POSinet POS Terms & Conditions – POS Systems, Software & Hardware Purchases

The following Terms and Conditions apply to any purchase of hardware, software or full point of sale system(s) by buyer (Customer) from POSinet, Inc. dba POSinet Point of Sale & Merchant Services (Reseller) as agreed upon either through verbal request or written contract. These terms and conditions supersede any previously agreed upon terms and conditions as terms and conditions may change over time due to the nature of the Point of Sale and Credit Card Processing businesses.   If monthly payments are required to satisfy purchase obligations, any record of monthly payments is evidence of agreement to the terms and conditions written herein:

1.   Access to Software & Hardware. Reseller, as an authorized reseller of Focus POS, grants to Customer and its authorized employees and users a limited, non-exclusive, revocable, non-transferable right, without the right to sublicense, to electronically access and use the Software solely in connection with restaurant points of sale and management solutions for internal business purposes only. The Software includes the website portal, any software (in object code format only), programs, documentation, tools, internet-based services, components, documentation, and any updates (including software maintenance, service information, help content, bug fixes or maintenance releases) thereto provided to Customer ("Software"). Customer will be entitled to download updates to the Software, subject to any additional terms made known to Customer at that time, when updates become available. POSinet, Inc. owns all hardware and software installed by POSinet, Inc. until the end of the three year term of this contract. After which, Customer owns the hardware and software. However, any monthly contract will auto-renew for a period of one year

2.   Restrictions. Customer shall not:
   a.   copy, modify, or create derivative works of the Software or code contained therein, in whole or in part;
   b.   rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software to any person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service in breach of this Agreement;
   c.   reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Software, in whole or in part, or make any modifications or enhancements;
   d.   remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, the Software, or any related documentation, warranties, disclaimers, or intellectual any proprietary notices from the Software;
   e.   use the Software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law;
   f.   use the Software in connection with the design, construction, maintenance, operation, or use of competitive systems or applications for internal use;
   g.   input, upload, transmit or otherwise provide any information or materials that are unlawful or otherwise injurious, or contain, transmit, or activate any virus, worm, malware or other malicious computer code or content; or
   h.   damage, destroy, disrupt, disable, impair, interfere with or otherwise impede or harm the integrity or performance of the Software in any manner, in whole or in part.

3.   User Obligations. Customer agrees to abide by these Terms and Conditions ("Terms") and any policies made available to Customer through the Hardware and/or Software. Customer agrees to keep, and is responsible for, account information (e.g., account username and password), which shall be confidential. Customer shall be responsible for the activity that happens on or through a Customer's account. Any account created is personal and Customer agrees not to provide any other person with access to it. Customer is solely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness, ownership, and/or right to use all of data, information, or materials transmitted through the Software.

4.   Merchant Security. Customer shall be responsible to (a) have and maintain in place virus protection, security, and firewall protection for all its systems, data, and overall network access, and (b) all risk of loss, theft, damage, destruction or breach of any applicable hardware and Software from any cause whatsoever after taking possession of hardware and/or Software. Customer acknowledges that security and access to hardware and Software located on its premises is solely the Customer's responsibility and agrees to notify Reseller immediately if Software is lost, destroyed, stolen, taken by any other person, or breached. RESELLER DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, THAT, AFTER THE INITIAL INSTALLATION OR ACCESS TO THE SOFTWARE CONTAINED THEREIN, THAT THE SOFTWARE OR CUSTOMER'S DATA WILL REMAIN VIRUS-FREE. CUSTOMER WAIVES ANY CLAIMS HEREUNDER AGAINST RESELLER TO THE EXTENT ARISING FROM CUSTOMER'S FAILURE TO HAVE OR MAINTAIN CURRENT VIRUS AND SECURITY PROTECTION, OR TO THE EXTENT ARISING AS A RESULT OF A FAILURE OR BREACH OF CUSTOMER'S SECURITY FOR ITS SYSTEMS OR DATA, OR AS A RESULT OF ANY UNAUTHORIZED ACCESS TO CUSTOMER'S HARDWARE OR SOFTWARE.

5.   Exclusive Credit Card Processing. Customer agrees that during the term of this Agreement, and any renewal term that it shall enter into a Merchant Transaction Processing Agreement and exclusively process credit/debit/gift/loyalty card transactions with Shift 4 or other POSinet, Inc approved service. Customer acknowledges that the costs and benefits contained herein are determined upon the Customer's voluntary agreement to utilize these processing services. Failure to do so shall result in Reseller's right to immediately terminate this Agreement, and forfeiture of the Hardware and Software without notice or opportunity to cure. Such termination of the Agreement shall not relieve Customer of its obligation to pay fees that have accrued as of the termination date and may result in an early termination fees for expected monthly revenue until the end of this contract. Any special pricing or discounts for Cash Discounting will be in effect for only the months Cash Discounting is active on the customer's account.

6.   Billing, Payments and Credit Authorization. Customer grants Reseller, its affiliates, successors, and assigns, both one time or monthly fee deductions by Credit Card Processor or Automated Clearing House ("ACH") authorization to credit and debit its demand deposit account and permission to make a credit inquiry in order to obtain a consumer credit report. Reseller may share such information

with third parties in compliance with applicable law and under obligations to any third parties that are under no less of an obligation to maintain the security of this information as Reseller. Failure to pay or lapse in monthly payments will result in software deactivation and/or POS System hardware and software repossession by POSinet, Inc. In the event of a failure

7.   WARRANTY AND DISCLAIMER. Reseller shall use reasonable efforts consistent with prevailing industry standards to maintain Software and Hardware in a manner which minimizes errors and interruptions to Software. Software may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Focus POS or by third-party providers, or because of other causes beyond Focus POS' or Reseller's reasonable control, but Focus POS shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTY AND REMEDIES EXPRESSLY SET FORTH IN THESE TERMS ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, AND FOCUS POS SPECIFICALLY DISCLAIMS ANY SUCH WARRANTIES AND REMEDIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE OR ANY WARRANTIES RELATING TO SECURITY. THE SOFTWARE IS PROVIDED "AS IS" AND THERE IS NO WARRANTY OR REPRESENTATION THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE, OR THAT THE SOFTWARE WILL BE FREE FROM INFRINGEMENT OR VIOLATION OF ANY PATENT, COPYRIGHT, TRADE SECRET, OR ANY OTHER INTELLECTUAL PROPERTY RIGHT OF ANY THIRD PARTY.

8.   Compliance with Laws. Applicable state and federal laws, as well as third party providers, may impose obligations with respect to collection, use, confidentiality of personal information transmitted through the Software. Focus POS may collect data to create analytics, statistics, and other data related to the use of the Software and the data derived therefrom in an aggregated, anonymous, de-identified form ("Derivative Data"). Such Derivative Data will be used (i) to provide the Software, (ii) for statistical use to monitor, analyze, maintain, and improve the Software, and (iii) for Focus POS' internal business purposes. Focus POS shall own all right, title, and interest in the Derivative Data. If such ownership right is unenforceable, then Customer hereby grants Focus POS a worldwide, nonexclusive, transferable, royalty-free, perpetual, irrevocable license, with right to sublicense, to use, reproduce, electronically distribute, store, process, and display Derivative Data. For purposes of clarity, Focus POS shall take no action and shall not allow any third party to take any action that does or would reasonably result in the identification of any natural person underlying the Derivative Data. Focus POS does not share or sell personal information with or to any third parties, except for the purposes of processing transactions where it may be necessary to share such information with third parties, including but not limited to, credit card processing transactions. Customer represents and warrants that to the extent required by applicable law, Customer will, at all times, comply with all laws directly or indirectly applicable to Customer that may now or hereafter govern the gathering, use, transmission, processing, receipt, reporting, disclosure, and maintenance of any data applicable to such laws, including but not limited to making all necessary disclosures and obtaining necessary consents to enable Focus POS to collect, process, and transmit data as contemplated under these Terms.

9.   Termination/Suspension. Reseller may terminate this Agreement and close a Customer account for any reason or no reason at any time upon notice. Reseller may also suspend the Software and access to Software account if Customer (a) violates these Terms or Focus POS policies, (b) poses an unacceptable credit or fraud risk, (c) provides any false, incomplete, inaccurate, or misleading information or otherwise engages in fraudulent or illegal conduct, or (d) dissolves, files for bankruptcy, or otherwise ceases to conduct business. Neither Focus POS nor Reseller will be liable to Customer for compensation, reimbursement, or damages in connection with use of the Software, or in connection with any termination or suspension of the Software. Termination or your use of any products and/or services does not relieve you of your obligation to pay for any purchases of products and/or services made as well as any fees and charges already incurred. Customer is responsible for all payments for purchases either verbally requested and/or contracted, none of which are refundable. Customer agrees to return any documentation, equipment or proprietary information if requested by Reseller. Returning used equipment does not constitute any form of payment or release from debt liability unless agreed to by Reseller. Customer agrees to be responsible to pay any attorney's fees due to POSinet, Inc. in the event of court action.

10. Intellectual Property Rights. Focus POS retains all intellectual property rights and protections in the Software, and Customer shall have no ownership rights in or to the Software or any trademarks used in connection with the Software and related services.

11. Governing Law; Arbitration. The validity, interpretation and performance of this Agreement shall be governed by the laws of the State of Rhode Island, without reference to its choice of law rules. All claims, disputes, or other matters in question arising out of, or relating in any way to, this Agreement or the breach thereof, or relating to the relationship involved with, created by or concerning this Agreement, shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (9 U.S.C. § § 10 and 11, as amended) (FAA) by a single arbitrator in Providence, Rhode Island in accordance with the laws of the State of Rhode Island and the Rhode Island Arbitration Act, unless the parties agree to an alternative dispute resolution or procedure. The arbitrator shall issue an award in writing and state the essential findings and conclusions on which the award is based. The arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. No arbitration arising out of, or relating to, this Agreement shall include by consolidation, joinder or in any other manner any other person or entity who is not a party to this contract unless the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and/or such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings. The award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modification or appeal except to the extent permitted by the FAA.

12. Other Provisions. Except as expressly provided in this Agreement, these Terms are a complete statement of the agreement between Reseller and Customer, and describe the entire liability of Reseller and its vendors and suppliers and Customer's exclusive remedies with respect to access and use of the Software. If any provision of this Agreement is invalid or unenforceable under applicable law, then

it shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect. Headings are included for convenience only, and shall not be considered in interpreting this Agreement. These Terms do <u>not</u> limit any rights that Reseller or Focus POS may have under trade secret, copyright, patent, or other laws. Failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other obligation.

Upon termination, you will lose access to the relevant Services, and we may delete any information stored regarding you or your transactions through the Services. Termination of your use of any of the Services does not relieve you of the obligation to pay for any Purchases made as well as related fees and charges already incurred. In the event of termination of your use of the Services by you or us, we will not provide any refunds for amounts previously paid through the Services.