**FS Express MARKET PARTNER AGREEMENT – STANDARD TERMS AND CONDITIONS (CANADA)**

1. **RESTAURANT AUTONOMY.**Subject to the guidance provided in the Materials and proper performance of the Services, Market Partner shall act autonomously from Freshslice as an independent contractor.  Freshslice shall have no control or influence on Market Partner’s underlying restaurant business, operating hours, employees, hiring practices, or similar.  All employees performing the Services shall be employees of and shall be under the direct supervision and control of Market Partner. Freshslice shall have no control, direct or indirect, over Market Partner’s employees. Market Partner is solely responsible for procuring all necessary licenses, permits, approvals, insurance, trained personnel, leaseholds and leasehold improvements, equipment, tools, and Supplies to provide the Services.  It is Market Partner’s sole responsibility to provide the Services in full compliance with all applicable laws, by-laws, and regulations including, without limitation, the withholding and payment of taxes, social security taxes, and other statutory withholdings, and the maintenance of all statutory insurance.  Freshslice is not responsible, and shall not be held liable, for any such non-compliance by Market Partner.
2. **NO ADVERTISING, MARKETING, OR PROMOTING.**Market Partner is prohibited from advertising, marketing, or promoting Freshslice, the Brand, and the Services at any time in any manner other than that directed or approved in writing by Freshslice.  For clarity, the use of packaging and/or directional signage to perform the Services as allowed by this Agreement shall not constitute advertising, marketing, or promoting by Market Partner.
3. **CONSULTATION BY**In addition to the Materials, during the Term, Freshslice may, but is not required to, consult with Market Partner upon Market Partner’s reasonable request regarding; **(1)**consultation and advice to Market Partner related to the Services or Materials; **(2)**guidance on preparation of Orders; and **(3)** recommendations and guidance for suppliers of equipment and Supplies to prepare the Orders.  Any consultation, guidance, or advice provided by Freshslice shall not constitute any change in the terms and conditions of this Agreement, regardless of consultation, guidance or advice provided to the contrary.
4. **PROVISION OF THE SERVICES.**
	1. **Standards, Specifications, and Procedures.** Freshslice and the Brand have a reputation for high quality. This reputation has been developed and maintained by Freshslice, and it is of the utmost importance to Freshslice that this reputation be maintained. In recognition of the mutual benefits that come from maintaining the reputation for high quality enjoyed by Freshslice and the Brand, Market Partner covenants and agrees that Market Partner and its employees shall strictly comply with this Agreement and the Materials in carrying out the Services.
	2. Market Partner shall only prepare and package Orders through Freshslice’s account on the Platform and shall not otherwise prepare, package, advertise, market, offer, provide, or sell Brand products. In order to ensure that all Orders produced by Market Partner meet Freshslice’s high standards of taste, texture, appearance, and freshness, and in order to protect Freshslice and the Brand’s goodwill, all Orders shall be prepared by Market Partner using properly trained personnel in accordance with Freshslice’s recipes, preparation techniques, processes, and other Materials. In providing the Services, Market Partner acknowledges that such recipes, preparation techniques, and processes are integral to the Services and failure to adhere to such recipes, preparation techniques, and processes shall be detrimental to the Services, the Brand, and Freshslice.
	3. Freshslice shall be solely responsible for determining the prices of all Brand products, which may vary by location, time, and Platform and change from time to time.  Market Partner shall have no role in the influencing or setting of the prices of Brand products, and Freshslice has no obligation to advise or update Market Partner on price changes.
	4. Market Partner shall in the provision of the Services use only boxes, bags, wrapping paper, labels, forms, and other paper, plastic or similar packaging materials for the Orders as prescribed from time to time by Freshslice (collectively, “**Packaging Materials**”).  In no circumstance may Market Partner use any other boxes, bags, wrapping paper, labels, forms, or other paper and plastic products not prescribed by Freshslice.
	5. Freshslice shall provide to Market Partner a list of approved suppliers (“**Suppliers**”), and Market Partner shall purchase all Supplies used in the preparation of Orders, including Packaging Materials, only from Suppliers. Market Partner is solely responsible to determine the quantities and timing of ordering Supplies in order to fully perform the Services. Freshslice may from time to time modify the list of Suppliers, and Market Partner shall not, after receipt of such modification in writing, order any products from a supplier who is no longer a Supplier. Market Partner acknowledges and agrees that Freshslice shall have the right to collect and retain all manufacturing allowances, marketing allowances, rebates, credits, monies, payments, or benefits (collectively, “**Allowances**”) offered by Suppliers to Freshslice or its affiliates earned upon Market Partner’s purchases of products and other goods and services.
	6. **Platform Equipment.** The order partner platform (Uber Eats, DoorDash, SkipTheDishes) shall provide Market Partner with the ordering and point of sale equipment necessary to receive and process Orders from the Platform and communicate with the Platform (and potentially customers) (the “**Platform Equipment**”).  Market Partner acknowledges and agrees that the Platform owns the Platform Equipment and that should this Agreement terminate or expire for any reason, Market Partner shall promptly return the Platform Equipment to the Platform as directed.  Market Partner is solely responsible for any damage or loss to the Platform Equipment.  If Market Partner fails to promptly return the Platform Equipment in good order, the Platform shall be entitled to deduct said sum from the Service Fee.
	7. **Market Partner Equipment and Tools.**Market Partner agrees to use such restaurant equipment and tools in the preparation of the Orders that will result in the proper production of the Orders in accordance with the Materials. Unless otherwise directed by Freshslice, Market Partner is not required to use specific manufacturers, brands, or designs of restaurant equipment or tools. For Market Partner’s convenience and upon Market Partner’s request, Freshslice shall provide Market Partner with a list of recommended restaurant equipment and tool suppliers, brands, and designs.
	8. **Records, Reports, and Data.**  Market Partner acknowledges and agrees that the Platform and Suppliers may share with Freshslice any and all records, reports, and data in the Platform’s and/or Suppliers’ possession or control associated with Market Partner and this Agreement, the Services, and the Orders.  Additionally, Market Partner acknowledges and agrees that as between Market Partner and Freshslice, Freshslice owns any and all customer or similar data relating to or arising from the Orders and Services.
	9. Prior to Market Partner fulfilling its first Order and in coordination with Market Partner, Freshslice or its designees shall have the right to perform, but not the obligation, a pre-approval inspection of the Location and operation as related to the provision of the Services, and Market Partner shall not fulfill a single Order until Freshslice has provided Market Partner with written approval.  Such pre-approval inspection may involve interviews of personnel, observation of the performance of the Services, photographs or videos, and removal and testing of samples of Orders or ingredients (without paying for the samples).  At any time thereafter, Freshslice or its designees shall have the right at any reasonable time and without prior notice to Market Partner to enter the Location for the purpose of inspecting and examining any aspect of the Services. Market Partner agrees to cooperate fully with Freshslice in connection with any such inspection. Market Partner shall take all necessary steps to immediately correct any deficiencies detected during these inspections. Market Partner acknowledges that Freshslice may utilize a secret shopper to check, test, and/or verify the quality of Market Partner’s Services.
	10. **Incident Reporting**. Market Partner shall notify Freshslice in writing as soon as practicable and at all times within (i) two (2) business days of any incident, investigation or violation, actual or alleged, of any health, liquor or narcotics laws or regulation related to the Location, and (ii) five (5) business days of the commencement of any investigation, action, suit, or proceeding or of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental authority which may adversely affect the operation or financial condition of Market Partner.
5. **INSURANCE****.**Market Partner shall be responsible for all loss or damage arising from or related to Market Partner’s provision of the Services, and for all demands or claims with respect to any loss, liability, personal injury, death, property damage, or expense whatsoever occurring upon the Location or in connection with the Services.  Market Partner is fully responsible for maintaining proper insurance in Market Partner’s reasonable discretion.  Market Partner shall add Freshslice as an additional insured on such policies where applicable and provide Freshslice with evidence of coverage upon reasonable request.  Market Partner acknowledges and agrees that Freshslice shall not provide Market Partner with any insurance or indemnification of any kind related to the Services.  In the event the Platform requires Market Partner to carry certain insurance, Market Partner shall promptly obtain the required insurance.
6. **CONFIDENTIALITY****.**Market Partner acknowledges and agrees that: **(1)** VDC owns all right, title, and interest in and to the Materials and the Brand, which consists of trade secrets and confidential and proprietary information and know-how that gives Freshslice and its affiliates a competitive advantage; **(2)** Freshslice and its affiliates have taken reasonable measures to protect the trade secrets and confidentiality of the proprietary information and know-how comprising the Materials and the Brand; **(3)** all material or other information now or hereafter provided or disclosed to Market Partner regarding the Materials, the Brand, or provision of the Services is disclosed in confidence; **(4)** Market Partner has no right to disclose any part of the Materials to anyone who is not an employee of Market Partner; **(5)** Market Partner shall disclose to its employees only those parts of the Materials that an employee needs to know; **(6)** Market Partner shall have a system in place to ensure its employees keep confidential Freshslice’s trade secrets and confidential and proprietary information with such obligations of confidentiality surviving the termination of employment; **(7)** Market Partner shall not acquire any interest in the Materials or the Brand; and **(8)** Market Partner’s use or duplication of the Materials, or any part of the Materials or Brand products in any other business would constitute an unfair method of competition, for which Freshslice shall be entitled to all legal and equitable remedies, including injunctive relief, without posting a bond. Market Partner shall not, at any time and for any reason, communicate or disclose any trade secrets or confidential or proprietary information or know-how to any unauthorized person, or do or perform, directly or indirectly, any other acts injurious or prejudicial to any part of the Materials or the Brand.
7. **OBLIGATIONS ON TERMINATION OR EXPIRATION.**Upon termination or expiration of this Agreement for any reason or no reason: **(1)** Market Partner shall immediately cease providing the Services, preparing Orders, and using the Materials;  **(2)**Market Partner shall promptly return to Freshslice all Materials (including copies or parts thereof) and Platform Equipment; **(3)** Market Partner shall not **(a)** operate or do business under any name or in any manner that might tend to give the public the impression that Market Partner is connected in any way with the Brand, Freshslice or its affiliates, or that Market Partner has any right to use the Materials or provide the Services, or **(b)** make use or avail itself of any of the materials or information furnished or disclosed by Freshslice or its affiliates under this Agreement or disclose or reveal any such materials or information or any portion thereof to anyone else, including the Materials, and; **(4)** Market Partner shall cease using any Supplies that bear any logo, tradename, or slogan of Freshslice or the Brand.  In the event of any termination or expiration of this Agreement, regardless of cause or no cause, Freshslice shall have no obligation to purchase any excess or unused Supplies from Market Partner and Market Partner waives any and all claims against Freshslice for excess or unusable Supplies.
8. **INDEMNIFICATION.**
9. **Market Partner Indemnification.** Market Partner shall indemnify, defend and hold harmless (to the fullest extent permitted by law) Freshslice, the Brand, the Platform, and their affiliates, and their respective successors, assigns, past and present stockholders, members, directors, managers, officers, employees, agents and representatives (collectively, “**Freshslice** **Indemnitees**”) from and against any claims, liabilities, damages, costs and expenses (including reasonable attorney’s fees) incurred in connection with any action, suit, proceeding, claim, demand, investigation, inquiry (formal or informal), judgment or appeal thereof by or against any Freshslice Indemnitee or any settlement thereof (whether or not a formal proceeding or action had been instituted) to the extent arising out of, resulting from or connected with: **(1)** Market Partner’s activities under this Agreement, including but not limited to any breach, willful misconduct, negligent acts, or omissions; **(2)** Market Partner’s operation of Market Partner’s business or any other business operating within the Location; or **(3)** Market Partner’s misuse of the Materials or Platform Equipment in violation of this Agreement.
10. **Freshslice Indemnification.** Freshslice shall at all times, indemnify, defend and hold harmless (to the fullest extent permitted by law) Market Partner and its affiliates, and their respective successors, assigns, past and present stockholders, members, directors, managers, officers, employees, agents and representatives (collectively, “**Market Partner Indemnitees**”) from and against all liability, damages, costs and expenses (including reasonable attorney’s fees) incurred in connection with any action, suit, proceeding, claim, demand, investigation, inquiry (formal or informal), judgment or appeal thereof by or against Market Partner Indemnitees or any settlement thereof (whether or not a formal proceeding or action had been instituted) to the extent arising out of, resulting from or connected with: **(1)**  Freshslice’s activities under this Agreement, including but not limited to any breach, willful misconduct, negligent acts, or omissions; or **(2)** Freshslice’s infringement, misappropriation, or violation of the intellectual property rights of any third parties in connection with, arising from, or relating to use of the Materials or the Brand.
11. A party claiming indemnification rights under this section shall give the indemnifying party prompt written notice of any such action, suit, proceeding, claim, demand, inquiry, or investigation filed or instituted against the indemnified party and, upon request, shall furnish the indemnifying party with copies of any documents from such matters as may be requested.  This section shall survive the termination or expiration of this Agreement.
	1. **Relationship of the Parties.**It is understood and agreed by the parties that this Agreement creates only a contractual relationship between the parties subject to normal rules of contract law.  This Agreement does not create a fiduciary relationship between Freshslice and Market Partner, each of which shall remain an independent contractor with respect to the other.  Nothing in this Agreement is intended to constitute any party an agent, legal representative, parent, subsidiary, joint venturer, partner, franchisor, franchisee, employee, or servant of any other party for any purpose whatsoever. Freshslice and Market Partner shall not make any contract, agreement, warranty, or representation on behalf of the other, and neither party shall incur any debt or obligation in the name of the other. Further, both parties expressly agree that this Agreement does not constitute a franchise. Both parties agree and stipulate that this Agreement is simply an agreement for Freshslice to engage the Market Partner to provide the Services. Nothing in this Agreement is intended, or shall be deemed, to constitute the offer or sale of a franchise or establish a franchise relationship between the parties.
	2. **Consents, Approvals, and Waivers.**Whenever this Agreement requires the prior approval or consent of either party, the other party shall make a timely written request therefor; and any approval or consent received, in order to be effective and binding, shall be obtained in writing.  No failure of either party to exercise any power reserved to it by this Agreement or to insist upon strict compliance by the other party with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms of this Agreement, shall constitute a waiver of a party’s right to demand exact compliance with any of the terms of this Agreement. Subsequent acceptance by either party of any payments due to it hereunder shall not be deemed to be a waiver by either party of any preceding breach by the other party.
	3. No notice, demand, request, or other communication to the parties shall be binding upon the parties unless the notice is in writing, refers specifically to this Agreement, and is addressed to each party at the notice address set forth in this Agreement. Any party may designate a new address for notices by giving written notice of the new address pursuant to this section. Notices shall be effective upon receipt (or first rejection) and may be: **(a)** delivered personally; **(b)** mailed in the United States mail or Canadian Post, postage prepaid, certified mail, return receipt requested; or **(c)** mailed via overnight courier.
	4. Freshslice shall have the right to transfer and assign all of its rights and obligations under this Agreement to another person or legal entity; provided that, in connection with any such transfer, the transferee expressly assumes all of Freshslice’s rights and obligations under this Agreement. Market Partner shall not transfer or assign voluntarily or involuntarily, by operation of law or otherwise, any of its rights and obligation under this Agreement without Freshslice’s prior written approval.
	5. **Entire Agreement.**This Agreement, including the Standard Terms and Conditions and the attachments hereto/thereto (if any), constitute the entire, full and complete agreement between the parties concerning the parties’ rights and obligations, and supersedes any and all prior or contemporaneous negotiations, discussions, understandings, or agreements. There are no other representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the parties relating to the matters covered by this Agreement other than those set forth in this Agreement. No obligations or duties that contradict or are inconsistent with the express terms of this Agreement may be implied into this Agreement. Except as expressly set forth herein, no amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed in writing.  If any portion of this Agreement is determined to be invalid or unenforceable, that determination shall not impair the operation of, or have any other effect upon, any other portions of this Agreement, all of which shall remain binding on the parties and continue to be given full force and effect.
	6. **Governing Law, Venue, and Dispute Resolution.** Claims, disputes, or other matters in controversy arising out of or related to this Agreement shall be subject to non-binding mediation as a condition precedent to litigation. The parties shall endeavor to resolve their Claims by non-binding mediation which shall be in accordance with the laws of British Columbia, Canada.  This Agreement and any claim or controversy arising out of, or relating to, rights and obligations of the parties under this Agreement and any other claim or controversy between the parties shall be governed by and construed in accordance with the laws of the province of British Columbia without regard to conflicts of laws principles, and, to the extent any disputes cannot be resolved directly between them by mediation, each party may file suit against the other party exclusively only in the federal or provincial court having jurisdiction in Vancouver, British Columbia, Canada.  Each party consents to the personal jurisdiction of those courts and to venue in those courts.  Notwithstanding the foregoing, in the event of Market Partner’s breach or threatened breach of Section 6 of the Standard Terms and Conditions, Freshslice shall be entitled to an immediate injunction, with no obligation to post a bond or first mediate.
	7. **Records and Audit Rights**. Market Partner shall preserve all books, records, accounting records, and documents related to this Agreement, the Services, the Orders, and Market Partner’s restaurant operations (collectively, the “**Records**”) for at least three (3) years, including after the termination or expiration of this Agreement.  During such period of time, Market Partner shall make the Records available during normal business hours within two (2) business days of request and permit Freshslice and Freshslice’s authorized representatives to inspect, review, copy, and/or audit the Records for any reason.
	8. **WAIVER OF CERTAIN DAMAGES AND RIGHTS. Freshslice AND MARKET PARTNER WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT OR CLAIM OF ANY CONSEQUENTIAL DAMAGES, LOSS OF PROFIT OR REVENUE, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES AGAINST EACH OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN THEM, EACH SHALL BE LIMITED TO THE RECOVERY OF ONLY ACTUAL OUT OF POCKET DAMAGES SUSTAINED. FRESHSLICE AND MARKET PARTNER WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO BRING, OR BE A CLASS MEMBER IN, ANY CLASS ACTION SUITS AND THE RIGHT TO TRIAL BY JURY.**
	9. If either party brings an action to enforce this Agreement, the party prevailing in the proceeding shall be entitled to reimbursement of reasonable costs and expenses, including, but not limited to, accountants’, attorneys’, attorneys’ assistants’ and expert witness fees, the cost of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred during, prior to, in preparation for, or in contemplation of the filing of, the proceeding.  If Freshslice utilizes legal counsel (including in-house counsel employed by Freshslice) in connection with any failure by Market Partner to comply with this Agreement, Market Partner shall reimburse Freshslice for any of the above-listed costs and expenses incurred by VDC.  In any judicial proceeding, the amount of these costs and expenses shall be determined by the court and not by a jury.
	10. **Rights and Remedies Cumulative.** No right or remedy conferred upon or reserved to Freshslice or Market Partner by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.
	11. Each provision of this Agreement is severable from the others. This Agreement shall be binding upon, and inure to the benefit of, each party’s respective heirs, representatives, successors, and assigns.  Each provision of this Agreement that expressly or by reasonable implication is to be performed, in whole or in part, after the expiration, termination, or transfer of this Agreement shall survive such expiration, termination, or transfer.  Except as expressly provided, nothing in this Agreement is intended, or shall be deemed, to confer any rights or remedies upon any person or legal entity other than Freshslice and Market Partner.  All references to gender and number shall be construed to include such other gender and number as the context may require.  All captions in this Agreement are intended solely for the convenience of the parties and none shall be deemed to affect the meaning or construction of any provision of this Agreement.
	12. **Force Majeure.** Whenever a period of time is provided in this Agreement for either party to do or perform any act or thing, except the payment of monies, neither party shall be liable or responsible for any delays due to strikes, lockouts, casualties, acts of nature, war, terrorist acts, governmental regulation or control, pandemic, or other causes beyond the reasonable control of the parties, and in any event said time period for the performance of an obligation hereunder shall be extended for the amount of time of the delay.  This clause shall not apply to, and shall not result in an extension of, the Term.