



Standard Terms and Conditions

SECTION 1 ENTIRE AGREEMENT

The cover page, these Standard Terms and Conditions, and the Exhibits attached hereto, constitute the final, complete and exclusive agreement between the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous proposals, understandings, representations, warranties, promises and other communications, whether oral or written, relating to such subject matter (including without limitation any prior "Standard Terms and Conditions" published by Verifone). Any term or condition in any order, confirmation or other document furnished by Customer at any time, which is in any way inconsistent with or in addition to the terms and conditions set forth in this Agreement is hereby expressly rejected, and Verifone's acceptance of any offer or order of Customer is expressly made in reliance on Customer's assent to all terms and conditions hereof.

SECTION 2 PURCHASE OF PRODUCTS, SUPPORT SERVICES AND SOFTWARE

A PRICES

The prices applicable to the Products, Support Services and Software shall be as set forth in the Exhibits to this Agreement. Such prices do not include any excise, sales, use or other taxes, and therefore are subject to increase in the amount of any such taxes (excluding any tax on Verifone's net income) that Verifone may be required to collect or pay upon the sale or delivery of the Products, Support Services or Software. In addition, such prices do not include the charges for services referred to in Section 2(E) below, or any shipping, handling, customs, insurance or similar charges referred to in Section 5 below, all of which will be invoiced to and paid by the Customer as provided herein.

B PURCHASE ORDER PROCESS

The Customer shall place orders for the Products, Support Services and Software to be purchased hereunder by submitting one or more written purchase orders to Verifone during the term of this Agreement. Each such purchase order shall state the descriptions (including Verifone's part numbers) and quantities of the Products, Support Services and Software being ordered and the requested shipment date for such Products. A purchase order may also state special shipment and insurance information, subject to Section 5(D) below. In no event shall any other terms or conditions set forth on a purchase order submitted by the Customer be binding on Verifone. In addition, any purchase order submitted by the Customer shall not be binding on Verifone unless and until Verifone has accepted such purchase order by written acknowledgement or by shipment of the Products applicable to such purchase order.

C STANDARD PRODUCTS

Unless specifically set forth by Verifone herein or otherwise in writing: (1) all Products and Software shall be Verifone's standard, off-the-shelf items, and no special or customized version of any Product or Software shall be provided by Verifone; and (2) Verifone shall have no obligation to ensure that the Products or Software operate in conjunction with Customer's equipment, software or other products or systems, and the Customer shall be responsible for all costs it incurs in connection with any modifications it elects to make to its own equipment, software or other products or systems.

D END OF LIFE

Verifone reserves the right to discontinue the supply of any Product that has been identified by Verifone as End of Life. Verifone will use commercially reasonable efforts to provide the Customer with ninety (90) days prior written notice of any end of life, together with information on Verifone's product roadmap and other product options regarding those products. Verifone reserves the right to terminate the Support Services for any Product that has been identified as End of Life with ninety (90) days written notice to the Customer in the event parts or components become unavailable.

SECTION 3 CERTAIN OBLIGATIONS OF THE CUSTOMER

The provisions of this Section 3 shall apply if the Customer intends to resell the Products. As used in this Agreement, the term "resell," and similar terms, shall include any resale, lease or other transfer or delivery of the Products.

A RESALE OF PRODUCTS ONLY TO PERMITTED PURCHASERS

The Customer shall resell the Products only to the following persons and entities (referred to herein collectively as "Permitted Purchasers"): (1) any end user of the Products (which shall mean any person or entity that uses the Products in the conduct of its business of selling goods or providing services to the general public and does not resell the Products to any third party), provided that such end user is in the market for which Verifone has provided Product pricing to the Customer; and (2) any other person or entity with respect to which Verifone has given its prior express written approval. If the Customer resells Products to any person or entity other than a Permitted Purchaser, then (in addition to any other remedies available to Verifone) Verifone may invoice the Customer, and the Customer shall pay to Verifone within thirty (30) days after the date of any such invoice, an amount equal to the difference between (i) the total sum actually charged to the Customer for the Products resold to any person or entity other than a Permitted Purchaser and (ii) the total sum which would have been charged to the Customer for such Products if such Products had been sold to the Customer at Verifone's standard end-user prices (list prices) then in effect for such Products.

B PROVISIONS FOR RESALE

Verifone, at its option, may provide the Customer with documentation to be included with the Products when such Products are resold by the Customer. The Customer agrees that all such documentation shall be for the benefit of Verifone and shall be enforceable directly by Verifone (in Verifone's name or on behalf of the Customer).

C COMPLIANCE WITH LAWS AND OTHER STANDARDS

In reselling the Products and licensing the Software, the Customer shall comply with all applicable laws, rules and regulations and shall adhere to the highest professional and ethical standards applicable to the Customer's business. Without limiting the generality of the foregoing, the Customer shall under no circumstances misrepresent the Products or Software, the features or capabilities thereof, the warranties applicable thereto, or any other related information.

SECTION 4 TERMS OF PAYMENT

With regard to Products, Verifone shall be entitled to invoice Customer at the time of each shipment of Products to Customer. With regard to Support Services and Software, Verifone shall be entitled to invoice Customer for the Support Services and Software in accordance with the applicable Exhibit. Payment terms for all invoiced amounts shall be thirty (30) days from the date of invoice. The Customer shall make all payments due to Verifone without regard to whether the Customer has made or may make any inspection of the Products or Software delivered to the Customer. Any invoiced amount which is not paid when due shall bear a late fee at the rate of eighteen percent (18%) per annum or the maximum rate permitted by applicable law, whichever is less. If the Customer fails to pay any invoiced amount when due, or if for any other reason Verifone is not satisfied with the credit-worthiness of the Customer, then Verifone shall be entitled to withhold shipments (and the provision of any Support Services) until the Customer re-establishes its credit to Verifone's satisfaction.

SECTION 5 DELIVERY OF PRODUCTS

A SHIPPING SCHEDULE

Verifone shall use its reasonable efforts to ship Products to the Customer in accordance with the shipment schedule provided to Verifone by the Customer. Verifone reserves the right to ship Products as early as five (5) business days prior to the requested shipment date in order to accommodate Verifone's overall delivery schedules. Notwithstanding the foregoing and without limiting the generality of Section 10 below, Verifone shall not be liable for damages of any kind as a result of a delay in delivery for any reason.

B CHANGES PERMITTED

The Customer may change a previously requested shipment date for any standard Products (i.e., Products other than custom or made-to-order Products), provided that Customer gives Verifone written notice of such change at least thirty (30) business days prior to the previously requested shipment date.

C CHANGES SUBJECT TO CONSENT

Except as provided in Section 5(B) above, the Customer shall not be entitled to change a previously requested shipment date, or cancel an order, for any Products, Support Services or Software except with Verifone's prior express written consent, which consent shall be at Verifone's sole discretion. If Verifone gives its consent pursuant to the preceding sentence but the Products involved have already been shipped to the Customer, then: (1) The Customer shall return the Products to Verifone and pay all related shipping, handling, customs and insurance charges (for both shipping the Products to the Customer and returning the Products to Verifone); and (2) The Customer shall pay Verifone a restocking fee equal to ten percent (10%) of the purchase price for the Products.

D SHIPMENT PROCESS

Delivery of Products within Spain shall be CIF (Incoterms 2010) at Verifone's facility, as designated by Verifone, and DDU for deliveries to the Canary Islands. Any deliveries outside Spain shall be EXW AT THE CITY SPECIFIED BY VERIFONE. Unless otherwise specified by the Customer in writing at least thirty (30) days prior to a requested shipment date, Verifone shall determine in its discretion the means of shipment and shall not be responsible for arranging insurance on the Products involved. Verifone shall invoice the Customer for any and all shipping, handling, customs, insurance and similar charges incurred by Verifone in shipping Products to the Customer, and the Customer shall pay such charges. Verifone also reserves the right to ship Products to the Customer freight collect. The Customer shall be deemed to have accepted the Products upon the date title to such Products passes to the Customer; provided, however, that nothing in this Section 5(D) shall be deemed to limit the Customer's warranty rights set forth in Section 9 below.

SECTION 6 OWNERSHIP; LICENSES

A PASSAGE OF TITLE

Title to Products, and risk of damage thereto or loss thereof, shall pass to Customer upon delivery of such Products by Verifone to the carrier for shipment to Customer or at such earlier time as Customer and Verifone may agree.

Notwithstanding the foregoing, Customer hereby grants to Verifone a security interest in all Products delivered to Customer, and in all accessions to, replacements of and proceeds from sale or lease of such Products, as security for the performance by Customer of all of Customer's obligations arising under this Agreement.

B OWNERSHIP

Notwithstanding Section 6(A) above, the Customer acknowledges that the Products contain proprietary electronics, software and technical information of Verifone or its licensor (collectively "Proprietary Materials"). As between Verifone and the Customer, ownership of all patents, copyrights, mask work rights, trademarks, trade names and other intellectual property rights relating to or residing in the Products, the Proprietary Materials and the Software shall remain with Verifone or its licensor. Customer understands and agrees that this Agreement does not constitute a sale of any Proprietary Materials or Software or any such intellectual property rights; except that Customer and its customers shall have the limited right to use Proprietary Materials in the course of using the Products, and use the Software, in accordance with this Agreement. Customer shall promptly notify Verifone of any actual or threatened misappropriation or infringement of Verifone's proprietary rights which comes to Customer's attention.

C LICENSE FOR SOFTWARE AND DOCUMENTATION

Without limiting the generality of Section 6(B) above, the parties acknowledge that (as between Verifone and the Customer) Verifone owns all rights (including without limitation all copyrights) in any software provided by Verifone at any time (whether contained in a Product, provided on a diskette or other media, downloaded remotely or otherwise transferred) and in any documentation provided by Verifone at any time. The terms "sell" and "buy," and similar terms, as used in this Agreement with respect to any such software and/or documentation shall mean the grant to the Customer of a non-exclusive, non-transferable limited license for each Product purchased from Verifone hereunder: (1) to use such software (in object code form only) and/or documentation together with such Product, in Spain, for the sole purpose of using such Product, subject to the provisions in any separate license agreement or other document (relating to such software and/or documentation) supplied by Verifone to the Customer, and (2) in connection with any resale of such Product provided by Verifone, to grant to the purchaser thereof a sublicense to use such software (in object code form only) and/or documentation solely as provided in the foregoing clause "(1)" (subject to the restrictions imposed in Section 6(D) below). The Customer agrees that all such sublicenses shall be for the benefit of Verifone and shall be enforceable directly by Verifone (in Verifone's name or on behalf of the Customer). The Customer shall have no right to market, distribute or otherwise transfer such software and/or documentation except as expressly provided in this Section 6(C). Certain Software may be subject to the payment of license fees, as established in the project proposal or as otherwise agreed by the parties. Certain Software may have different license rights as set forth in the applicable Exhibit; in such event the license terms in such Exhibit shall apply with respect to such Software, in lieu of this Section 6(C).

D FURTHER RESTRICTIONS

The Customer shall not reverse engineer, decompile, disassemble, translate, copy, modify, alter or otherwise change any Product or Software, or part thereof (including without limitation any Proprietary Materials, or any other software or documentation provided by Verifone), without the prior express written consent of Verifone. The Customer shall have no right to obtain source code for any software provided by Verifone by any means without the prior express written consent of Verifone. The Customer shall not disclose to any third party any protocols or specifications of Verifone that are shared with or otherwise provided to the Customer which allow the Customer to integrate its systems to the Products or any Software licensed under Section 6 (C) above.

E TRADEMARKS

The Customer shall not remove from the Products or Software (or their packaging or documentation), or alter, any of Verifone's trademarks, trade names, logos, patent or copyright notices, or other notices or markings, or add any other notices or markings to the Products or Software (or their packaging or documentation), without the prior express written consent of Verifone.

Verifone hereby grants the Customer a non-exclusive, non-transferable limited license to use Verifone's trademarks relating to the Products and Software during the term of this Agreement; provided, however, that (1) the Customer shall use such marks only in connection with advertising or promotion of the Products or Software to denote their origin, (2) the Customer shall clearly designate that such marks are owned by Verifone, and (3) the Customer shall otherwise comply with Verifone's then current policies for use of its marks. Any use of Verifone's trademarks by the Customer (i) shall be in capital letters, (ii) if they are registered in the United States Patent and Trademark Office, shall be accompanied by the "®" symbol, (iii) if they are not registered in the United States Patent and Trademark Office, shall be accompanied by the "™" symbol, and (iv) shall be followed by a common descriptive name for the Products. The Customer shall not, by virtue of the foregoing license, acquire any right, title or interest in Verifone's trademarks; and the Customer shall not contest or otherwise challenge the right, title and interest of Verifone in its trademarks or the registration thereof. The Customer's use of Verifone's trademarks shall accrue to the benefit of Verifone.

SECTION 7 CONFIDENTIAL INFORMATION

All documentation, drawings, samples, designs, specifications, engineering details and related information pertaining to the Products and Software, whether in oral, written, graphic or electronic form, as well as the Proprietary Materials referred to in Section 6(B) above, are and shall remain the confidential and proprietary information of Verifone (collectively the "Confidential Information"). The Customer shall (a) disclose Confidential Information to only those directors, officers and employees of the Customer (collectively "Representatives") whose duties justify their need to know such information and who have been clearly informed of their obligation to maintain the confidential, proprietary and/or trade secret status of such Confidential Information; and (b) use Confidential Information only for the purposes set forth in this Agreement and not for any purpose detrimental to Verifone. In any event, Customer and its Representatives shall treat all Confidential Information as strictly confidential and shall use the same care to prevent disclosure of such information as the Customer uses with respect to its own confidential and/or proprietary information, which shall not be less than the care a reasonable person would use under similar circumstances. The Customer shall not copy any Confidential Information without the express prior written consent of Verifone, and all Confidential Information (and copies thereof) shall be returned promptly to Verifone upon request. The Customer shall ensure that its Representatives comply with the provisions of this Section 7, and the Customer shall be liable for any breach of this Section 7 resulting from the act or omission of any of its Representatives. Notwithstanding the foregoing, information disclosed to the Customer shall not be deemed to be Confidential Information if (i) the Customer establishes that the information was already known to the Customer, without obligation to keep it confidential, at the time of its receipt from Verifone, as evidenced by documents in the possession of the Customer prepared or received prior to Verifone's disclosure; (ii) the Customer establishes that the information was received by the Customer in good faith from a third party lawfully in possession thereof and having no obligation to keep such information confidential; or (iii) the Customer establishes that the information was publicly known at the time of its receipt by the Customer or has become publicly known other than by a breach of this Agreement or other action by the Customer.

SECTION 8 PATENT, COPYRIGHT AND TRADEMARK INDEMNITY

A INDEMNITY

Subject to the provisions of this Section 8 and Section 10 below, Verifone shall at its expense defend any action against the Customer to the extent such action is based on a claim that a Product or the Software infringes a United States patent, copyright or trademark, and Verifone shall pay those damages and costs finally awarded against the Customer in such action which are specifically attributable to such claim, provided that the Customer notifies Verifone promptly in writing of such action, the Customer gives Verifone sole control of the defense thereof (and any negotiations for settlement or compromise thereof), and the Customer cooperates in the defense thereof at Verifone's expense. If any Product or Software becomes, or in Verifone's opinion is likely to become, the subject of a claim of infringement, then the Customer shall permit Verifone, at its option and expense, either to (1) procure the right to continue using such Product or Software, (2) replace or modify such Product or Software so that it becomes non-infringing, or (3) accept return of such Product or Software and give the Customer a credit therefor, less depreciation for use, damage and obsolescence thereof (such depreciation to be calculated as an equal amount per year over the life of such Product or Software, which is agreed for purposes of this clause to be five (5) years from the date of original delivery of such Product or Software). The Customer shall not incur any costs or expenses for the account of Verifone under or pursuant to this Section 8 without Verifone's express prior written consent.

THE FOREGOING STATES THE ENTIRE LIABILITY OF VERIFONE FOR INFRINGEMENT CLAIMS AND ACTIONS.

B CERTAIN EXCEPTIONS

Verifone shall have no liability to the Customer under this Section 8 or otherwise for any action or claim alleging infringement based upon any conduct involving (1) the use of any Product in a manner other than as specified by Verifone, (2) the use of any Product in combination with other products, equipment, devices or software not supplied by Verifone (including without limitation any application software produced by the Customer for use with such Product), (3) the alteration, modification or customization of any Product by any person other than Verifone, or by Verifone based on the Customer's specifications or otherwise at the Customer's direction (regardless of whether such alteration, modification or customization occurs before or after the Product is originally shipped or delivered by Verifone to the Customer); or (4) any failure to install an update to a Product provided by Verifone. In the event of an infringement action or claim against Verifone which is based on any conduct described in the preceding sentence, the Customer shall at its own expense defend such action or claim, and the Customer shall pay any and all damages and costs finally awarded against Verifone in connection with such action or claim, provided that Verifone notifies the Customer promptly in writing of such action or claim, Verifone gives the Customer sole control of the defense thereof (and any negotiations for settlement or compromise thereof), and Verifone cooperates in the defense thereof at the Customer's expense.

SECTION 9 LIMITED WARRANTY

A PRODUCT WARRANTY TERMS

Subject to the provisions of this Section 9 and Section 10 below, with respect to each Product sold by Verifone hereunder, Verifone warrants that, for a period of thirteen (13) months (or such longer period as may be set forth in Exhibit A) from the date such Product is shipped from Verifone's facility or the date title to such Product passes to the Customer, whichever date is earlier (such period referred to herein as the "Warranty Period"): (1) all components of such Product, except software components, shall be free from faulty workmanship and defective materials; and (2) all software components of such Product shall substantially conform to the written documentation designated by Verifone for use with such software components. The warranties provided by Verifone in this Section 9(A) are the only warranties provided by Verifone with respect to the Products sold hereunder, and may be modified or amended only by a written instrument signed by Verifone and accepted by the Customer. The Customer's remedies and Verifone's aggregate liability with respect to the warranties provided by Verifone in this Section 9(A) are set forth in and are limited by this Section 9 and Section 10 below.

B PRODUCT WARRANTY CLAIMS

If, during the applicable Warranty Period for a Product sold by Verifone hereunder, it is determined that any component of such Product, except software components, is defective due to faulty workmanship or defective materials, or it is determined that any software component of such Product fails to substantially conform to the written documentation designated by Verifone for use with such software component, then such Product shall be returned to Verifone, it being agreed that Verifone shall not bear the expense of shipping such Product to Verifone except as otherwise agreed by Verifone. Upon receipt of any such Product during the applicable Warranty Period, Verifone shall, at its expense, (1) in Verifone's sole discretion, repair or replace such Product, and (2) ship such Product to return it to its original location. Verifone's obligations hereunder shall arise only if Verifone's examination of the Product in question discloses to Verifone's satisfaction that the claimed defect or nonconformity actually exists and was not caused by any improper installation, testing or use, any misuse or neglect, any failure of electrical power, air conditioning or humidity control, or any act of God, accident, fire or other hazard. In addition, no trouble found warranty repairs are limited to ten percent (10%) of all Product, by Product type, returned for repair by Customer on a quarterly basis. In the event the Customer exceeds this limit in any quarterly period, Verifone may assess its then current fee for Clean and Test services on all units in excess of such percentage. Repair or replacement of a Product (or any part thereof) does not extend the Warranty Period for such Product.

C. EXTENDED PRODUCT WARRANTY. The Customer may purchase an extension of the Warranty Period for certain Products, as set forth in Exhibit A, for the fees set forth therein. Any such purchase must be made at the time of the original Product purchase, except as otherwise agreed by the parties in Exhibit A.

D. SOFTWARE WARRANTY. Warranties for the Software, if any, are as set forth in the applicable Exhibits.

E. LIMITATIONS ON PRODUCT WARRANTIES. THE EXPRESS WARRANTIES OF VERIFONE STATED IN SECTION 9(A) ABOVE DO NOT APPLY TO PRODUCTS NOT MANUFACTURED BY VERIFONE, TO SOFTWARE NOT DEVELOPED BY VERIFONE, CONSUMABLE ITEMS (E.G. PAPER AND CERTAIN BATTERIES), SPARE PARTS, THE SOFTWARE OR SUPPORT SERVICES.

F. LIMITATIONS ON SOFTWARE WARRANTIES. THE EXPRESS WARRANTIES OF VERIFONE STATED IN SECTIONS 9(A)(2) AND 9(D) ABOVE (AND THE APPLICABLE EXHIBIT, IF ANY) APPLY ONLY TO REPRODUCIBLE DEFECTS AND PROGRAM ERRORS. VERIFONE MAKES NO WARRANTIES THAT ANY SOFTWARE WILL MEET THE REQUIREMENTS OF THE CUSTOMER OR THAT ALL PROGRAM ERRORS IN ANY SOFTWARE CAN BE REMEDIED.

G. WARRANTIES APPLICABLE IN UNITED STATES ONLY.

THE EXPRESS WARRANTIES OF VERIFONE STATED IN THIS SECTION 9 APPLY ONLY TO PRODUCTS AND SOFTWARE SOLD AND USED IN SPAIN. ALL PRODUCTS AND SOFTWARE ARE DESIGNED FOR USE IN THE UNITED STATES ONLY, AND USE OUTSIDE THE UNITED STATES SHALL VOID ALL WARRANTIES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, VERIFONE MAKES NO WARRANTY, AND PROVIDES NO ASSURANCES, THAT THE PRODUCTS OR SOFTWARE WILL MEET CERTIFICATION REQUIREMENTS OF ANY REGULATORY OR LICENSING AGENCY OUTSIDE THE UNITED STATES.

H. DISCLAIMER. THE EXPRESS WARRANTIES OF VERIFONE STATED IN THIS SECTION 9 DO NOT APPLY TO PRODUCTS, OR COMPONENTS THEREOF, OR SOFTWARE, WHICH HAS BEEN ALTERED, MODIFIED, REPAIRED OR SERVICED IN ANY RESPECT EXCEPT BY VERIFONE OR ITS REPRESENTATIVES. IN ADDITION, THE EXPRESS WARRANTIES OF VERIFONE STATED IN THIS SECTION 9 DO NOT APPLY TO ANY SOFTWARE OR SOFTWARE COMPONENT OF A PRODUCT WHICH IS SOLD OR LICENSED SUBJECT TO A SEPARATE LICENSE AGREEMENT OR OTHER DOCUMENT RELATING TO SUCH SOFTWARE (INCLUDING WITHOUT LIMITATION A “SHRINK WRAP” LICENSE AGREEMENT); THE WARRANTIES APPLICABLE TO ANY SUCH SOFTWARE SHALL BE SOLELY AS STATED IN SUCH OTHER LICENSE AGREEMENT OR DOCUMENT. THE EXPRESS WARRANTIES OF VERIFONE STATED IN THIS SECTION 9 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. EXCEPT AS PROVIDED IN SECTION 8 ABOVE, (1) THE EXPRESS OBLIGATION OF VERIFONE STATED IN SECTION 9(B) ABOVE, AND THE EXPRESS WARRANTY OBLIGATIONS SET FORTH IN ANY EXHIBIT, ARE IN LIEU OF ANY OTHER LIABILITY OR OBLIGATION OF VERIFONE, INCLUDING WITHOUT LIMITATION ANY LIABILITY

OR OBLIGATION FOR DAMAGE, LOSS OR INJURY (WHETHER DIRECT, INDIRECT, EXEMPLARY, SPECIAL, CONSEQUENTIAL OR INCIDENTAL) ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE OR PERFORMANCE OF THE PRODUCTS OR SOFTWARE, AND (2) THE REMEDIES SET FORTH IN SECTION 9(B) ABOVE AND THE WARRANTY REMEDIES SET FORTH IN ANY EXHIBIT, ARE THE CUSTOMER'S SOLE REMEDY FOR ANY SUCH DAMAGE, LOSS OR INJURY.

SECTION 10. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT: (A) VERIFONE'S AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SALE OF PRODUCTS AND PROVISION OF SOFTWARE AND PAYMENT GATEWAY AND TEF AND SUPPORT SERVICES TO CUSTOMER, REGARDLESS OF THE FORM OF ACTION GIVING RISE TO SUCH LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE), AND INCLUDING ANY LIABILITY UNDER SECTIONS 8 AND 9 ABOVE, SHALL NOT EXCEED THE AGGREGATE PURCHASE PRICE FOR PRODUCTS, SOFTWARE AND SUPPORT SERVICES PAID BY CUSTOMER TO VERIFONE UNDER THIS AGREEMENT DURING THE TWELVE MONTHS PRIOR TO THE CLAIM ARISING; (B) VERIFONE SHALL NOT BE LIABLE FOR ANY EXEMPLARY, SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOST PROFITS), EVEN IF VERIFONE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (C) EXCEPT AS PROVIDED IN SECTIONS 8(A) AND 9(B) ABOVE (BUT ONLY TO THE EXTENT AND SUBJECT TO THE LIMITATIONS SET FORTH IN SECTIONS 8 AND 9 AND CLAUSES “(A)” AND “(B)” OF THIS SECTION 10), VERIFONE SHALL NOT BE LIABLE FOR ANY CLAIMS OF THIRD PARTIES RELATING TO THE PRODUCTS, SOFTWARE OR SUPPORT SERVICES, AND THE CUSTOMER SHALL DEFEND VERIFONE FROM, AND INDEMNIFY AND HOLD VERIFONE HARMLESS AGAINST, ALL SUCH CLAIMS. THE LIMITATIONS ON VERIFONE'S LIABILITY SET FORTH IN CLAUSES “(A)” AND “(C)” OF THIS SECTION 10 SHALL NOT APPLY TO LIABILITY FOR DEATH, PERSONAL INJURY OF A PHYSICAL NATURE OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY VERIFONE'S NEGLIGENCE OR INTENTIONAL MISCONDUCT. THE PARTIES EXPRESSLY AGREE THAT THE PRODUCTS ARE NOT CONSIDERED TO BE GOODS FOR USE PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES, OR CONSUMER GOODS, FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE OR OTHERWISE. NO ACTION MAY BE BROUGHT OR ARBITRATION DEMANDED AT ANY TIME MORE THAN TWELVE MONTHS AFTER THE FACTS OCCURRED GIVING RISE TO THE CAUSE OF THE ACTION. THE FOREGOING STATES THE ENTIRE LIABILITY OF VERIFONE WITH REGARD TO THIS AGREEMENT, THE PRODUCTS, SOFTWARE AND SUPPORT SERVICES. THE LIMITATIONS OF LIABILITY CONTAINED IN SECTIONS 8 AND 9 ABOVE AND THIS SECTION 10 ARE A FUNDAMENTAL PART OF THE BASIS OF VERIFONE'S BARGAIN HEREUNDER, AND VERIFONE WOULD NOT ENTER INTO THIS AGREEMENT ABSENT SUCH LIMITATIONS.

SECTION 11. ADDITIONAL SUPPORT SERVICES TERMS

A. IMPLEMENTATION. The Customer acknowledges that Verifone requires a minimum of forty-five (45) days lead-time from Agreement execution to activate the Support Services. Promptly after execution of this Agreement, Verifone and Customer shall cooperate to develop an implementation plan to activate the Support Services.

B. CUSTOMER-PROVIDED ITEMS. The Customer shall provide Verifone with (1) spares pool of Product if required under a Exhibit (“Customer spares pool”), (2) Customer-specific components (as defined in the applicable Exhibits) if required under an Exhibit, in such quantity as Verifone deems necessary to provide the Support Services described in such Exhibit;

(3) access to, or copies of, Customer-specific applications (as defined in the applicable Exhibit); (4) materials and documentation for any Product required to be provided by the Customer under the applicable Exhibit and for Customer-specific components and applications, including without limitation any documentation necessary to enable Verifone to download any Customer-specific applications (collectively the "Supporting Documentation"); (5) any end user-specific data necessary to enable Verifone to provide the Support Services described in the applicable Exhibit (the "End User-specific parameters"); and (6) any key information necessary for key injection under the applicable Exhibit (the "Customer Keys").

In the event that the Customer fails to provide Verifone with a Customer spares pool, any Customer-specific components, Customer-specific applications, Supporting Documentation, End User-specific parameters or Customer Keys (collectively the "Customer-provided items") or Verifone determines that those Customer-provided items provided are insufficient to enable Verifone to meet Customer's demand for Support Services under the applicable Exhibit, Verifone shall notify Customer of the additional Customer-provided items needed. Customer acknowledges that Verifone shall have no liability to Customer under this Agreement for any failure to perform the applicable Support Services in the event Customer fails to provide Verifone with such Customer-provided items in a timely manner. In addition, if such failure continues for a period of twenty (20) days after receipt by Customer of notice from Verifone specifying such failure, Verifone may terminate the applicable Support Services by giving written notice to the Customer. Without limiting the generality of Section 10 above, Verifone shall not be liable for damages of any kind in the event of such termination. The Customer warrants that it has the right to authorize Verifone to perform the Support Services with respect to the Customer-provided items, including without limitation downloading of Customer-specific applications, and that Verifone's performance of the Support Services will not violate any agreement between Customer and the original manufacturer or developer of any such Customer-provided item or any component thereof.

C CUSTOMER-OWNED WAREHOUSE

In the event Verifone maintains a Customer-Owned Warehouse for the Customer under this Agreement, the following provisions shall apply: Customer is responsible for all costs of shipping Product to and from such Customer-Owned Warehouse, including without limitation shipping between Verifone facilities. All such shipments shall be F.O.B. Verifone's facility. Verifone shall bear the risk of loss, theft or destruction of or to any Product and any Customer-specific components (if applicable) from any cause whatsoever while such Product and Customer-specific components are in the Customer-Owned Warehouse as follows: (i) with regard to serialized Product, 100%, and (ii) with regard to all other Product and Customer-specific components, subject to a 5% shrinkage on an annual basis. Verifone shall track each unit of Product and each Customer-specific component while it is stored in the Customer-Owned Warehouse. Verifone shall allow the Customer or its representative to make a physical inspection of all Product and Customer-specific components in the Customer-Owned Warehouse and review the inventory accounting records of Verifone, provided that the Customer gives Verifone reasonable notice of any such inspection or review, the Customer pays all costs and expenses associated with such inspection or review and any such inspection or review is conducted during normal business hours and not more often than once in any twelve-month period.

D EXCLUDED SUPPORT SERVICES

For the purposes of the Agreement, the following Support Services are not included in the Support Services: Support Services rendered necessary because (1) the Product has been improperly installed or tested, other than by Verifone; (2) the Product has been altered, modified or adjusted without Verifone's approval; (3) the Product has been maintained or repaired, or attempts to repair or service the Product have been made, other than by Verifone; (4) the Product has been subjected to physical, electrical or general environmental conditions not conducive to the proper functioning of the Product, including without limitation connection of the Product to devices or peripherals not supplied or recommended by Verifone;

(5) the Product has been used in combination with any other products, Product, devices or software not supplied by Verifone, unless specifically otherwise agreed by Verifone; or (6) by the use of consumable materials, including without limitation ribbons and paper for printer devices, other than those approved by Verifone. In addition, unless otherwise specified in the applicable Exhibit, the Support Services do not include (i) the provision, installation or removal of consumable materials, the painting or refinishing of the Product, or the furnishing of materials for the purpose of painting or refinishing the Product, or (ii) Support Services rendered necessary because of acts of God, accident, fire, neglect, misuse, failure of electrical power, failure of air-conditioning, failure of humidity control, transportation of the Product, or causes other than normal use.

SECTION 12 DEFAULT AND TERMINATION

If any of the following circumstances occur, the Customer shall immediately pay to Verifone all amounts owing to Verifone under this Agreement, and Verifone shall have the right to terminate this Agreement by giving notice to the Customer:

- A. The Customer fails to perform any of its obligations under or otherwise breaches Section 5 or 6 above;
- B. The Customer fails to pay when due any sum owing hereunder, and such failure continues for ten (10) days after the date when due;
- C. The Customer fails to perform any of its obligations hereunder or otherwise breaches any term or condition herein (other than any failure to perform any of its obligations under or breach of Sections 5 and 6 above and the payment of money) and such failure continues for a period of twenty (20) days after receipt by the Customer of notice from Verifone specifying such default; or
- D. A material change occurs in the ownership of the Customer's capital stock (if the Customer is a corporation) or the Customer's partnership interests (if the Customer is a partnership), as reasonably determined by Verifone.

SECTION 13 FOREIGN CORRUPT PRACTICES ACT

The Customer shall ensure that the Customer's subsidiaries, owners, officers, directors, employees, partners, subcontractors, agents and representatives (collectively, "Customer's Affiliates"), 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, the Customer specifically understand and agree that the Customer shall not, and shall take reasonable measures to assure that the Customer's Affiliates 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 13 shall be grounds for immediate termination of this Agreement by Verifone. The Customer represents and warrants that the Customer has not committed and the Customer has no information, reason to believe, or knowledge of any of the Customer's Affiliates 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.

SECTION 14 EXPORT CONTROL LAWS

The Customer acknowledges that the Products (including any Software) are designed for use in the country they were shipped to only and are subject to the export control laws of the United States.

Accordingly, the Customer shall not use or export the Products outside of the country to which they were shipped. The Customer agrees that the following terms and conditions shall apply to Verifone's sale of the Products to the Customer:

(i) The Customer agrees to abide by all applicable U.S. export control laws and regulations for all Products purchased from Verifone. Without limiting the generality of the foregoing:

3. The Customer, on behalf of itself and the Customer's Affiliates, represents and warrants that the Customer/they will not use, export or re-export, sell, re-sell, license, distribute, make available or transfer or cause or facilitate the transfer of the Products, 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

4. The Customer and the Customer's Affiliates will not use, export or re-export, sell, re-sell, divert or otherwise transfer the Products, 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 Products, including any component or part thereof, in any facilities that are engaged in activities relating to such weapons or applications.

(ii) The Customer represents and warrants that the Customer 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 Products to countries subject to a U.S. trade embargo. Such measures shall include, at a minimum, accurate record-keeping, 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.

(iii) The Customer agrees that if Verifone reasonably believes that the Customer is in breach of any of the terms and conditions contained in this Section 13 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 Customer. In addition, Customer 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 the Customer or the Customer's Affiliates of the terms and conditions contained in this Section 13.

SECTION 15 GENERAL

A. FURTHER ASSURANCES

At any time upon the request of Verifone, the Customer shall promptly and duly execute and deliver any such further instruments and documents and take such further action as Verifone may reasonably deem desirable to obtain the full benefits of this Agreement. The Customer hereby irrevocably appoints Verifone as its attorney-in-fact (which appointment is coupled with an interest) for the purpose of executing any documents necessary to perfect or to continue the security interest granted in Section 6(A) above. The Customer authorizes Verifone to file a carbon, photographic or other reproduction of this Agreement as a financing statement.

B. GOVERNING LAW

This Agreement shall be governed by and construed and interpreted in accordance with the laws of Spain. Any action, lawsuit or legal proceedings arising from this Agreement shall be decided, by express agreement of both parties, by the Courts and Tribunals of MADRID CAPITAL, and each party submits irrevocably to the jurisdiction and competence of said court in any such action, lawsuit or proceedings. The parties agree that this Agreement excludes the United Nations Conventions on Contracts for the International Sale of Goods.

C. SEVERABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable for any reason, the remaining provisions hereof shall be unaffected and remain in full force and effect.

D. MODIFICATIONS

Verifone may unilaterally modify, amend, supplement or otherwise change this Agreement upon at least ten (10) days prior written notice to the Customer. Any such future modification, amendment, supplement or other change (a "Change") shall apply only with respect to orders accepted after the effective date of such Change. As used herein, the term "Agreement" shall include any such future Change. Without limiting the generality of the foregoing, Verifone may establish terms and conditions which apply to one or more particular Products (including without limitation "shrink wrap" license agreements for software products), and in this event, such terms and conditions shall, with respect to the Products addressed therein, supersede this Agreement.

E. ASSIGNMENTS

No right or obligation of the Customer under this Agreement shall be assigned, delegated or otherwise transferred, whether by agreement, operation of law or otherwise, without the prior express written consent of Verifone, and any attempt to assign, delegate or otherwise transfer any of the Customer's rights or obligations hereunder, without such consent, shall be void. Subject to the preceding sentence, this Agreement shall bind the Customer and its permitted successors and assigns. Notwithstanding anything to the contrary herein, Verifone may assign this Agreement or any of its rights or obligations hereunder, including without limitation engaging subcontractors to perform any of its obligations under this Agreement.

F. WAIVERS

All waivers must be in writing. The failure of either party to insist upon strict performance of any provision of this Agreement, or to exercise any right provided for herein, shall not be deemed to be a waiver for the future of such provision or right, and no waiver of any provision or right shall affect the right of the waiving party to enforce any other provision or right herein.

G. EQUITABLE REMEDIES

The parties agree that any breach of Section 6 or 7 above would cause irreparable injury to Verifone for which no adequate remedy at law exists; therefore, the parties agree that equitable remedies, including without limitation injunctive relief and specific performance, are appropriate remedies to redress any breach or threatened breach of Section 6 or 7 above, in addition to all other remedies available to the parties.

H. RIGHTS AND REMEDIES

All rights and remedies hereunder shall be cumulative, may be exercised singularly or concurrently, and shall not be deemed exclusive except as provided in Sections 8 and 9 above. 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. This Agreement is not intended to provide any rights or remedies to any person or entity other than Verifone and the Customer and their respective permitted successors and assigns (if any).

I. FORCE MAJEURE

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, labour disturbances, riots or wars.

J. CONSTRUCTION AND SURVIVAL

The headings and subheadings contained herein shall not be considered a part of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Sections 1, 2(A), 2(C), 3, 4, 5(C), 5(D), 6, 7, 8, 9, 10, 11, 13, 14 and 15 of this Agreement shall survive the purchase and sale of the Products hereunder and/or any expiration or termination of this Agreement.

K. NOTICES

Any notice or communication permitted or required hereunder shall be in writing and shall be delivered in person or by courier, sent by electronic facsimile (fax), or mailed by certified or registered mail

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postage prepaid, return receipt requested. If notice is given in person, by courier or by fax, it shall be effective upon receipt; and if notice is given by mail, it shall be effective three (3) business days after deposit in the mail.

L. RELATIONSHIP BETWEEN PARTIES. Nothing contained in this Agreement shall be construed to constitute either party hereto as the partner, joint venturer, employee, agent or other representative of the other party hereto, except as provided in Section 14(A) above. Furthermore, nothing contained in this Agreement shall be construed to constitute the Customer as an exclusive purchaser or distributor of the Products in any respect.

M. PUBLICITY. 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 any press release regarding this

Agreement or the transactions contemplated hereby without the prior written consent of the other party.

N. GOVERNMENT END USERS. All software contained in the Products (the "Software") is a "commercial item" as defined in regulation 48 CFR 2.101 (Oct 1995), comprising "commercial computer software" and "commercial computer software documentation" as such terms are used in regulation 48 CFR 12.212 (Sept 1995). In accordance with regulations 48 CFR 12212 and 48 CFR 227.7202-1 to 227.7202-4, the Customer will provide any such software and documentation to U.S. Government end users with only those rights as are granted to all other end users pursuant to the terms and conditions herein. In the event that the Customer receives a request from any agency of the U.S. Government to provide Products or Software with rights beyond those set forth herein, the Customer will notify Verifone of the scope of rights requested and the agency making such request and Verifone will have five (5) business days, in its sole discretion, to accept or reject such request.