

POINT SERVICE MERCHANT AGREEMENT

This Point Service Merchant Agreement (“**Agreement**”) is being entered into as of the last date set forth below (the “**Effective Date**”) by and between the merchant identified below (“**Merchant**”) and VeriFone, Inc. (“**VeriFone**”) regarding VeriFone’s Point Service. VeriFone is providing the Point Service to Merchant through VeriFone’s Reseller, _____ (“**Reseller**”). All references to Exhibits A and B herein shall mean Exhibits A and B attached hereto and incorporated herein by this reference.

1. SCOPE

(a) Point Service. VeriFone shall provide Merchant with the Point service as described in Exhibit A (the “**Point Service**”). The Point Service includes those services and software as set forth in the Exhibit A hereto (the “**Services**” and “**Software**” respectively), which may be bundled with one or more VeriFone payment devices, provided on a rental basis, as set forth in Exhibit A (the “**Devices**”). Merchant acknowledges that VeriFone has contracted with third parties for certain Services and Devices being provided hereunder, as specified in Exhibit A (each, a “**Third Party Product**” or “**Third Party Service**”, respectively). In the event Reseller is providing any other products or services to Merchant for use with the Point Service, this Agreement does not apply to any such products or services (collectively, the “**Reseller Services**”).

(b) Supported VeriFone Devices. The Point Service is currently supported on certain VeriFone payment devices, as designated by VeriFone from time to time. Merchant may only use the Point Service with such VeriFone payment devices. VeriFone reserves the right to remove a VeriFone payment device from the list of supported VeriFone payment devices (including in the event VeriFone elects to end of life such VeriFone payment device). If Merchant is procuring the Point Service that includes a Device rental, VeriFone shall provide such Device to Merchant as set forth in Exhibit A. Otherwise, Merchant is responsible for separately procuring such VeriFone payment devices from VeriFone or a VeriFone reseller.

(c) License or Service Term. The Point Service is provided to Merchant for each VeriFone payment device for the license term or service term set forth in Exhibit A.

2. FEES; PAYMENT

(a) Fees. Merchant agrees to pay the fees for the Point Service as set forth in Exhibit A. The fees set forth in Exhibit A are set by Reseller, as agreed with Merchant. VeriFone may change its fees to Reseller for the Point Service, and Reseller may change the fees set forth in Exhibit A annually, commencing with the second year of this Agreement. Such fee changes shall only apply to any Point Service ordered after the date of the fee change.

(b) Payment. (i) If Merchant is permitted to pay by ACH, the terms for payment are set forth in Exhibit B.
(ii) If Merchant is being invoiced, payment terms for all invoiced amounts will be thirty (30) days from the date of invoice as long as the account is current.
(iii) All payments shall be in U.S. dollars, unless a different currency is specified in Exhibit A. All fees are non-refundable.
(iv) VeriFone reserves the right to delegate collection of any fees to Reseller, in which event Merchant will pay Reseller such fees.

(c) Taxes; Failure to Pay. All fees are exclusive of applicable taxes, including without limitation sales tax. Applicable taxes will be added to the amount billed to Merchant. If Merchant fails to pay the charges for the Point Service when due: (i) Merchant shall pay VeriFone interest on the overdue payment from the date due until paid at the rate of 18.0% per annum, or the maximum rate permissible by law, whichever is less, and (ii) VeriFone reserves the right to pursue any and all legal remedies to collect the amounts owed by Merchant. In addition, in the event Merchant fails to pay the charges for the Point Service when due, and fails to cure such failure within fifteen (15) days of receipt of written notice from VeriFone thereof, VeriFone shall be entitled to withhold Merchant’s access to the Point Service, or any Services therein, until Merchant pays such fees. Merchant shall pay to VeriFone any actual additional expenses incurred by VeriFone in collection efforts.

3. LICENSES

(a) Hosted Point Services. If Exhibit A includes any Hosted Point Services, this Section 3(a) shall apply. Subject to the terms and conditions of this Agreement, and Merchant’s payment of the applicable fees, VeriFone hereby grants to Merchant a limited, non-exclusive, non-transferable, non-sublicensable right and license, during the applicable license or service term set forth in the Exhibit A for the applicable VeriFone payment device: (i) to access and use the Hosted Point Services set forth in Exhibit A solely for Merchant’s internal business

purposes; (ii) to execute, download and display the features, functions and graphical interface components of Hosted Point Services to communicate, transfer and collect data; and (iii) to display, download, print and reproduce any documentation provided by VeriFone as reasonably required for the use of the Point Service. VeriFone may modify the Hosted Point Services from time to time in its reasonable discretion, provided that such modifications shall not materially diminish the functionality thereof.

VeriFone conducts routine maintenance to the Hosted Point Services. Maintenance is generally scheduled during time periods when overall end user online activity is limited. VeriFone reserves the right to shut down the Hosted Point Services with no notice should emergency maintenance become necessary. VeriFone reserves the right to remove any user from the Hosted Point Services should VeriFone determine, in its sole discretion, that the Hosted Point Services have been compromised or in any way used inappropriately. In extreme cases, where a user has compromised the security of the Hosted Point Services or otherwise acted in a malicious or damaging manner, removal may occur immediately without prior notification.

(b) Software. If Exhibit A includes any Software, this Section 3(b) shall apply. Subject to the terms and conditions of this Agreement, and Merchant’s payment of the applicable fees, VeriFone hereby grants to Merchant a limited, non-exclusive, non-transferable, non-sublicensable right and license, solely for Merchant’s internal business purposes in the United States during the applicable license or service term set forth in Exhibit A: (i) to use the Software (in object code form only) on the applicable VeriFone payment device; and (ii) to use any related documentation provided by VeriFone for use with the Software. Additional license terms for certain Software may be set forth in Exhibit A.

(c) Restrictions. Merchant shall have no right to market, distribute, sell, assign, pledge, sublicense, lease, deliver or otherwise transfer the Point Service, any component thereof, including without limitation the Software, to any third party. Merchant shall not reverse engineer, decompile, disassemble, translate, modify, alter or create any derivative works based upon the Software, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Software, without the prior express written consent of VeriFone. Merchant shall not remove from the Devices or the Software, or alter, any of trademarks, trade names, logos, patent or copyright notices, or other notices or markings, or add any other notices or markings to the Devices or the Software, without the prior express written consent of VeriFone.

(d) Ownership. Merchant acknowledges that the Point Service (including the Devices, Software, Services and any related documentation) and any intellectual property rights relating to or residing therein, including the proprietary electronics, software and technical information of VeriFone therein (the “**Proprietary Materials**”), are proprietary products of VeriFone and that ownership of all patents, copyrights, trade secrets, trademarks, trade names, mask work rights and other proprietary rights relating to or residing therein shall remain with VeriFone. Except for the license rights set forth in this Section 3 or Exhibit A, Merchant shall have no right, title or interest therein. VeriFone reserves all rights in the Proprietary Materials and any other VeriFone intellectual property not expressly granted herein. Merchant shall promptly notify VeriFone of any actual or threatened misappropriation or infringement of VeriFone’s or its suppliers’ proprietary rights which comes to Merchant’s attention.

(e) Government End Users. The Software was developed entirely at private expense and is commercial computer software provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in this Agreement pursuant to DFARS 227.7202-3(a) or as set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19, as applicable.

(f) Derived Data. For Services where VeriFone is collecting or processing transaction data for Merchant, Merchant acknowledges that VeriFone may collect and share with partners data from Merchant’s transactions, with any sharing in aggregate and anonymous form only (for statistical and other purposes); however, such data shall not include any “cardholder data” under Payment Card Industry Security Standard’s Council rules, any of Merchant’s or a customer’s personally identifiable information,

Merchant's or a customer's personal financial information or any other data that Verifone may be prohibited from collecting or sharing under applicable privacy laws. Merchant agrees that Verifone may use such data for purposes of data analytics and optimizing or otherwise enhancing its products and services. Verifone will comply with all applicable laws and regulations with respect to any use, sharing and dissemination of this data. In accordance with Verifone's use of derived data, Verifone reserves the right to anonymously track and report Merchant's activity inside of the Point Service components. This paragraph shall survive any expiration or termination of this Agreement.

4. WARRANTIES; DISCLAIMERS

(a) Warranties. Verifone warrants that (i) the Point Service shall conform to the description thereof set forth in Exhibit A in all material respects, and (ii) Verifone shall comply with all applicable federal and state laws in its performance of the Point Service. Additional warranties may be set forth in Exhibit A.

(b) Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH ABOVE, THE POINT SERVICE IS PROVIDED "AS IS." VERIFONE DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. VERIFONE DOES NOT WARRANT THAT THE POINT SERVICE, OR ANY COMPONENT THEREOF, WILL MEET THE REQUIREMENTS OF MERCHANT OR THAT THE OPERATION OF THE POINT SERVICE, OR ANY COMPONENT THEREOF, WILL BE UNINTERRUPTED OR ERROR FREE. MERCHANT ACKNOWLEDGES THAT UNDER NO CIRCUMSTANCES DOES VERIFONE REPRESENT OR WARRANT THAT ALL ERRORS IN ANY SOFTWARE CAN BE REMEDIED. VERIFONE SHALL NOT BE RESPONSIBLE FOR ANY SERVICE INTERRUPTIONS, INCLUDING, WITHOUT LIMITATION POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS. NO ADVICE OR INFORMATION OBTAINED BY MERCHANT FROM VERIFONE, RESELLER OR FROM ANY OTHER THIRD PARTY ABOUT THE POINT SERVICE SHALL CREATE ANY WARRANTY.

5. INFRINGEMENT INDEMNITY

(a) Indemnity. Subject to the provisions of this Section 5 and Section 6 below, Verifone shall at its expense defend any action against Merchant to the extent such action is based on a claim that the Point Service, or a component thereof, infringes a United States patent, copyright, trademark, or trade secret and Verifone shall pay those damages and costs awarded against Merchant in such action which are attributable to such claim, provided that Merchant notifies Verifone promptly in writing of such action, Merchant gives Verifone sole control of the defense thereof (and any negotiations for settlement or compromise thereof), and Merchant cooperates in the defense thereof at Verifone's expense. If the Point Service, or a component thereof, becomes, or in Verifone's opinion is likely to become, the subject of a claim of infringement (the "Infringing Item"), then Merchant shall permit Verifone, at its option and expense, either to (i) procure the right to continue using the Infringing Item, or (ii) replace or modify the Infringing Item so that they become non-infringing. If options (i) or (ii) are not commercially reasonable options for Verifone, then either party may terminate this Agreement upon written notice to the other party, in which event Merchant's obligation to pay the recurring fees hereunder shall terminate. Merchant shall not incur any costs or expenses for the account of Verifone under or pursuant to this Section 5 without Verifone's prior express written consent. THE FOREGOING STATES THE ENTIRE LIABILITY OF VERIFONE FOR INFRINGEMENT CLAIMS AND ACTIONS RELATED TO THE POINT SERVICE, OR ANY COMPONENT THEREOF.

(b) Exceptions. Verifone shall have no liability to Merchant under this Section 5 or otherwise for any action or claim alleging infringement based upon (1) any use of the Point Service, or a component thereof, in a manner other than as specified by Verifone in this Agreement; (2) any use of the Point Service in combination with other services, equipment, devices, software, systems or data not supplied by Verifone (including without limitation any software produced by Merchant for use with the Point Service, if any); (3) any alteration, modification or customization of the Point Service, or a component thereof, by any person other than Verifone (including without limitation Merchant), or (4) any failure to install an update to the Software provided by Verifone within a commercially reasonable time after the update is made available by Verifone to Merchant.

6. LIMITATIONS OF LIABILITY

(a) LIMITATIONS ON DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, EXCEPT TO THE EXTENT PROHIBITED BY LAW: (A) VERIFONE SHALL HAVE NO LIABILITY TO MERCHANT OR ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFITS OR REVENUE, GOODWILL OR SAVINGS, DOWNTIME, OR DAMAGE TO, LOSS OF OR REPLACEMENT OF DATA OR TRANSACTIONS, COST OF PROCUREMENT OF SUBSTITUTE SERVICES) RELATING IN ANY MANNER TO THE POINT SERVICE (WHETHER ARISING FROM CLAIMS BASED IN WARRANTY, CONTRACT, TORT OR OTHERWISE), EVEN IF VERIFONE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGE; (B) IN ANY CASE, VERIFONE'S ENTIRE LIABILITY RELATING IN ANY MANNER TO THE POINT SERVICE, REGARDLESS OF THE FORM OR NATURE OF THE CLAIM, SHALL BE LIMITED IN THE AGGREGATE TO THE FEES ACTUALLY PAID BY MERCHANT FOR THE POINT SERVICE UNDER THIS AGREEMENT DURING THE SIX (6) MONTHS PRIOR TO THE CLAIM ARISING; AND (C) VERIFONE SHALL NOT BE LIABLE FOR ANY CLAIMS OF THIRD PARTIES RELATING TO THE POINT SERVICE. THE LIMITATIONS ON VERIFONE'S LIABILITY SET FORTH IN CLAUSES "(B)" AND "(C)" OF THIS SECTION 6 SHALL NOT APPLY TO VERIFONE'S OBLIGATIONS UNDER SECTION 5 ABOVE OR LIABILITY FOR DEATH, PERSONAL INJURY OF A PHYSICAL NATURE OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY VERIFONE'S NEGLIGENCE OR INTENTIONAL MISCONDUCT. THE LIMITATIONS CONTAINED IN SECTIONS 4 AND 5 ABOVE AND THIS SECTION 6 ARE A FUNDAMENTAL PART OF THE BASIS OF VERIFONE'S BARGAIN HEREUNDER, AND VERIFONE WOULD NOT PROVIDE THE POINT SERVICE TO MERCHANT ABSENT SUCH LIMITATIONS.

(b) JURY TRIAL WAIVER. IN THE EVENT OF ANY DISPUTE BETWEEN THE PARTIES, WHETHER IT RESULTS IN PROCEEDINGS IN ANY COURT IN ANY JURISDICTION OR IN ARBITRATION, THE PARTIES HEREBY KNOWINGLY AND VOLUNTARILY, AND HAVING HAD AN OPPORTUNITY TO CONSULT WITH COUNSEL, WAIVE ALL RIGHTS TO TRIAL BY JURY, AND AGREE THAT ANY AND ALL MATTERS SHALL BE DECIDED BY A JUDGE OR ARBITRATOR WITHOUT A JURY TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW. TO THE EXTENT APPLICABLE, IN THE EVENT OF ANY LAWSUIT BETWEEN THE PARTIES ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE PARTIES AGREE TO PREPARE AND TO TIMELY FILE IN THE APPLICABLE COURT A MUTUAL CONSENT TO WAIVE ANY STATUTORY OR OTHER REQUIREMENTS FOR A TRIAL BY JURY.

7. TERM; TERMINATION

(a) Term. This Agreement shall commence on the Effective Date and remain in effect for three (3) years. Thereafter, this Agreement shall continue in effect for annual renewals unless one party notifies the other party of non-renewal at least thirty (30) days prior to the renewal date.

(b) Termination. Verifone may terminate this Agreement (i) upon thirty (30) days written notice to Merchant if Merchant breaches any of the terms in this Agreement, which breach or failure is not cured within such 30-day period, (ii) upon written notice in the event of any termination of Merchant's business or (iii) upon ninety (90) days' notice to Merchant if Verifone ceases to offer the Point Service to its customers generally. Merchant may terminate this Agreement upon thirty (30) days written notice to Verifone if Verifone breaches any of the terms of this Agreement, which breach is not cured within such 30-day period. Verifone shall have the right to terminate any Third Party Services that may be included in the Point Service at any time upon written notice to Merchant if Verifone's agreement with its product supplier or service provider terminates. Upon any such termination, the parties may agree to adjust the pricing to reflect the termination of such Third Party Services.

(c) Effect of Expiration or Termination. Upon any expiration or termination of this Agreement, Merchant may no longer place orders for the Point Service. Additional terms regarding expiration or termination are set forth in Exhibit A.

(d) Certificate. Upon termination of Merchant's right to use the Software under this Agreement, at Verifone's request, Merchant shall provide Verifone a certificate certifying that Merchant has ceased all use of the Software on Verifone payment devices, signed by an authorized representative of Merchant.

(e) Survival. Notwithstanding anything to the contrary contained in this Agreement, Sections 2 (until all fees are paid), 3(c), 3(d), 3(e), 3(f), 4(b), 5, 6, 7(c), 7(d), 7(e), 8, 9, and 10, as well as any provisions in Exhibit A regarding effect of expiration or termination of this Agreement, shall survive any expiration or termination of this Agreement.

8. FOREIGN CORRUPT PRACTICES ACT. Merchant shall ensure that Merchant's subsidiaries, owners, officers, directors, employees, partners, subcontractors, agents and representatives (collectively, "**Merchant Representatives**"), fully comply with all applicable anti-corruption and anti-bribery laws and regulations in connection with this Agreement, including, but not limited to, the United States Foreign Corrupt Practices Act (the "**FCPA**"), as may be amended from time to time. Without limiting the generality of the foregoing obligation, Merchant specifically understand and agree that Merchant shall not, and shall take reasonable measures to assure that Merchant Representatives shall not, make, authorize, offer or promise to make or give any money or any other thing of value, directly or indirectly, to any government official or employee, political party or candidate for political office, or any other person for the purpose of securing any improper or unfair advantage or obtaining or retaining business in connection with the activities contemplated hereunder. Any breach or violation of any provision contained in this Section 8 shall be grounds for immediate termination of this Agreement by Verifone. Merchant represents and warrants that Merchant has not committed and Merchant has no information, reason to believe, or knowledge of any Merchant Representative having committed or intending to commit, any violation of the FCPA or any act or omission which could cause Verifone to be in violation of the FCPA with respect to any activities related to this Agreement or the business of Verifone.

9. EXPORT CONTROL LAWS. Merchant acknowledges that Point Service is designed for use in the United States only and components of the Point Service are subject to the export control laws of the United States. Accordingly, Merchant shall not use or export any component of the Point Service outside of the United States (as used herein, the "United States" excludes all territories of the United States, including Puerto Rico and Guam). In connection with Verifone's policies to assure compliance with U.S. export control laws and regulations, including embargoes and sanctions, as well as the laws and regulations of countries in which Verifone products, technology and/or software are sold, Merchant agrees that the following terms and conditions shall apply to Verifone's sale of the Point Service to Merchant:

(a) Merchant agrees to abide by all applicable U.S. export control laws and regulations for the Point Service. Without limiting the generality of the foregoing:

(i) Merchant, on behalf of itself and Merchant Representatives, represents and warrants that Merchant/they will not use, export or re-export, sell, re-sell, license, distribute, make available or transfer or cause or facilitate the transfer of any component of the Point Service, including any component or part thereof, directly or indirectly to: (x) Cuba, Iran, North Korea, Sudan, or Syria, or any other country for which the U.S. maintains an export embargo or other economic sanctions; or (y) any individual or entity listed on the U.S. Treasury Department's list of Specially Designated Nationals, the U.S. Commerce Department's Table of Denial Orders or any other denied parties, as such lists may be updated from time to time; and

(ii) Merchant and Merchant Representatives will not use, export or re-export, sell, re-sell, divert or otherwise transfer the Point Service, including any component or part thereof, for use in activities that involve the development, production, use or stockpiling of nuclear activities of any kind, chemical or biological weapons or missiles, unmanned aerial vehicles, or microprocessors for military use, or any terrorist activities, nor use the Point Service, including any component or part thereof, in any facilities that are engaged in activities relating to such weapons or applications.

(b) Merchant represents and warrants that Merchant has the appropriate policies and procedures in place to ensure compliance with the foregoing, including, without limitation, the prohibition of any re-export of any component of the Point Service to countries subject to a U.S. trade embargo. Such measures shall include, at a minimum, accurate recordkeeping, and are subject to Verifone's audit rights that may be exercised from time to time by Verifone in its sole and absolute discretion to confirm compliance.

(c) Merchant agrees that if Verifone reasonably believes that Merchant is in breach of any of the terms and conditions contained in this Section 9 that alone shall be sufficient grounds for further action by Verifone, including, without limitation, cancellation of any orders or denial of future business, without any liability or obligation to Merchant. In addition, Merchant hereby indemnifies Verifone and its affiliates,

directors, officers and employees for all costs, expenses, damages, claims, charges, penalties, fines and other losses that arise in connection with any breach by Merchant or Merchant Representatives of the terms and conditions contained in this Section 9.

10. GENERAL. This Agreement, including Exhibits A and B, constitutes the entire agreement between Verifone and Merchant and supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, relating to the subject matter hereof. This Agreement and the rights of the parties hereunder shall be governed by and construed and interpreted in accordance with the laws of the State of New York, exclusive of conflict or choice-of-law rules, and the parties hereby consent to the personal and exclusive jurisdiction and venue of the state and federal courts in the Southern District of New York. No action, regardless of form, arising out of or in connection with this Agreement may be brought by either party more than one (1) year after the first day that the cause of action first occurred, except for an action for nonpayment. No amendment or waiver of this Agreement will be binding unless it has been agreed to in writing by both parties. Merchant may not assign this Agreement, in whole or in part, without Verifone's prior written consent. Subject to the preceding sentence, this Agreement shall bind Merchant and its permitted successors and assigns. Verifone may assign or delegate this Agreement, or any of its rights or obligations hereunder, in its sole discretion. If any legal action is brought to enforce any obligations hereunder, the prevailing party shall be entitled to receive its attorneys' fees, court costs and other collection expenses, in addition to any other relief it may receive. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties agree that the court should endeavor to give the maximum effect to the parties' intentions as reflected in the provision, and that the other provisions of the Agreement shall remain in full force and effect. Verifone shall not be responsible for any failure to fulfill its obligations hereunder due to causes beyond its reasonable control, including without limitation acts or omissions of government or military authority, acts of God, shortages of materials, transportation delays, fires, floods, labor disturbances, riots or wars. Notices made by Verifone to Merchant under this Agreement that affect Verifone customers generally (e.g., notices of amended Agreements, updated fees, etc.) may be posted on the Verifone Merchant Portal or may be provided upon access to the Point Service. Notices made by Verifone under this Agreement for Merchant or Merchant account specifically (e.g., notices of breach and/or suspension) will be provided to Merchant via the email address provided to Verifone in Merchant registration for the Point Service or in any updated email address Merchant provides to Verifone in accordance with standard account information update procedures Verifone may provide from time to time. It is Merchant's responsibility to keep Merchant's email address current and Merchant shall be deemed to have received any email sent to any such email address, upon Verifone's sending of the email, whether or not Merchant actually receive the email. Verifone may also send notices to Merchant by overnight courier or certified mail to the address in Verifone's customer database, or such other address as shall have been given to Verifone in writing. Merchant shall send notices to Verifone at the address set forth below, or such other address as shall have been given to Merchant in writing. All mailed notices shall be deemed effective upon the earliest to occur of: (a) actual delivery; or (b) three days after mailing, addressed and postage prepaid, return receipt requested. Verifone may issue a press release, or the parties may mutually agree to issue a joint press release, regarding this Agreement and the transactions contemplated hereby. The form and content of such press release shall be as mutually agreed by the parties. Except for the foregoing, neither party shall issue a press release or other publicity regarding this Agreement or the transactions contemplated hereby without the prior written consent of the other party.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed and delivered this Agreement to be effective as of the Effective Date.

Merchant Name:
By:
Title:
Date:

Merchant Address:

VeriFone, Inc.

By: _____

Title: _____

Date: _____

Verifone Address:
2099 Gateway Place, Suite 600
San Jose, CA 95110

EXHIBIT A
Point Service: Point Enterprise
Subscription Includes Device Rental

1.0 Fees: The fees for Point Enterprise are as follows:

Table 1.0 Overview of Software/Services

Description	Included in Base Package	Optional
<i>Secure Commerce Application</i>	✓	
<i>VeriShield Protect Terminal Application</i>	✓	
<i>Transaction Gateway (limited to certain merchants as set forth in Section 4.0 below)</i>	✓	
<i>Shipping & Deployment</i>	✓	
<i>Remote Key Loading</i>	✓	
<i>Estate Management</i>	✓	
<i>Warranty or Repair</i>	✓	
<i>Help Desk</i>	✓	
<i>NFC Payments Enablement</i>	✓	
<i>EMV</i>	✓	
<i>Software Update Services</i>	✓	
<i>Low Contour MX Stand</i>		✓
<i>MX Purple Cable</i>		✓
<i>Priority Exchange</i>		✓
<i>PCI/SAQ</i>		✓

Table 1.1 Base Package Fee

[NOTE: Confirm if Transaction Gateway is included in pricing.]

Description	Per Month per Device Fees	Per Month per Device Fees	Per Month per Device Fees
Device Model			
Point Enterprise Subscription - Base Package	\$ 35.00	\$	\$
Included Options:			
Low Contour MX Stand	\$	\$	\$
MX Purple Cable	\$	\$	\$
Priority Exchange	\$	\$	\$
PCI/SAQ	\$	\$	\$
Total Monthly Fee	\$	\$	\$

Notes on Fees:

(a) All fees are monthly fees per Device.

(b) The purple cable includes the removal of the standard cable from the standard Point bundle and the inclusion of the purple cable instead.

Non-Return Fee: \$760 per Device

2.0 Payment of Monthly Fee:

The Point Service is billed monthly in advance for each Device (at the start of each month), starting with the first full month after the Point Service commences. The Point Service commences for a Device when the Device is shipped.

3.0 License/Services Term:

(a) Service Term. The Point Service is provided for a minimum thirty-six (36) month service term for each Device, commencing for such Device as set forth in Section 2.0 above. At the termination of the 36 month initial term for each Device, Verifone shall continue to provide the Point Service for such Device until such time as Reseller deactivates such Device on the Hosted Point Service; any such deactivation shall be effective immediately. Notwithstanding the foregoing, Verifone reserves the right to terminate the Hosted Point Service for a Device after the 36 month initial service term by providing thirty (30) days written notice thereof to Merchant. Upon any termination of the service term for a Device, Merchant shall return the Device to Verifone under Section 5(d) below, and Merchant may no longer use the Software or Services for such Device.

(b) Package Changes During Service Term. Merchant may, commencing on the one year anniversary of the start of the 36 month service term for a Device, upgrade to a different Device (in which event Merchant may be subject to an increase in fees based on the new Device subscription fee). For such upgrades, Merchant shall be required to commit to a new 36-month service term for such Device and shall be required to return the old Device in accordance with Section 5(d).

4.0 Point Service:

The Point Service consists of the following Software and Services. Optional Services are only provided if pricing is included for such Service in Section 1.0 above.

Software	
Secure Commerce Application	<p>Verifone's Secure Commerce Application is a terminal application designed for payment processing on Verifone Devices, including credit, debit, gift and other electronic payments. The Secure Commerce Application provided shall be Verifone's current production version, unless otherwise agreed by the parties. The Secure Commerce Application includes the following features (subject to availability; see Software Update Services):</p> <ul style="list-style-type: none"> (a) NFC payment acceptance for Google, Softcard and Apple Pay™ enabled Verifone payment devices. Merchant represents and warrants that Merchant has contracted with the applicable wallet providers for acceptance and use of their services by Merchant with respect to the applicable NFC payment acceptance, to the extent and as required by such wallet provider. (b) EMV contact and contactless functionality. EMV contactless functionality is provided only for Verifone designated card brands.
VeriShield Protect Terminal Application	Verifone's VeriShield Protect Terminal Application provides encryption of the sensitive credit/debit card track data elements on MX and VX Devices.
Services	
Transaction Gateway	The Transaction Gateway is included only for Merchants that wish to send transactions through the PAYware Connect gateway for decryption at their processors; and only where Verifone has integrated the PAYware Connect gateway with such processor's decryption service. PAYware Connect provides transaction routing to enable various transaction types, as well as online reporting. This is a Hosted Point Service.
Estate Management Services	<p>Merchant or Reseller will have access to Verifone's hosted VHQ or VeriCentre service to make application configuration updates and download content per Verifone payment device. Applications subject to VHQ or VeriCentre shall be designated by Verifone from time to time. This is a Hosted Point Service. Merchant or Reseller will be provided access to the Hosted Point Service as follows:</p> <ul style="list-style-type: none"> • Merchant or Reseller will be able to access the Hosted Point Service 24 hours per day, 7 days per week, subject to the terms herein. • Verifone will use commercially reasonable efforts to ensure a monthly availability for the Hosted Point Service at 99.8% or above. The following are not included in the availability calculation: Force Majeure events, planned maintenance, and downtime due to any acts or omission of Merchant. • Verifone will monitor the Hosted Point Service 24/7 to ensure all systems remain operational and/or address any unforeseen issues that might occur. • Verifone will use commercially reasonable efforts to provide Merchant with at least two (2) weeks' notice of any planned maintenance. In any event, Merchant will be notified at least 24 hours in advance of any planned maintenance updates that will cause the Hosted Point Service to be unavailable. • Verifone will provide Merchant with end user documentation for the Hosted Point Service. • Verifone is not responsible for terminal application software, terminal hardware functionality or communication infrastructure hardware or software (other than as may be separately agreed with Merchant in writing). • Merchant is solely responsible for enabling the features in, and setting the parameters it wishes to use for, the applications that it downloads to Verifone payment devices using the Hosted Point Service. • Merchant is solely responsible for ensuring that it has the proper licenses and rights to the content that it downloads to Verifone payment devices using the Hosted Point Service; Merchant warrants that Merchant has the right to download and use such content as contemplated herein.
Key Loading	Provides initial key injection of Verifone devices prior to shipment as well as access to Verifone's remote keyloading services, at the Merchant's request. The remote key loading is a Hosted Point Service. Separate fees apply for each remote key payload requested.
Configuration, Shipment, and Deployment	Verifone, or designated fulfillment provider, shall provide initial configuration, shipment, and deployment of all Verifone equipment. For VX and MX Devices, the VeriShield Protect terminal application is installed in each Device prior to shipment.
Help Desk	Help Desk Services are available. For any Third Party Services, Verifone may extend Help Desk Services to such Third Party Services, or the third party may provide direct support to Merchant. The support terms for such Third Party Services are available from Verifone upon request.
Warranty and/or Repair	Buyer Protection Plan (BPP) provided for Countertop devices. Repair Services provided for mobile handheld devices.
Software Update Services	Verifone will make available to Merchant software updates for the Software, including error corrections, feature enhancements, and other compliance and general industry regulation updates, if and when such updates are made generally available by Verifone to its Point customers (" Software Updates "). Merchant is responsible for deploying/installing Software Updates in the licensed Verifone payment devices. Any Software Updates provided shall be licensed to Merchant under the applicable license terms set forth in Section 2 of the Agreement. Subject to the foregoing, updates to include EMV specification changes to the Secure Commerce Application. As part of such changes, Verifone shall provide required EMV Level 2 certifications for the Secure Commerce Application.
Priority Exchange (optional)	A replacement Device can be expedited to the Merchant location prior to Verifone receiving the Device for which it is intended to replace. Priority Exchange Services are only available to merchants in the United States.
PCI/SAQ	PCI/SAQ Tool is a Third Party Service. Merchant will be required to accept Verifone's service provider's terms of service or use when accessing PCI/SAQ.
Wireless Service	Wireless Services are included for the VX680 GPRS Device. This is a Third Party Service. See Pass Through Provisions regarding Wireless Services below.

4.0 Devices: The following shall apply to the Devices provided with the Point Service:

(a) Verifone Property. The Devices shall remain the property of Verifone. Merchant shall have no right, title or interest therein except as a lessee under this Agreement. Merchant shall keep all Devices free and clear from all liens, including any direct or indirect charge, encumbrance, lien, security interest, legal process or claim against the Devices.

(b) Loss and Damage. Subject to Verifone's obligation to provide the Services, Merchant assumes and shall bear the entire risk of loss or damage to the Devices from any use whatsoever from the date of delivery of the Devices to the Merchant site, until such Devices are returned to Verifone. No loss or damage shall relieve Merchant from the obligation to make payments hereunder or to comply with any other obligation under this Agreement. In the event of a loss of a Device (but not damage), Merchant shall immediately notify Reseller thereof. With respect to any lost Device, Merchant shall be obligated to pay Verifone the non-return fee applicable to such Device as set forth in Section 1.0 above (the "**Non-Return Fee**"). If Merchant is paying by ACH, upon such payment, a new or refurbished replacement Device will be shipped to Merchant. If Merchant is being invoiced, Verifone shall invoice Merchant for the Non-Return Fee and ship Merchant a new or refurbished replacement Device. At all times payments for the Point Service for such Device shall continue in effect.

(c) Return for Swap. In the event Reseller provides a Device to a Merchant in connection with repair services, and Merchant fails to return the defective Device to Reseller for repair within sixty (60) days thereafter, Merchant shall be obligated to pay to Verifone the Non-Return Fee for such Device. At all times payments for the Point Service for the replacement Device shall continue in effect.

(d) Return for Deactivation/Termination. In the event a Device is deactivated or upon expiration or termination of the service term for such Device as set forth in Section 3.0 above, Merchant shall return such Device to Reseller. If a Device is not returned within thirty (30) days of such deactivation date or expiration date, Merchant shall be obligated to pay Verifone the Non-Return Fee such Device. If, upon return of the Device, Verifone determines that the Device requires repair that is not covered by Services (e.g. out of scope repair services), Merchant shall be required to pay for such services, at Verifone's standard fees. When returning a Device an MRA # is required.

(e) Substitution/End of Life. Notwithstanding anything to the contrary herein, Verifone reserves the right to end of life any Device. As of the end of life date, Merchant will no longer be able to place new orders for the Point Service that includes such Device. Verifone will continue to provide the Services for such Device for the Service Term applicable thereto. However, in connection with providing such Services, Verifone reserves the right to swap out Devices for new product to address any component supply issues.

(f) Delegation. Verifone reserves the right to delegate collection of the fees (including the Non-Return Fee) to Reseller, in which event Merchant shall pay Reseller such fees.

(g) Special Power of Attorney. Merchant hereby grants to Verifone a purchase money security interest in all Devices shipped to Merchant, as security for the performance by Merchant of all of Merchant's obligations arising under this Agreement. Verifone is hereby authorized by Merchant to cause this Agreement or any other statement or other instrument in respect of this Agreement showing the interest of Verifone in the Device, including Uniform Commercial Code financing statements, to be filed and recorded, and Merchant grants to Verifone the right to execute Merchant's name thereto.

(h) Software License. The software included in the Device shall be licensed to Merchant under the terms of Section 2(b) of the Agreement for the service term set forth in Section 3.0 above.

6.0 Additional Warranties

(a) Transaction Gateway Warranty. With respect to the Transaction Gateway Services, if applicable to Merchant, the following shall apply: Verifone warrants that, as of the Effective Date, Verifone PAYware Connect is on the list of service providers that have been certified as compliant with the Payment Card Industry Data Security Standards ("**PCI DSS**") established by PCI SSC. Verifone shall seek revalidation of PAYware Connect with PCI SSC as required by the card brands during the term of the Agreement. As evidence of compliance, Verifone will provide when requested, a current attestation of compliance signed by a PCI QSA (Qualified Security Assessor). In the event that the PCI DSS requirements applicable to PAYware Connect change during the term of the Agreement, Verifone shall use commercially reasonable efforts to meet all new applicable PCI DSS requirements. In the event Verifone is unable to obtain revalidation of PAYware Connect as required by the card brands or is unable to meet such new applicable PCI DDS requirements, Verifone shall promptly notify Merchant and (a) either party may terminate the Transaction Gateway services immediately upon written notice to the other party (in which event, the parties shall review the fees due hereunder and adjust the fees to reflect the termination of the Transaction Gateway services) or (b) if Verifone cannot offer alternative routing to Merchant's processor, either party may terminate this Agreement immediately upon written notice to the other party.

(b) Devices. Verifone warrants that: (i) as of the Effective Date, Verifone has obtained the Payment Card Industry PIN Transaction Security ("**PCI PTS**") approval for the Devices; and (ii) Verifone will not ship a Device to Merchant where such Device has not received PCI-PTS approval from PCI SSC.

7.0 Effect of Expiration or Termination of the Agreement:

Upon any expiration of the Agreement or termination of the Agreement under Section 7(b) of the Agreement (except for termination by Verifone under Section 7(b) (i) or (ii)), Merchant shall continue to use the Software and Services for each Device, and Verifone shall continue to provide the Services for such Device, until expiration of the then current annual Service term for such Device as set forth in Section 3.0 above. Upon any termination of the Agreement under Section 7(b)(i) or (ii) of the Agreement, Merchant's license rights in the Software and Merchant's use of and Verifone's obligation to provide the Services shall terminate and Merchant shall return the Devices to Verifone as set forth in Section 5(d) above.

Merchant is responsible for retrieving any data or content provided by Merchant for each Hosted Point Service prior to any expiration or termination date of the Agreement, using the portal made available to Merchant with such Hosted Point Service. Verifone does not provide data or content retrieval services.

8.0 Pass Through Provisions Regarding Wireless Services:

If Merchant is procuring a Device that includes Wireless Services, the following shall apply: Merchant acknowledges that Verifone is providing the Wireless Services pursuant to agreements with third party service providers. In connection with Verifone's agreement with such third party service providers, Merchant shall be bound by certain pass through provisions as set forth on Verifone's website at [http://community.Verifone.com/Verifone/community/-42597/GPRS_CarrierEndUserPassThroughs\(08-07-12\).pdf](http://community.Verifone.com/Verifone/community/-42597/GPRS_CarrierEndUserPassThroughs(08-07-12).pdf). Merchant shall indemnify and hold harmless Verifone and such third party service providers, and their officers, employees and affiliates, from and against any and all third party claims, irrespective of the nature of the claims, alleging loss, costs, expenses, damages or injuries (including injuries resulting in death) arising out of or in connection with any breach of such pass through provisions by Merchant, or any claims for libel, slander, or any tangible property damage, personal injury or death, arising in any way, directly or indirectly, in connection with acts or omissions of Merchant under this Agreement with respect to the Wireless Services, or Merchant's use, failure to use, or inability to use the Wireless Services except where the claims result from the gross negligence or willful misconduct of any of the Verifone or the service provider. Indemnities in this section shall survive the expiration or termination of this Agreement.

9.0 Apple Terms:

If Merchant has acquired a Point Service that includes download of Verifone's PAYware Mobile application from the Apple iTunes Application Store, the following additional terms apply to such software (in addition to the license terms set forth in the Agreement):

1. Merchant agrees and acknowledges that Apple is not responsible for the PAYware Mobile application and its content. In addition, Merchant's use of such PAYware Mobile application downloaded from such location is limited to a non-transferable license to use the PAYware Mobile application on any Apple branded products running iOS (collectively "Apple Device(s)") that Merchant owns or controls and as permitted by the Usage Rules set forth in the App Store Terms of Service. Moreover, Verifone hereby informs Merchant and Merchant acknowledge and agree that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the PAYware Mobile application.
2. Apple has no warranty obligation with respect to the PAYware Mobile application and any claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty set forth in this Agreement is the responsibility of Reseller or its licensor.
3. Apple is not responsible for addressing any claims relating to the PAYware Mobile application or Merchant's possession and/or use of the PAYware Mobile application, including, but not limited to: (i) product liability claims; (ii) any claim that the PAYware Mobile application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.
4. Apple is not responsible for any third-party infringement claims that the PAYware Mobile application or Merchant's possession and use of the PAYware Mobile application infringe a third party's intellectual property rights.

Verifone, its licensors and Merchant acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of this Agreement with respect to any such PAYware Mobile application, and that Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against Merchant as a third party beneficiary thereof as set forth herein.

EXHIBIT B
ACH Terms

If Merchant is paying Verifone by ACH under this Agreement, the following shall apply:

Merchant will be required to provide Verifone with the ACH account information required by Verifone for such purpose.

For the monthly fees due during the Service Term, Verifone may charge Merchant's ACH account, on a monthly basis, on the initial billing date and on or around the anniversary date of such initial date.

For any other recurring fees, Verifone may charge such ACH account for such recurring fee when due. If payment cannot be charged to Merchant's ACH account, or Merchant otherwise fail to pay the charges for the Point Service when due, Verifone reserves the right to pursue any and all legal remedies to collect the amounts owed by Merchant, and/or terminate Merchant's access to the Point Service.

Merchant agree to provide Verifone with true, accurate, current, and complete billing information, and to inform Verifone promptly of any changes to such information to keep it true, accurate, current and complete. If Merchant provides Verifone with any information that is untrue, inaccurate, not current or incomplete, or Verifone has reasonable grounds to suspect so, Verifone has the right to suspend or terminate Merchant's access to the Point Service. Any change to billing information provided by Merchant shall become effective thirty (30) days after receipt by Verifone, unless otherwise agreed by Verifone in writing, and Merchant expressly authorizes Verifone to continue to debit funds from the ACH account in accordance with the Agreement until the effective date of such change.

If Merchant believes that any payment transaction initiated by Verifone (or its agent) with respect to the ACH Account is erroneous, or if Merchant needs more information about any such transaction, Merchant should contact Verifone as soon as possible. In any event, Verifone must hear from Merchant no later than 90 days after the date the questionable transaction FIRST appeared on the ACH account in order to receive a credit. Verifone will attempt to determine whether an error occurred within ten (10) business days after Verifone hears from Merchant and will correct any error promptly. If Verifone needs more time, however, Verifone may take up to forty-five (45) days to investigate Merchant's complaint or question.

This billing arrangement shall remain in full force and effect until the earlier of (a) Verifone has received written notification from Merchant of its termination in such time and such manner as to afford Verifone and its financial institution, as applicable, a commercially reasonable opportunity to act on it or (b) termination of Merchant's obligation to pay Verifone under this Agreement. In addition, Verifone may terminate this billing arrangement upon written notice if Merchant fails to pay any fees or other payments when due, if Verifone is unable to direct debit Merchant's ACH account because there are insufficient funds, the ACH account has closed or Verifone's direct debit attempt has been blocked. Any termination of this billing arrangement shall not relieve Merchant of its payment obligations under this Agreement.

If Merchant is paying Verifone by ACH under this Agreement, prior to executing this Agreement, Merchant shall confirm with the bank it identifies to Verifone that Verifone's ACH Company ID number (currently 4990206064) is not blocked by such bank and hereby represents and warrants that it has confirmed same.

Merchant hereby authorizes Verifone, and irrevocably constitutes and appoints Verifone (and any officer or agent thereof, with full power of substitution) as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Merchant and in the name of Merchant or in its own name (which appointment is coupled with an interest), to (a) debit directly from the banking account maintained by Merchant and identified to Verifone, the amounts owed by Merchant under this Agreement (including any and all interest, taxes, fees and other amounts chargeable to Merchant under this Agreement), (b) to debit Merchant's account for any applicable insufficient funds fees charged to Verifone by Merchant's bank, and (c) if necessary to initiate credit entries to Merchant's account to reverse all or a portion of a debt.

Verifone and Merchant agree that ACH transactions involving Merchant's bank account must comply with the provisions of U.S. law.