

## CITEPAYUSA SERVICES AGREEMENT

THIS AGREEMENT entered into this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between **CitePayUSA, L.L.C.**, a Nevada limited liability company, (the "**Provider**") and the **Lawrence Municipal Court Kansas** (the "**Customer**"), shall be the complete understanding of the parties with respect to provision of the products and services hereinafter described, as well as the compensation to be paid on account thereof.

THE PARTIES AGREE AS FOLLOWS:

**1. Term of Agreement:** This agreement shall commence on the date herein executed by both parties and, unless sooner terminated as hereinafter provided, shall be for an initial term of three (3) years. Thereafter, the term shall automatically renew for one (1) year periods unless either party gives written notice to the other at least thirty (30) days prior to inception of the next annual period indicating an intent not to renew. Following the initial three (3) year period either party may terminate the agreement by giving thirty (30) days written notice of intent to terminate. The Agreement must comply with the applicable provisions of the Kansas Cash Basis Law, K.S.A. 10-1101 et seq. The City is obligated only to make payments under this Agreement as may be lawfully made from funds budgeted and appropriated for the purposes as set forth in this Agreement during the City's current budget year. In the event the City does not so budget and appropriate the funds, the parties acknowledge and agree that they shall be relieved from all obligations, without penalty, under this Agreement. To the extent that the City does so budget and appropriate funds for the purposes set forth in this Agreement, the obligations of the parties shall remain as provided herein.

**2. Services: Provider, on behalf of the Customer,**

- 2.1.1. shall perform services for the processing of payments through the use of **Provider's** software and facilities, including the uploading of certain data from the **Customer's** FullCourt CMS to **Provider** and the downloading of such payment transactions from **Provider** to the FullCourt CMS of the **Customer**.
- 2.1.2. will obtain a single merchant account with a unique merchant ID number. The name of this account will be "CitePay/Kansas Courts" and will appear as such on the printed receipt made available to individual court customers utilizing the CitePay ePayment system. In addition, it is understood that the **Customer** shall be required to accept and endorse the provisions of Attachment B in order to establish the Deposit Account for **Customer**.
- 2.1.3. will transmit funds due the **Customer** to its "Deposit Account". For the purposes of this subparagraph it is understood that **Provider** will deposit to the account of the **Customer** amounts collected for case matters pending before said court as the same may be identified by the FullCourt CMS and in accordance with the provisions of paragraph "5. Payments/Billings/Reports", below.
- 2.1.4. **Provider**, as part of this Agreement, shall sell to **Customer** as many CitePay Terminals and software (unit) as the parties mutually agree are needed to facilitate customer credit card processing, at a per unit cost of Two Hundred (\$200.00) Dollars per year (which amount includes delivery charges). Each unit shall come pre-installed with CitePayUSA screens and software for interaction with the CitePay ePayment system, which screens and software shall not be modified, removed or otherwise altered without the prior written consent of the **Provider**. It is understood that with regard to all units the following terms and conditions shall apply:
  - 2.1.4.1. No unit shall be made available for resale by the Customer without prior written approval of the **Provider**;

- 2.1.4.2. Each such unit shall be used incidental to the processing of transactions via the CitePay ePayment system and with no other Card Association or Card Issuer than those approved by **Provider**;
- 2.1.4.3. Each such unit shall be installed and setup by **Customer** and maintained in accordance with the provisions for "Maintenance and Support" set forth in paragraph 2.1.5, below.

**2.1.5. Maintenance and Support:** **Provider's** Help Desk support team shall provide to the Customer's employees and their designees all maintenance and support reasonably required for the operation of the CitePay ePayment system. It is understood that under normal circumstances support will be available during normal business hours of 7:00AM through 5:00PM, Mountain Time (excluding weekends and holidays).

**2.1.5.1** Should **Provider** determine that return of the unit to its facilities is required for repair or replacement of the unit, all shipping and handling charges associated with the return of the unit to said facilities and/or replacement thereof shall be paid by **Provider**.

**2.1.5.2** As part of the ongoing maintenance and support of each unit **Provider** may reasonably require from time-to-time that **Customer** install upgrades and enhancements to the software. The timing of the installation of any upgrades and enhancements shall be mutually agreed upon by the **Provider** and **Customer**.

**2.2. Customer's Responsibilities:**

**2.2.1.** **Customer** and **Provider** shall discuss upgrades to FullCourt CMS and software necessary to assure a compatible interface with the CitePayUSA ePayment system. **Customer**, for the purpose of permitting Automated Clearing House Network (ACH) transfers between **Customer** and CitePayUSA, shall maintain a Deposit Account as per the Authorization Agreement for Direct Deposits/Payments attached hereto as Attachment B.

**2.2.2.** **Customer** shall: (1) notify in writing **Provider** any time there is a change in the bank or account that may materially affect the ability of **Provider** to make ACH transactions to the **Customer's** Deposit Account; (2) at its own cost, maintain a persistent connection with the Internet for the purposes of transmittal of data and case information necessary to provide the services herein described and contracted; (3) maintain the FullCourt CMS (i) by continuing in effect the Maintenance and Support Agreement offered by Justice Systems, Inc.; (ii) by installing the then most current release of the FullCourt CMS as specified by Justice Systems, Inc.; (iii) and by maintaining the hardware, infrastructure and operating environment necessary for proper functioning of the FullCourt CMS; (4) be responsible for the accuracy of all case data and content made available to or transmitted to CitePayUSA; (5) immediately notify **Provider** of any perceived or known irregularities in services provided, including without limitation, the operation of the FullCourt CMS, the CitePayUSA ePayment system, transactions made to the **Customer's** account(s) via the ACH system, and any transactions processed through CitePayUSA.com.

**3. Fees/Costs:**

- 3.1. Automated Payment Fees – **Customer** understands, agrees and authorizes **Provider** to charge an automated payment fee of 5.95% of the fine, fee, or other amounts collected on behalf of **Customer**.
- 3.2. Chargeback Fees - In the event that **Provider** is notified of a chargeback or the same shall be imposed upon or incurred by **Provider** for reasons other than errors wholly and solely within the control of the **Customer**, **Provider** will be responsible for the chargeback. **Provider** shall notify **Customer** of any chargebacks and provide documentation of amounts due as a result of a chargeback in a timely, commercially reasonable manner. **Provider** and **Customer** shall cooperate with each other to gain resolution of any chargebacks in any dispute resolution process. **Customer** will be responsible for adjusting the balance of the case associated with said chargeback and in accordance with the policies of **Customer**.

**3.3. Within the initial three (3) year term of this agreement, or any renewal thereof**, all costs and fees enumerated are subject to change only upon the mutual consent of the parties; except that in the event that any costs or fees imposed upon the **Provider** by the debit/credit card transaction service providers are increased by more than twenty-five (25%) percent **Provider** shall notify **Customer** of said increase as soon as reasonably possible. In addition to giving such notification, **Provider** shall propose to **Customer** adjustments to the provisions of this Agreement which **Provider** deems reasonable under the circumstances. **Customer** will thereafter have three (3) business days within which to accept said proposal or, in lieu thereof, **Provider** may elect to suspend the provision of services hereunder. If the parties are unable to mutually agree upon an adjustment of the enumerated costs and fees within a reasonable time following notification, either party may elect to terminate this agreement without penalty.

**4. Security, Exclusivity:** The parties agree that each shall remain compliant with the PCI Data Security Standard requirements of the Card Association and/or Merchant Bank and that the CitePay ePayment system shall be the exclusive method utilized for accepting all credit and debit card transactions for the payment of fines, fees, bonds and other payments by those courts of **Customer** which utilize the FullCourt CMS. The **Customer** shall cease using any alternative methods or systems for accepting credit and/or debit card transactions within thirty (30) days of the implementation of the CitePay ePayment system at their location; or, in the event the **Customer** is under existing contractual obligations which cannot be cancelled without penalty, at the time of termination of said contractual obligations.

**5. Payments/Billings/Reports:** **Provider** shall periodically provide to **Customer** financial reports as may be reasonably necessary for management of transactions. **Provider** shall transmit by ACH transfer payments received via the CitePayUSA ePayment system, and on account of obligations due to the **Customer**, within two (2) business days of the deposit of funds representing payment by the obligee, or in behalf of the obligee, to **Provider's** account, conditioned upon: (1) a valid authorization code having been received from the Card Association; (2) acceptance of the payment has been had in accordance with the Terms and Conditions of the CitePayUSA website; and (3) payment has been received and deposited into the **Provider's** Settlement Bank Account. Availability of ACH transferred funds for use by the **Customer** is subject to the control of the banking institutions. Payments shall be in the net amount received after deduction of all automated payment fees.

**6. Confidentiality:** **Customer** acknowledges that portions of the CitePayUSA ePayment system are a copyrighted work. Any materials provided by **Provider** including documentation may contain proprietary intellectual property rights. **Customer** agrees to keep the software, documentation and the CitePayUSA proprietary intellectual property in confidence and to take all reasonable precautions to ensure that no unauthorized persons have access to the same and that no unauthorized copies are made. Breach of this provision shall be construed as a material breach of the terms of this Agreement. As a consequence, in the event of such any breach, **Provider** at its sole option, may immediately terminate this Agreement without

further obligation. **Customer** shall not alter any proprietary markings in connection with the CitePayUSA ePayment system, including copyright, trademark, trade secret, and patent legends. **Customer's** obligations under this section as they relate to the use of the CitePay ePayment system shall include, without limitation, giving notification to authorized users of the provisions of this section; to immediately halt and report to **Provider** unauthorized copying, use, distribution, installation, or transfer of possession of the licensed products by any authorized user of which **Customer** has actual knowledge. It is understood that receipt of confidential information under this Agreement shall not create any obligations in any way limiting or restricting the assignment of **Customer's** employees.

**WARRANTY: PROVIDER WARRANTS THE SOFTWARE PROVIDED WILL REASONABLY PERFORM FOR THE PURPOSES INTENDED. PROVIDER DOES NOT GUARANTEE OR WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. PROVIDER SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND OTHER THAN A WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PROVIDER DOES NOT WARRANT AGAINST THE INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS WITH RESPECT TO THE SOFTWARE OR SERVICES PROVIDED HEREUNDER, EXCEPT THAT PROVIDER HAS TAKEN ALL REASONABLE STEPS TO DISCOVER AND ASCERTAIN ANY CLAIMS OF RIGHT WHICH MAY BE CONTRARY TO THOSE HEREIN GRANTED.**

7. **Acts or Failures to Act:** Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement.

8. **Limitation of Liability:** **Provider** will not accept responsibility for errors, acts, failure to act by banks, communication common carriers, data processors or clearinghouses through which transactions may be passed, originated, and/or authorized. **Provider** undertakes no duties to **Customer** other than the duties expressly provided for in this Agreement.

9. **Severability:** In the event that any provision of this agreement is held by a court of competent jurisdiction to be legally ineffective or unenforceable, the validity of the remaining provisions shall not be affected.

10. **Provider Equipment Upon Termination:** Upon termination of the agreement, with or without cause, **Customer** shall immediately cease the use of any software installed on the CitePay Terminals as well as software installed upon other devices for the purpose of interfacing to said terminals and return same to **Provider** as reasonably directed by **Provider** at **Provider's** expense.

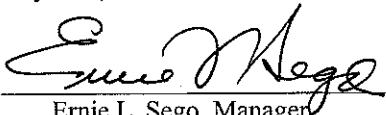
11. **Notices:** Any notice required or permitted to be given in this agreement shall be in writing. Notice is effective upon receipt. Unless otherwise set forth in writing, the addresses for notice are those set forth with the names of the signatories to this agreement below.

12. **No Waiver:** The failure of either party to exercise any right, or the waiver by either party of any breach, shall not prevent a subsequent exercise of such right nor be deemed a waiver of any subsequent breach of the same or any other term of the agreement.

13. **Force Majeure:** Neither party shall be deemed in default of this agreement to the extent that performance of their obligations or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, shortages of materials or supplies, government regulation, including but not limited to Act of the Kansas Legislature, or any other cause beyond the control of such party. This provision requires that any party claiming relief under this provision give written notice within fifteen (15) days of discovery thereof.

14. **Compliance with Federal, State & Local Law:** The parties shall perform all obligations hereunder in compliance with applicable federal, state and local statutes, laws, regulations and ordinances. This agreement shall be governed by and interpreted, construed, and enforced in accordance with the laws of the State of Kansas.

CitePayUSA, L.L.C.

By:   
Ernie L. Sego, Manager  
4808 Jefferson NE  
Albuquerque, NM 87109

\_\_\_\_\_  
By: \_\_\_\_\_



## ADDENDUM

**Definitions:** When used in this Agreement the following words or terms, unless otherwise specifically stated, shall have the following meaning:

- a. "ACH" – means the Automated Clearing House Network.
- b. "Authorization" – is the process whereby **Provider** in compliance with the Operating Rules for each Card obtains approval of a Charge from the Card Issuer. An Authorization indicates only the availability of the Cardholder's credit limit at the time the Authorization is requested.
- c. "Business Day" – is Monday through Friday excluding Merchant Bank holidays. Each Business Day ends at the cutoff time specified by the Merchant Bank. Charges submitted for processing on a holiday, weekend, or after the cut-off time are treated as received on the following Business Day.
- d. "Card Association" – refers to any entity formed to administer or promote credit cards or debit cards, including without limitation, MasterCard International, Inc., Visa International, DiscoverCard and Debit Networks.
- e. "Cardholder" – is the person issued a credit card or debit card and a corresponding account by a Card Issuer.
- f. "Card Issuer" – is the institution authorized by a Card Association to issue credit cards and debits cards to Cardholders and that has issued a credit card or debit card presented to **Provider** for a charge or credit voucher.
- g. "Chargeback" – is a return of a charge to **Provider** typically initiated by a Cardholder through a Card Issuer, for transmittal to and payment by Merchant under Operating Rules established by the Card Association.
- h. "CitePay Terminal" – is such device or devices, including software, either provided or required by **Provider** for interfacing to the FullCourt CMS and/or other hardware so as to allow interaction with the CitePayUSA ePayment system. The sale or conveyance by **Provider** of each device, or associated software, may be subject to restrictions and conditions imposed by third-party providers (See "Attachment C", for example).
- i. "Credit Card" – A plastic card (Visa-branded, MasterCard-branded or DiscoverCard-branded Credit and Business Cards or Debit Cards) bearing an account number assigned to a cardholder with a credit limit that can be used to purchase goods and services and to obtain cash disbursements on credit, for which a cardholder is subsequently billed by an issuer for repayment of the credit extended at once or on an installment basis.
- j. "Database" – dependent upon the context of the language in which it is used, "database" will mean the FullCourt CMS database associated with the Customer's court case

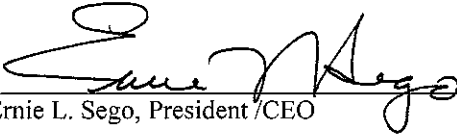
management system, or the CitePayUSA database owned and maintained by the Provider.

- k. “Debit card” – A plastic card with which an individual court customer may withdraw funds on deposit in the individual court customer's account. A debit card transaction pays the **Customer/Provider** by withdrawing funds already on deposit in the individual court customer's account, as opposed to a credit card transaction in which funds are loaned to the individual court customer by the card issuer.
- l. “Deposit Account” – the **Customer's** business account with a banking institution set up for receipt of payments from the **Provider**.
- m. “DISCOVERCARD®” card – A card that bears the DiscoverCard symbol, enabling a DiscoverCard cardholder to obtain goods, services or cash from a DiscoverCard merchant or acquirer.
- n. “FullCourt CMS” – is the FullCourt® or FullCourt Enterprise® Court Case Management System used by courts in the State of Kansas.
- o. “Individual court customer” – is the litigant, defendant, respondent, party, driver, registrant, or other person or corporation, howsoever denominated in the **Customer's** FullCourt CMS, or identified as the entity making payment to the **Customer** on account of fines, fees, charges, bonds, restitution, costs or other obligations related to a court case within the FullCourt CMS database.
- p. “MASTERCARD®” card – A card that bears the MasterCard symbol, enabling a MasterCard cardholder to obtain goods, services or cash from a MasterCard merchant or acquirer. MasterCard Incorporated is a membership organization owned by financial institutions that issue its card. MasterCard is also the company's brand of credit cards.
- q. “Merchant Bank” – A financial institution that provides credit card processing services for the **Customer** or the **Provider**. Also herein referred to as the “acquiring bank” or “acquirer”.
- r. “Returned Check” – is an electronic check presented for payment which has been returned (not paid) by the financial institution or payment processor for any reason, including but not limited to, incorrect routing number, incorrect account number, and insufficient funds.
- s. “Settlement Account”– the **Provider's** business account with the Merchant Bank set up for receipt of payments via credit cards, debit cards and electronic checks.
- t. “VISA®” card – A card that bears the VISA symbol, enabling a VISA cardholder to obtain goods, services or cash from a VISA merchant or acquirer. VISA is a brand of credit card and debit card operated by the VISA International Service Association of San Francisco, California, USA, an economic joint venture of financial institutions that issue and market Visa products.

## ATTACHMENT A

This Agreement has been reviewed and approved as to form and content by Justice Systems, Inc. Justice Systems, Inc. further consents to access by **Provider** to the FullCourt CMS and database maintained by **Customer** for the purposes enumerated by this Agreement.

Justice Systems, Inc.

By:   
Ernie L. Sego, President / CEO



ATTACHMENT B

AUTHORIZATION AGREEMENT FOR DIRECT DEPOSITS/PAYMENTS  
(ACH CREDITS/DEBITS)

Court Name: **Lawrence Municipal Court** (hereinafter called **Customer**).

**Customer** hereby authorizes CitePayUSA, L.L.C. (hereinafter called **Provider**) to initiate credit/debit entries to **Customer's** Checking Account / Savings Account (select one) indicated below at the depository financial institution named below hereafter called DEPOSITORY, and to credit/debit the same to such account. **Customer** acknowledges that the origination of ACH transactions to **Customer's** account must comply with the provisions of U.S. law.

Depository Name: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Routing Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

This authorization is to remain in full force and effect until **Provider** has received written notification from **Customer** of its termination in such time and in such manner as to afford **Provider** and DEPOSITORY a reasonable opportunity to act on it.

Name: \_\_\_\_\_  
(Please Print)

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

NOTE: WRITTEN CREDIT/DEBIT AUTHORIZATION MUST PROVIDE THAT THE RECEIVER MAY REVOKE THE AUTHORIZATION ONLY BY NOTIFYING THE ORIGINATOR IN THE MANNER SPECIFIED IN THE AUTHORIZATION.

## ATTACHMENT C

### Verifone PayWarePC® License Agreement

In conjunction with the purchase of the CitePay Terminal and software by Customer from Provider, Customer agrees to the following software license with Verifone, Inc.

#### IMPORTANT

CAREFULLY REVIEW THIS AGREEMENT BEFORE CONTINUING THE INSTALLATION OR USE OF THE PAYWARE PC SOFTWARE ("SOFTWARE"). THIS END-USER LICENSE AGREEMENT ("AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU (EITHER AN INDIVIDUAL OR A SINGLE ENTITY) ("YOU") AND VERIFONE, INC. ("VERIFONE"). IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, TERMINATE THIS INSTALLATION AND PROMPTLY RETURN ALL SOFTWARE AND DOCUMENTATION, IF APPLICABLE, TO THE RESELLER FROM WHOM YOU OBTAINED THE SOFTWARE (THE "RESELLER") FOR A FULL REFUND. THE

SOFTWARE INCLUDES COMPUTER SOFTWARE, THE ASSOCIATED MEDIA, ANY PRINTED MATERIALS, AND ANY "ONLINE" OR ELECTRONIC DOCUMENTATION. BY DOWNLOADING THE SOFTWARE AND/OR OPENING THE SOFTWARE PACKET(S) AND/OR USING THE SOFTWARE, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS.

1. **GRANT OF LICENSE.** Subject to the terms and conditions of this Agreement and your payment of the applicable license fees, VERIFONE grants You a limited, nontransferable (except as provided in Section 11 below), nonexclusive license to use the Software solely (i) in object (executable) code form, (ii) on a single computer (the "Computer"), and (iii) for your internal use only. You understand that You must comply with VERIFONE's Software registration policies and the failure to comply with those policies may result in the disablement of the Software. The Software is in "use" on a computer when it is loaded into temporary memory (i.e. RAM) or installed into permanent memory (e.g. hard disk, CD-ROM, or other storage device) of a computer.
2. **COPYRIGHT.** The Software and all copies provided to you are licensed and not sold. All title to the Software resides and remains in VERIFONE and its suppliers. The Software is protected by U.S. copyright laws and international copyright treaties. You may make one copy of the Software solely for backup or archival purposes. You may not copy any documentation accompanying the Software.
3. **OTHER RESTRICTIONS.** You may not decompile, disassemble, or otherwise reverse engineer the Software, except to the extent that the foregoing restriction is expressly prohibited by applicable law. You may not sublicense, lend, lease, donate, sell, load, pledge, or distribute (on a temporary or permanent basis) the Software. You may not use the Software for commercial time-sharing, rental, or service bureau use.
4. **U.S. GOVERNMENT RESTRICTED RIGHTS.** The Software is provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software -- Restricted Rights at 48 CFR 52.227-19, as applicable. Contractor/manufacturer is VeriFone, Inc., 2099 Gateway Place, Suite 600, San Jose, CA 95110.
5. **LIMITED WARRANTY.** VERIFONE warrants that the magnetic media on which the Software is contained shall be free from defects in materials and workmanship under normal use for a period of thirty (30) days after the purchase date. If you discover physical defects in the media on which the Software is distributed, VERIFONE will replace the media within that warranty period. If You are not completely satisfied with the Software, and you purchased the Software directly from VERIFONE, you may return it to VERIFONE for a refund, provided that you do so within thirty (30) days of purchase. If You purchased the Software from a Reseller, You should contact the Reseller regarding availability of a refund.
6. **SUPPORT.** You must purchase support for the Software for the first year after Software activation.

Support may be purchased from the Reseller or from VERIFONE. Support is available from VERIFONE by telephone during the hours of 9 a.m. to 9 p.m. Eastern Time, seven days a week; these hours are subject to change.

**7. NO OTHER WARRANTIES.** EXCEPT FOR THE WARRANTIES PROVIDED HEREIN, THE SOFTWARE IS PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VERIFONE DISCLAIMS ALL OTHER WARRANTIES REGARDING THE SOFTWARE, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. THE LIMITED WARRANTY IN SECTION 5 GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

**8. NO LIABILITY FOR CONSEQUENTIAL DAMAGES.** VERIFONE AND ALL PARTIES INVOLVED IN THE CREATION OR DELIVERY OF THE SOFTWARE TO YOU SHALL HAVE NO LIABILITY TO YOU OR ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, GOODWILL OR SAVINGS, DOWNTIME, DAMAGE TO OR REPLACEMENT OF SOFTWARE AND DATA) ARISING FROM CLAIMS BASED IN WARRANTY, CONTRACT, TORT OR OTHERWISE, RELATING IN ANY MANNER TO THE SOFTWARE, EVEN IF VERIFONE OR ANY SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGE. IN ANY CASE, VERIFONE'S ENTIRE LIABILITY RELATING IN ANY MANNER TO THE SOFTWARE, REGARDLESS OF THE FORM OR NATURE OF THE CLAIM, SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE SOFTWARE. ANY WRITTEN OR ORAL INFORMATION OR ADVICE GIVEN BY VERIFONE'S DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES WILL IN NO WAY INCREASE THE SCOPE OF THIS WARRANTY. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

**9. TERMINATION.** VERIFONE may terminate this Agreement at any time as a result of a breach by You of any of the terms or conditions herein, by giving YOU written notice of termination. Upon any termination of this Agreement, You shall immediately remove from your Computer all copies of the Software and certify to VERIFONE such removal.

**10. EXPORT/LAWS.** You shall fully comply with all laws and regulations of the United States and other countries relating to the export, import and use of the Software. You will defend, indemnify and hold harmless VERIFONE from and against any and all claims, proceedings, losses, damages, liabilities, fines, penalties, costs, and fees (including reasonable attorneys' fees) arising in connection with any violation of any regulation of any United States or other governmental authority relating to the use of the Software by You or your agents.

**11. MISCELLANEOUS.** This Agreement constitutes the entire agreement between VERIFONE and You and supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, relating to the subject matter hereof. This Agreement will be governed by the laws of the State of California, without regard to its conflict of law provisions. Each party consents to the exclusive jurisdiction and venue of the appropriate courts in Santa Clara County, California for all disputes arising out of or relating to this Agreement. The prevailing party in any action or proceeding to enforce its rights hereunder shall be entitled to recover reasonable attorneys' fees and other reasonable costs incurred in the action or proceedings. The failure of a party to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision. You may not assign this Agreement, in whole or in part, without VERIFONE's prior written consent. Notwithstanding the foregoing, you may assign this Agreement in its entirety without VERIFONE's consent to any entity that buys or otherwise acquires all or substantially all of Your assets, provided You give VERIFONE written notice of such assignment. 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. In addition to those obligations that have accrued prior to termination, Sections 3, 4 and 7 through 11

shall survive any termination of this Agreement. All notices, demands, or consents required or permitted hereunder shall be in writing and shall be delivered in person or sent via overnight delivery or certified mail to the respective parties. Notices for VERIFONE shall be sent to VERIFONE's Corporate Legal Director at 2099 Gateway Place, Suite 600, San Jose, CA 95110 or such other address as shall have been given to You in writing. Notices for You shall be sent to the address in VERIFONE's customer database, or such other address as shall have been given to VERIFONE in writing. Such notices shall be deemed effective upon the earliest to occur of: (i) actual delivery; or (ii) three days after mailing, addressed and postage prepaid, return receipt requested.

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