloseOut Platform, by authenticated and authorized Authorized Third Parties. All communication between Authorized Third Parties and the CloseOut Platform is encrypted with 256-bit encryption and is executed by TLS 1.2 protocol. All Client Data uploaded by Authorized Third Parties to the CloseOut Platform (photos, videos, documents, checklists), are hosted on Amazon Simple Storage Service (AWS S3) which ensures by design data integrity, data availability, and security. For all data generated by the system itself, a daily backup is created (copies are created), and backup copies are kept on servers for 7 (seven) Days. Data generated by the system can be restored from backup copies stored on the AWS cloud. Also, the system permanently keeps the history of changes and logs for tracking key Authorized Third Parties' activities.

All Client Data is stored in a secure physical site on servers in AWS data centers, located in Europe or USA depending on what Client chooses. Safety and security measures for AWS servers are described in detail in the document that is accessible through the following link: <https://aws.amazon.com/compliance/>. Detailed technical and organizational measures regarding safety and protection of Client's Data are given in Data Processing Agreement.

4. Ownership

Ownership by CO FSM. CO FSM retains ownership of all intellectual property rights to the CloseOut Platform and underlying technology, the software, and associated documentation ("the Materials"). This ownership extends to all copies and portions of the Materials, and all improvements, enhancements, modifications, and derivative works. The Client may use the Materials solely as part of the SaaS Subscription provided by CO FSM and for the Client's internal

business operations subject to the terms of this SaaS Subscription Agreement. The Client's right to use the Materials is limited to those rights expressly granted by this SaaS Subscription Agreement.

This SaaS Subscription Agreement does not include in any way the transfer to the Client of any property or Intellectual rights.

Brand Elements. The Client agrees not to remove or alter any Brand Elements, including without limitation any electronic watermarks or other identifiers that may be incorporated in the CloseOut Platform.

Intellectual Property Claim. CO FSM shall protect the Client from any legal claims alleging that the SaaS Subscription as per SaaS Subscription Agreement violates the Intellectual Property Rights. The foregoing obligations are applicable only if the Client a) promptly notifies CO FSM in writing of the infringement claim; b) allows CO FSM sole control over the defense for the claim and any settlement negotiations; and c) reasonably cooperates in response to CO FSM's request for assistance; d) and makes no admission of liability or fault itself or on behalf of CO FSM.

CO FSM shall not have any liability if the alleged infringement is based on the modification of the CloseOut Platform by anyone other than CO FSM.

The Client is under no obligation to provide any suggestions, enhancements request, or other feedback regarding the SaaS Subscription ("**Feedback**"). If Client chooses to offer Feedback to CO FSM, CO FSM can use that Feedback without any restriction or obligations.

5. Client's obligation

The Client represents and warrants that it has the legal power and authority to enter into and perform its obligations under this SaaS Subscription Agreement, its execution and performance of this SaaS Subscription Agreement will not violate any other agreement to which it is a party, and it will comply with all laws applicable to its business in connection with its performance under this SaaS Subscription Agreement, including import and export compliance laws and regulations and Anti-Corruption Laws, and will not give, offer or promise any item of value to any official, person or entity in violation of Anti-Corruption Laws. The Client agrees that CO FSM may investigate complaints or suspected violations of applicable regulations and/or violation of provisions of this SaaS Subscription Agreement, and if there is a violation, CO FSM may take action to remedy the violation including restricting, suspending, or terminating SaaS Subscription. If CO FSM reasonably believes that such a violation would expose it to civil, regulatory, or criminal liability, CO FSM may take action immediately without prior notice. The Client agrees to indemnify, defend, and hold CO FSM harmless for any claims, liability, damages, and costs (including attorneys' fees) arising from Client or Client Authorized Third Parties' violations of applicable regulations.

Access Credentials. The Client will be provided with the Access Credentials within 5 (five) Days upon service start date as defined in the Proposal. The Client is responsible for their account information, password, or other Access Credentials. The Client agrees to implement and maintain reasonable security measures to protect their Access Credentials and is obliged to notify CO FSM immediately of any known unauthorized use of its account. All registration information the Client provides must be accurate and the Client will keep such information current.

The Client is obliged to pay the agreed fees specified in the Proposal. If Client uses SaaS Subscription directly from CO FSM, fees shall be paid directly to CO FSM. If Client uses SaaS Subscription through the Distributor/Reseller, the Client must pay all applicable fees directly to the Distributor/Reseller and Clients order details shall be specified in the order placed by the Distributor/Reseller with CO FSM on Clients behalf. If not otherwise specified in the Proposal, all fees shall be due and payable within 5 (five) Days as of the date of invoice. In case of non-payment by due date, by the Client directly or through the Distributor/Reseller, CO FSM reserves the right to cancel or suspend the SaaS Subscription.

SaaS Subscription through Distributor/Reseller. If you use the SaaS Subscription through the Distributor/Reseller, you acknowledge that i) this SaaS Subscription Agreement and Data Processing Agreement constitutes the entire agreement between you and CO FSM; (ii) the terms and conditions between you and the Distributor/Reseller are not binding on CO FSM; (iii) Distributor/Reseller is not authorized to alter, amend or modify the terms of SaaS Subscription Agreement.

6. Changes to CloseOut Platform

CO FSM will continuously upgrade the features of the CloseOut Platform in order to improve functionality and user experience. All upgrades shall be made available to the Client in accordance with the update procedure of the CloseOut Platform.

7. Warranty

If Client wishes to exercise his warranty rights, Client shall notify CO FSM upon complaint regarding malfunction of the CloseOut Platform. CO FSM shall modify and correct the CloseOut Platform functionalities so they can conform to all functionalities.

Except as expressly stated, CO FSM: (a) expressly disclaims all warranties and conditions of any kind, express or implied, including without limitation any warranty or condition; and (b) makes no warranty or representation that: (i) the CloseOut Platform will be uninterrupted, completely secure, error-free, or free of viruses, bugs, or other malicious software programs; or (ii) the CloseOut Platform will meet Client's business requirements or operate with Client existing systems; (iii) the CloseOut Platform will be entirely free from security vulnerabilities;

The Client acknowledges that CO FSM will not provide any legal, financial, accountancy, or taxation advice under this SaaS Subscription Agreement or in relation to the SaaS Subscription; and, except to the extent expressly provided otherwise in this SaaS Subscription Agreement, CO FSM does not warrant or represent that the SaaS Subscription or the use of the CloseOut Platform by the Client will not give rise to any legal liability on the part of the Client or any other person.

CO FSM shall use reasonable endeavors to maintain the availability of the CloseOut Platform to the Client but does not guarantee 100% availability.

For the avoidance of doubt, downtime caused directly or indirectly by any of the following shall not be considered a breach of this SaaS Subscription Agreement:

- a Force Majeure Event.
- a fault or failure of the internet or any public telecommunications network.
- a fault or failure of the Client's computer systems or networks, or
- scheduled maintenance carried out in accordance with the written notice given by CO FSM.

CO FSM may enhance or refine CloseOut Platform, although in doing so, CO FSM will not materially reduce the core functionality of CloseOut Platform; and perform scheduled maintenance of the infrastructure and software to provide CloseOut Platform, during which time the Client may experience some disruption to CloseOut Platform. The Client acknowledges that from time to time CO FSM may need to perform emergency maintenance without providing the Client advance notice during which time CO FSM may temporarily suspend the Client's access to and use of the CloseOut Platform.

8. Limitation of liability

Indemnification by CO FSM. CO FSM will defend Client against any claim, demand, suit or proceeding as described in article 4 – Intellectual Property Claim.

CO FSM will not be liable for any damages or loss caused by or resulting from:

- Any modification, repair, or integration to CloseOut Platform not made by CO FSM, unauthorized by CO FSM, and not under the direction of CO FSM;
- Operate or use the CloseOut Platform for purposes substantially outside of the scope of this SaaS Subscription Agreement;
- Improper use of the CloseOut Platform or in a manner or for the purpose other than for which it was designated;
- Any breach of obligations by the Client, under this SaaS Subscription Agreement;
- Force Majeure: external causes, that include, but not limited to, fire, flooding, lightning, or any other natural disaster;
- Misuse of the CloseOut Platform;

- Client Data.

Indemnification by Client. The Client agrees to indemnify and hold harmless CO FSM, and their respective officers, directors, employees, and suppliers against any and all claims, damages, liabilities, losses, and/or expenses including reasonable attorney fees arising from (a) Client's use of the CloseOut Platform in a manner not expressly authorized by CO FSM or that is in violation of applicable law, (b) Client Data or combination of Client Data with other applications, content or processes, (c) Client's compliance with any specifications, requirements or instructions provided by Client or a third party on Client's behalf, and (d) a dispute between Client and any third party.

Limitation of Liability. Except for the Excluded Claims, neither Party will have any liability for any special, incidental, indirect, or consequential losses or damages, and/or any liability for loss of profit, loss of revenue or income, loss of use or production, goodwill, anticipated savings, loss of business, contract, opportunity or loss or corruption of Client data.

General liability. Except for Excluded Claims, each Party's entire liability arising out of or related to this Agreement will not exceed in aggregate the amounts paid to CO FSM for the SaaS Subscription giving rise to the liability during the twelve (12) months preceding the first event out of which the liability arose.

Excluded Claims. Excluded claims means claims arising from a) intentional fraud or fraudulent misrepresentation; b) Client's payment obligations under the Agreement; c) infringement by a Party of the other Party's Intellectual Property Rights and/or Confidential information or d) any other liability that cannot be excluded or limited by applicable laws.

9. Support Services

CO FSM provides basic Support Services regarding SaaS Subscription. The Support Services fee is included in the SaaS Subscription fee that the Client pays. CO FSM provides Support Services to Authorized Third Parties via its dedicated ticketing system.

CO FSM will acknowledge support requests from the Client within 1 hour. Where CO FSM considers it necessary to facilitate efficient communication, CO FSM may contact the Client by email or otherwise.

CO FSM will supply upgrades to the CloseOut Platform as they are commercially released.

CO FSM will use reasonable endeavors to solve problems with the CloseOut Platform identified and notified by the Client by means of the dedicated ticketing system. CO FSM undertakes to keep the Client updated on progress and, where practical, provide an interim fix and/or workaround so that the Client can continue effective use of the CloseOut Platform. CO FSM expects reasonable

support from the Client's side to help diagnose the problem, examples of such activities involve providing adequate log files, and if necessary, access to the Client's environment.

The Client accepts that where a particular identified problem requires an update to the CloseOut Platform, the scheduling of any new releases and the functionality of those releases shall be under CO FSM's sole control.

CO FSM shall have no obligation to provide support and maintenance services if the fault is not reported through the dedicated ticketing system (Jira Service Desk), or where faults arise from:

- misuse, incorrect use of, or damage to the CloseOut Platform; or
- failure to maintain the necessary environmental conditions for the use of the CloseOut Platform; or
- use of the CloseOut Platform in combination with any equipment or software not supported by CO FSM, or any fault in any such equipment or software; or
- the Client's failure to follow CO FSM's oral or written instructions as to the use of the CloseOut Platform; or
- the Client is altering or repairing the relevant CloseOut Platform without the written consent of CO FSM; or
- any breach of Client's obligations under this SaaS Subscription Agreement.

The Parties agree that all correspondence, technical and commercial documents as well as any other information relating to the SaaS Subscription shall be in English language.

10. Term and Termination

The Agreement shall be in force for the period defined in the Proposal.

Breach of termination clause. If the Client wishes to terminate the Agreement contrary to the defined termination provisions, the Client will be obligated to immediately pay the full fee for every remaining month until the end of the current renewal period. The monthly fee in that case will be based on the amount stated on the last invoice prior to termination, and the number of users on that invoice must not be less than the minimum number of users agreed upon in the Proposal.

Termination for cause. Either Party may terminate the Agreement if the other Party: a) fails to cure material breach of the Agreement as defined under "**Breach of the Agreement**". or b) ceases its operation without successor; c) enters voluntary or involuntary bankruptcy; or d) becomes insolvent.

Breach of the Agreement. If any Party ("**Defaulting party**") commits a gross breach of any provision of the Agreement, the other Party ("**Non-Defaulting party**") shall notify the Defaulting party in writing, requesting that the Defaulting party rectify and correct such breach of the Agreement. If the Defaulting party does not rectify or correct such breach within 15 (fifteen) Days after receipt of the written notice, the Non defaulting party may terminate the Agreement whereby the notice period for the termination will be 15 (fifteen) Days. In case of termination of the Agreement by the Client due to a breach by CO FSM, any amount of fee paid by the Client, for the period after termination of the Agreement in which services are not provided, shall be reimbursed to the Client. In case of termination of the Agreement by CO FSM, due to a breach by the Client, the Client shall not receive any refund of the fee for the full term agreed in the Proposal, without renewal of the Agreement.

Termination of the Agreement shall not affect the Client's obligation to pay agreed fees, settlement of disputes, and any other provision which is to operate after termination.

Upon termination of the Agreement, the Client is obliged to stop using the SaaS Subscription and to destroy or return to CO FSM any copies of Confidential Information.

In the event of termination of the Agreement, the Client Data shall remain stored on the CloseOut Platform for 7 Days, from the date of termination of the Agreement. Upon expiration of the 7-day period, the Client Data shall be permanently deleted, except if the Client requires that the Client Data be deleted earlier. The Client is completely responsible for retrieving and storing the Client Data from the CloseOut Platform. The Client will have limited access to the CloseOut Platform for 7 Days after the termination of the Agreement. During this 7-day period after the termination of the Agreement, the Client can appoint only one person who will have access to the CloseOut Platform.

In case of termination of the Agreement a) because of suspension or cancelation of the SaaS Subscription by CO FSM or b) in case of termination of the Agreement due to a breach committed by the Client, Article "**Client Data upon termination**". shall not apply. In such case, access to the CloseOut Platform will be disabled immediately and all Client Data will be deleted within 24 hours as of the termination.

11. Applicable Law

The SaaS Subscription Agreement shall be governed by, construed, and enforced in accordance with the laws agreed in the Proposal. The Parties shall make a good faith effort to settle amicably any dispute arising out of or related to the SaaS Subscription Agreement. An attempt to reach a settlement shall be deemed to have failed if the dispute is not amicably resolved by the Parties within 30 (thirty) Days of notification thereof sent by one of the Parties regarding the dispute and commencing the settlement period. In case the Parties have failed to reach an amicable

settlement, the disputes arising out of or in connection with the Agreement shall be settled in front of a competent court defined in the Proposal.

The Client is obliged to comply with all applicable laws and regulations related to the receipt and use of the CloseOut Platform. The Client must ensure to have the right to use all features of the CloseOut Platform in his registered jurisdiction. The CloseOut Platform may not be available in all countries and may not be available for use in any particular location. CO FSM may modify or discontinue CloseOut Platform features to comply with applicable laws and regulations.

12. General

Force Majeure. Neither Party shall be in breach of the SaaS Subscription Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the SaaS Subscription Agreement if such delay or failure results from events, circumstances, or causes beyond its reasonable control. In such circumstances, the affected Party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for 20 (twenty) Days, the Party not affected may terminate this SaaS Subscription Agreement by giving written notice to the other Party.

Assignment. The SaaS Subscription Agreement nor any of the rights and obligations undertaken herewith may not be assigned or otherwise transferred by the Client without the express prior written consent of CO FSM. CO FSM may transfer its rights and obligations from the SaaS Subscription Agreement without any restrictions.

Relationship of Parties. The SaaS Subscription Agreement is not intended by the Parties to constitute or create a joint venture, partnership, or formal business organization of any kind, other than the arrangement that is specifically defined in the SaaS Subscription Agreement and the rights and obligations of the Parties shall only be those expressly stated in the SaaS Subscription Agreement. Neither Party shall have the authority to bind the other except to the extent authorized herein.

Severability. If any provision of the SaaS Subscription Agreement shall be unlawful, void, or for any reason is unenforceable, then that provision shall be deemed severable for the SaaS Subscription Agreement and shall not affect the validity and enforceability of any remaining provisions.

No Waiver. Neither the failure nor delay by either Party to exercise any right or remedy under this SaaS Subscription Agreement nor shall any single or partial exercise of any right or remedy operate or be construed as a waiver thereof. No waiver of any right or remedy under the SaaS Subscription Agreement will be effective unless in writing signed by the Party to be charged thereby.

Modifications to the SaaS Subscription Agreement. CO FSM may modify this SaaS Subscription Agreement from time to time by posting the revised version on this site. The modified terms will become effective 15 days upon posting changes. Your continued use of the SaaS Subscription after the effective date of the modified SaaS Subscription Agreement evidences your agreement to be bound by it. In the event you do not agree with the changes, we kindly request that you notify us by sending an e-mail at: bd@closeout.cloud and we will try to work together to find a solution that suits both Parties. It is your responsibility to check our site regularly for modifications to this SaaS Subscription Agreement. Our last modification is on the date listed at the end of this SaaS Subscription Agreement.

Last updated: January 26, 2026