



## PPServe Key Features

### Dual Pricing & Surcharging

Save you and your customers money with payment options that mitigate processing fees.

### Gift Cards

Attract new customers and provide flexible payment options, driving sales and promoting brand engagement.

### Customer Management

Focus on building lasting relationships by understanding purchase histories and creating detailed profiles. Enhanced customer interactions lead to repeat business.

### Loyalty Program

Reward regular customers, fostering brand loyalty and ensuring a steady customer base.

### Report Management

Streamline operations by offering insights into sales, profit margins, and product trends. Decisions become data-informed, optimizing overall business strategies.

### Real-Time Inventory Tracking

Efficient inventory management ensures optimal stock levels and reduces waste. Real-time updates and alerts mean businesses never miss a beat.

### Kitchen Display Screen, Kiosks, and Self Checkout

Kitchen display screens (KDS), support kiosks, and self-checkout minimize errors, increasing your restaurant's efficiency.

### Vendor & Purchase Order Management

Enable rapid restocking, effective budgeting, and accurate documentation.

## Contact Merchant Industry



1.866.811.1005



sales@merchantindustry.com



merchantindustry.com



## Point of sale systems and kiosks built for restaurant and retail merchants.

- Built-In dual pricing
- Surcharging capabilities
- Exceptional customer engagement
- Mobile options for inventory and line management
- Multiple Kiosk display sizes to choose from
- Kitchen display systems



Easily manage inventory, track sales trends, and create customer loyalty with PPServe Point of Sale systems and kiosks. With PPServe, your business gains a transformative edge in commerce by capturing detailed sales data, analyzing customer behaviors, and streamlining inventory management letting you know your customers likes, dislikes, and inventory statuses. Merchant Industry's Swipe4Free Dual Pricing program is built into the PPServe POS systems and kiosks ensuring that you remain compliant under all card brand rules. Our Surcharge program is also available to eliminate your credit card processing fees.



**Retail POS Bundle**



**Restaurant POS Bundle**  
Optional items shown



**Kitchen Display System**



**21.5" Self Serve Kiosk with Counter Stand**



**32" Self Serve Kiosk with Floor Stand**



**32" Self Serve Kiosk with Wall Mount**

## Contact Merchant Industry



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[merchantindustry.com](http://merchantindustry.com)

## PPServe Placement Program Pricing

Product	Quantity	Description	Price
POS Placement Program - <b>RETAIL</b>		<b>POS screen x2, cash drawer, tabletop scanner, and thermal printer.</b> PIN Pad will be supplied by Merchant Industry for an additional cost to ISO and/or merchant as it's not included in price. POS system works with any PAX devices.	Per Month
POS Placement Program - <b>RESTAURANT</b>		<b>POS screen x1, cash drawer, and thermal printer</b> PIN Pad will be supplied by Merchant Industry for an additional cost to ISO and/or merchant as it's not included in price. POS system works with any PAX devices.	Per Month

Additional Products	Quantity	Description	Price
Additional Printer			Per Month
Additional Drawer			Per Month
Bar Code Scanner			Per Month
Meat Scale			Per Month
CAS Scale			Per Month
Label Printer			Per Month

## PPServe Hardware & Software Pricing

Product	Quantity	Description	Price
POS Bundle - <b>RETAIL</b>		<b>POS screen x2, cash drawer, tabletop scanner, and thermal printer.</b> PIN Pad will be supplied by Merchant Industry for an additional cost to ISO and/or merchant as it's not included in price. POS system works with any PAX devices.	
POS Bundle - <b>RESTAURANT</b>		<b>POS screen x1, cash drawer, and thermal printer</b> PIN Pad will be supplied by Merchant Industry for an additional cost to ISO and/or merchant as it's not included in price. POS system works with any PAX devices.	

License	Quantity	Description	Price
License Fee - <b>RETAIL</b>		<b>Licensing fee per month</b> (for each POS, Kiosk, and Tablet). Customer Service Monday – Sunday 6am to 3am EST. Customer support/Tech Support (929) 900-8003 option 3.	Per Month
License Fee - <b>RESTAURANT</b>		<b>Licensing fee per month</b> (for each POS, Kiosk, and Tablet). Customer Service Monday – Sunday 6am to 3am EST. Customer support/Tech Support (929) 900-8003 option 3.	Per Month

## PPServe Hardware & Software Pricing

Product	Quantity	Description	Price
Installation - <b>RETAIL</b>		<b>\$300 (\$100 per additional station) Installation quote limited to 30 miles from 07503.</b> New quote needed if it exceeds 30 miles. Installation up to 25 feet from router ONLY. Installation does not include drilling or running cables from a downstairs or upstairs level/floor. It includes up to 30 minutes of training.	<b>\$300 (\$100 per additional station)</b>
Installation - <b>RESTAURANT</b>		<b>\$400 (\$100 per additional station) Installation quote limited to 30 miles from 07503.</b> New quote needed if it exceeds 30 miles. Installation up to 25 feet from router ONLY. Installation does not include drilling or running cables from a downstairs or upstairs level/floor. It includes up to 30 minutes of training.	<b>\$400 (\$100 per additional station)</b>
Additional Training		<b>Based on location</b>	<b>Quote request required</b>

Peripherals & Kiosks	Quantity	Description	Price
Tablet with software		Ordering, works as a POS (surface tablet – 8” + software license), if Pay at the table is wanted, a wireless PAX device would need to be purchased).	
Kiosk 21.5” <b>Counter stand</b>		Menu input (self-ordering, built in printer, add terminal bracket)	
Kiosk 21.5” <b>Floor Stand</b>		Menu input (install \$150.00 per station)	
Kiosk 32” <b>Wall Mount</b>		Menu input (install \$300.00 – includes wall mount and install)	
Kiosk 32” <b>Floor Stand</b>		Menu input (install \$150.00 per station)	
KDS 17” Touch		install \$300.00 includes wall bracket plus wall mount install)	
KDS 21.5” Touch		(install \$300.00 includes wall bracket plus wall mount install)	
Kitchen Printer		Additional	
Cash drawer		Additional	
Meat Scale		(Deli scale – heavy duty up to 60 Lbs., fully integrated, SKU print out + Menu Input)	
Scale (Cas PD)		Fully integrated, Menu Input, up to 100 Lbs.	
Scanner		Varies by model	
Label Printer		Retail – generate label from POS for use versus manually)	
MSR		Magnetic swiper for gift cards)	
Gift Cards		Can take any gift cards (magnet present)	<b>Quote request required</b>
Shipping		Varies based on location (ship to Merchant Industry)	<b>Quote request required</b>

Total

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# PPSERVE Rules & Regulations

- 1) **PIN Pad** - The placement program does not include a PIN pad. The PIN pad will be billed to ISO and/or merchant. You can use any PAX device in conjunction with POS.
- 2) **Warranty** - The warranty from PPServe is up to 1 year from the sale date. Warranty does not cover any physical damage, water damage, neglect, or lost/stolen.
- 3) **Restocking Fee** - Any POS returned to PPServe within 30-days will be assessed a restocking fee of 25%. POS needs to be returned in "new condition" and include all parts/cables, etc.
- 4) **Placement Program** - Is a 48-month agreement between PPServe & Merchant. If the merchant defaults or decides to cancel/terminate their agreement early, the merchant will be responsible for a cancellation fee of remaining months times monthly price agreed upon (example- Merchant POS configuration is \$100.00 and Merchant cancels on month 15. The merchant would owe PPServe a total of \$100.00 x 33 (MThs remaining) = \$3,300.00. The equipment will also need to be returned to PPServe within 5 business days (shipped to PPServe at 958 Main St Suite #5, Paterson, NJ 07503). A tracking number must be sent via email to: Office@ppserve.com. All fees related to the placement program will be collected directly by PPServe via ACH and/or credit card.
- 5) **Monthly SaaS Fees** - Merchant is responsible for paying PPServe \$49.99 p/MTh for each station, kiosk, and tablet. If the merchant fails to pay, PPServe reserves the right to shut down their POS software until payment is remitted.
- 6) **Purchasing POS** - Payments will be made directly to Merchant Industry (in the form of a wire, ACH, and/or balance sheet adjustment). Any balance sheet adjustment will need to be approved by higher management.
- 7) **Shipping** - PPServe will cover shipping cost for POS deployed under "placement program" (only if shipping is within NY/NJ, if shipping is outside of those states, Merchant will be billed for shipping. All shipping will be shipped via ground). If POS is not on a placement program, Merchant/ISO are responsible for shipping cost.
- 8) **Delivery App Integration** - There is a monthly cost of \$125.00 per/MTh. It includes the top ten delivery companies for one monthly price (Uber Eats, Grub Hub, Seamless, Postmates, Door Dash, etc.).
- 9) **Paperwork Required** - Placement program (Agreement, ACH form, voided business check). Purchasing (ACH form & voided business check). All paperwork will be submitted to office@ppserve.com, & copy Andrea.Acosta@merchantIndustry.net. The subject of the email needs to state "New Location: ABC Grocery LLC – Placement and/or Purchasing". The body of the email should contain the following: Finance Program: placement and/or purchasing, Equipment type: Retail/Restaurant/QSR, Program Type: dual pricing, surcharge, and/or traditional. Business address, MID, Menu, Equipment requested/description, Installation if needed.
- 10) **Menu** - Menus can be submitted via excel, csv, and/or picture (only for restaurant). All menus need to be submitted to office@ppserve.com.
- 11) **Support Hours** - Monday - Sunday 6:00am - 3:00am EST (929) 900-8003 option 3.
- 12) **Installation** - PPServe will charge a flat fee of \$300.00 for one retail station set-up (an additional \$100.00 per unit- merchants needs to be located within 30 miles of zip code 07503). They will charge \$400.00 for one restaurant station set-up (an additional \$100.00 per unit- merchants needs to be located within 30 miles of zip code 07503). If merchant exceeds 30 mile distance, a new installation quote needs to be requested from PPServe by sending an email to: office@ppserve.com & copying Moe@ppserve.com, and Lou@ppserve.com.  
Install price for all other units are as follows:
  - Floor stand kiosk \$150.00 per station
  - Wall mount kiosk \$300.00 per unit
  - Kitchen Display System (KDS) install \$300.00

# Agreement for Installation of Point-of-Sale System and Rendering of Services

This **Agreement for Installation of Point of Sale System and Rendering of Services** (hereinafter referred to as the “**Agreement**”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between NEW PAY, INC., having its main place of business at 958 Main ST Suite 5, Paterson, NJ 07503 hereinafter referred to as the “**Seller**” and \_\_\_\_\_, having its main place of business at \_\_\_\_\_, and hereinafter referred to as the “**Customer**”, for long term use by the Customer of goods provided by the Seller to the Customer and for purchase of goods and services by the Customer from the Seller.

**Now**, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the existence and sufficiency of which is hereby acknowledged by the Seller and by the Customer, the Seller and the Customer agree as follows:

## 1. Definitions.

- 1.1. “**Point of Sale**” or the “**POS**” shall mean any combination of hardware and/or software which the Customer receives into long term use, and/or partially or in full purchases according to this Agreement from the Seller, and includes, with no limitations, any and all improvements, installations, accessories installed and/or services of the Seller (work done by the Seller at the premises of the Customer or/and outside of the premises of the Customer). “**Hardware**” included in the POS shall mean computers, KIOSK, KDS, tablets, printers, touch screen monitors, monitors, keyboards, routers, card readers, servers, cash drawers, switches, network cables and/or any other equipment. “**Software**” included in the POS shall mean operating systems, POS Applications, software and/or antivirus and/or gift card and/or merchant and/or any other software provided by third parties, and/or any designed and/or modified by the Seller software with all appropriate updates and/or upgrades and/or modifications and/or customizations.
- 1.2. “**Customer**” shall mean also any and all sponsors, partners, principals, contractors, sub-contractors and affiliates of the Customer.
- 1.3. “**Authorized Merchant Company**” shall mean the company authorized by the Seller to provide merchant services to the Customer. “Merchant Contract” shall mean the contract between the Customer and merchant company authorized by Seller for the purpose of providing of merchant services to the Customer. As of the date first about written the company authorized by Seller is Merchant Industry, LLC (Attachment #1 to this Agreement) but may be changed at a future time by Seller at his own discretion in which case Customer will need to reengage into a new Merchant contract.
- 1.4. “**Monthly Fee**” shall mean the fee paid every month by the Customer to the Seller. Fee becomes due on the First Day of month for the current month. This fee may be collected by a third party merchant company authorized by Seller (Merchant Industry, LLC).
- 1.5. “**One Time Fee**” shall mean the fee being paid once should the Customer decide to purchase any office supplies, additional components of the POS, or order customization (except initial) or modification of the POS from the Customer, or if the POS should be repaired in case it is damaged by the fault of the Customer.

## 2. References in the Agreement.

- 2.1. Any reference to the “**Agreement**” shall mean a reference to this Agreement including also any and all Exhibits, Addendums, Attachments and Schedules with all amendments, pertaining to this Agreement.
- 2.2. Reference to any Exhibit, Addendum, Attachment and Schedule to this Agreement shall mean Exhibit, Addendum, Attachment or Schedule to this Agreement, and they become a part of this Agreement after made in writing between the Customer and the Seller.
- 2.3. Any reference to a “**Party**” shall mean a Party to this Agreement: either the Seller or the Customer.
- 2.4. Any reference to the “**Parties**” shall mean both Parties to this Agreement: The Seller and the Customer.
- 2.5. Reference to **singular** includes **plural** and vice versa.
- 2.6. When a number mentioned, then “**up to**” shall mean “**up to and including**”; “**from**” shall mean “**from and excluding**”; and “**over**” shall mean “**over and excluding**”. When a date mentioned, then “**from**” means “**from and including**”; and “**to**” or “**until**” means “**to but excluding**”.
- 2.7. Reference to any **gender** includes references to any other **genders**.
- 2.8. “**Hereinafter**” and/or words of similar meaning are always considered pertaining to the whole Agreement and all paragraphs, sub-paragraphs and provisions of this Agreement.
- 2.9. Reference to “**fax**” shall mean reference to “**facsimile**”.
- 2.10. Reference to any paragraph or sub-paragraph of this Agreement involves also references to all sub-paragraphs of that paragraph.
- 2.11. Reference to the “**term**” of this Agreement shall also involve a reference to all renewal terms of this Agreement.
- 2.12. Reference to “**written**” shall mean reference to original document or its copy delivered electronically by fax or email, or by mail (including first class mail, certified mail, mail with return receipt and any other expedited delivery).
- 2.13. Reference to “**default**” shall mean reference to default of the Customer according to this Agreement.

Customer Initials: \_\_\_\_\_

### 3. Goods and Services of the Seller.

**3.1. Goods and Services.** The Seller agrees to customize (only once before the installation), deliver and install at the premises of the Customer and only for the sole and exclusive use of the Customer (and only at the premises of the Customer) the POS involving hardware, software, wiring and/or any other initial services/components in the accordance with the Exhibits "A" and "B" in the exchange for the Monthly Fee and the One Time Fee (as defined by the exhibits "A" and "B" with all amendments) paid by the Customer to the Seller. Installation shall be performed within 10 (Ten) business days of the Customer's notification to the Seller that the Customer is ready to accept the POS by certified mail. The Customer authorizes the Seller to install network wiring at the premises of the Customer according to the own and sole discretion of the Seller.

3.2. The Seller may use UPS ground shipping (or any similar shipping service) or deliver the POS to the premises of the Customer at the own and sole discretion of the Seller.

3.3. The Seller's work to initially customize the POS or later make modifications to the POS shall be treated by the Customer only as done on the "best effort basis", meaning that the Seller shall not be responsible for POS not fitting the needs of the Customer or for any possible errors or omissions etc.

3.4. The Seller may at its own and sole discretion make any modifications to the POS and replace the POS hardware components with at least 1 (One) business day notice to the Customer. The Customer must provide easy and free access to the Seller's staff to the premises of the Customer and to the POS.

3.5. In case some additional work on the POS and/or replacement of the POS or its components is needed due to the relocation of the POS by the request of the Customer (which shall be in writing and at least 5 (Five) business days in advance made to the Seller) and/or due to any damages to the POS originated by the fault of the Customer (including but not limited to theft, flood, fire, unauthorized access, computer virus, changes to the POS made by the Customer or third parties without authorization of the Seller), then the Seller will estimate the cost to repair those damages and repair them after the Customer agrees to pay for the components, labor and shipping costs.

3.6. POS including hardware and software licenses shall be property of Seller. At the end of term hardware shall become the property of Customer. Software license shall be registered to Customer for the duration of the contract (and any renewals).

#### **3.7 Technical Support.**

3.7.1 **Initial Training.** After installation of the POS the Seller agrees to provide onsite staff training. **Additional** Onsite training is subject to an extra charge for customers only within one hundred (100) mile radius from the Seller's main place of business as stated above. All other customers will get remote training.

3.7.2 **Remote Training.** Telephone/Internet support will be provided during business days from 11:00 AM EST to 7:00 PM EST.

3.7.3 **Emergency Support.** Emergency support will be provided on weekends and from 7:00 PM EST to 11:00 AM EST on business days. The emergency nature of the call will be decided at sole discretion of assisting technician of Seller.

3.7.4. **Onsite Support.** The Seller at no charge will provide depot or onsite warranty service to the Customer at its premises, if needed, within regular business hours (11:00 AM EST – 7:00 PM EST during business days) to repair hardware that is not working due to reasons covered by the manufacturer's warranty. Any physical damage such as water damage, dents, etc. is not covered by the warranty.

3.7.5 **Parts/Units replacement.** In case some parts or units of the hardware of the POS need to be replaced, then the Seller will ship via UPS Ground needed parts/units to the Customer at the expense of the Customer. It will be full responsibility of the Customer to ship by UPS to the Seller parts/units of the hardware that were replaced, and failure to do so within 5 (Five) business days after receipt of replacement parts/units will be considered as sufficient evidence to add the cost of replaced parts/units of the hardware to the next payment due from the Customer to the Seller.

### 4. Term and Early Termination of this Agreement.

4.1. This Agreement shall begin on the date of the last signature by the Party and after the contract is executed between the Customer and the Seller; and this Agreement shall be for the initial term of forty-eight (48) monthly payments and then for 10 (Ten) renewable terms of forty-eight monthly (48) payments each. This Agreement shall renew automatically in the end of the initial term and in the end of each renewable term if no written notice received from the Customer by the Seller with the intent to terminate the Agreement in the end of the then current term at least 90 (Ninety) calendar days in advance. When the agreement is renewed Seller may at its own discretion install new POS terminals and upgrade the software to the latest version.

4.2. This Agreement may be immediately early terminated by the Seller according to the provisions in the paragraph 6

4.3. All obligations of the Customer survive expiration, natural termination, or early termination of this Agreement for any reason whatsoever during the next 4 (Four) calendar years after the expiration or termination date, whichever comes earlier.

4.4. The Customer expressly and irrevocably agrees that during the initial and any renewed (if any) terms of this Agreement the Customer is fully bound by the contract (executed the same date as this Agreement) between the Customer and merchant service provider authorized by Seller. As of the date first about written the company authorized by Seller is Unified Payments, LLC (Attachment #1 to this Agreement) but may be changed at a future time by Seller at his own discretion in which case Customer will need to reengage into a new Merchant contract. Such merchant provider shall be an exclusive provider utilized by the Customer. The Customer understand and agrees that in case the Customer transfers credit card processing to another merchant provider not authorized by Seller, then the Seller will immediately terminate this Agreement, all the POS will be subject to immediate return to the Seller, and the Customer will be obligated to pay to the Seller any and all accrued fees, penalties and the Early Termination Fee

Customer Initials: \_\_\_\_\_

(the ETF) according to the paragraphs 6.3 and 6.4. If the Customer finds a merchant company with better rates, the Customer shall give the Seller written notice before the end of the billing cycle with a request to provide better rates. The Seller shall respond within five (5) business days if the Seller will provide better rates to the Customer.

## **5. Compensation of the Seller.**

5.1. The Customer agrees to pay to the Seller for the POS and services performed during the term of this Agreement the following compensation:

5.1.1. The Monthly Fee charged by the Seller to the Customer every month during the term and renewal terms of this Agreement on or around the First Day of every month for the current month in the amount of the sum of the Total Monthly Fee in the Exhibit "A" plus any additional charges: taxes (as defined in the paragraph 13), insurance premium and insurance management fees (as defined in the paragraph 5.4), One Time Fee (as agreed between the Parties according to the Exhibit "B" with amendments), the ETF (as defined in the paragraph 6.3), late payment charge with accrued interest (as defined in the paragraph 5.2 and any other applicable fees according to this Agreement.

5.1.2. The Seller may from time to time adjust the Monthly Fee with a notice to the Customer not later than the Fifteenth Day of the month previous to the month when the Monthly Fee is adjusted, or by mutual agreement of the Parties. In case the Seller notifies the Customer in writing about the adjustment of the Monthly Fee without written mutual agreement of the Parties, then the Exhibit "A" shall be considered amended according to the new Monthly Fee. The Seller may adjust the Monthly Fee to reflect shipping, supplies, taxes, insurance, and charges for late payment of the Customer and interest, inflation and many other situations.

### **5.2. Late Payments and Charges, Interest on Late Payments.**

Any late payment by the Customer shall bear a late charge of 10% (Ten percent). Overdue invoices shall also bear interest at the rate of 10% (Ten percent) per year until paid in full. If the Seller undertakes collection or enforcement efforts, then the Customer shall be liable for all costs thereof, including attorney fees.

### **5.3. Debiting of the Customer's Account.**

The Seller (and/or its affiliates) shall debit the account of the Customer for compensation as defined in paragraph 5 by the "ACH" (Automatic Clearing House), or the Seller's partners, affiliates, sub-contractors, Sellers, assigns and beneficiaries, successors may do so on behalf of the Seller or instead of the Seller accordingly, and then they have to maintain the same level of security for information about the Customer as the Seller is obligated to maintain. If the Customer does not have sufficient good funds on the account, then the penalty \$40 (Forty USD) shall be paid to the Seller for each occasion. If the Seller does not charge the Customer timely, the Seller then may do so at any time, and the Customer shall have sufficient available funds on the account. The Seller can choose to ACH debit monthly payments from checking instead of collecting them from authorized merchant company without any prior notice to the Customer. The Seller can choose to ACH debit any additional payment due from the Customer including but not limited to cost of supplies or additional hardware or software purchased payments from checking instead of collecting them from authorized merchant company without any prior notice to the Customer.

5.4 The Customer expressly and irrevocably agrees that the Monthly Fee due to the Seller according to the Exhibits "A" and "B", and/or any insurance premiums (as defined in the paragraph 7.2.), and/or the ETF and/or penalties and/or any accrued interest may be either debited by the Seller (and/or by its affiliates) to the account of the Customer immediately when they become due to the Seller, and/or withheld by authorized merchant company from the merchant proceeds of the Customer before the Customer receives the remainder of merchant proceeds to the account of the Customer.

## **6. "Early Termination Fee"/Default of the Customer.**

**6.1. Violation of the Agreement by the Customer.** In case of any violation of this Agreement by the Customer the Seller may treat the Customer as being in default; and the Seller may immediately terminate this Agreement. Among other situations when the Customer may be treated as being in default is any late payment due from the Customer to the Seller, which is delinquent more than 15 (Fifteen) business days.

**6.2. Default of the Customer.** If the Customer is in default according to this Agreement, and the Seller early terminates this Agreement (including the end of the current initial or renewal term) and/or this Agreement becomes terminated due to the termination of the Merchant Contract between the Authorized Merchant Company, then the Customer is responsible for the Early Termination Fee (ETF) as defined in the paragraph 6.3, and the Customer immediately becomes liable for 10% (Ten percent) of the total amount of this Agreement from the beginning and until the end of the then current term as liquidated damages, and also for the total costs of shipping of the POS and its components to the Customer. All other fees owed by the Customer to the Seller shall be paid additionally to the ETF.

**6.3 "ETF."** The "Early Termination Fee" is a total sum due from the Customer and which is calculated as follows: Monthly Fee (sum of the Total Fee in the Exhibits "A" with all amendments or as installed by the Addendum) multiplied on the number of months remaining until the natural expiration of the then current term (initial or renewal) which has been early terminated or renewed.

6.4. The Customer also recognizes that if the merchant agreement is canceled early by the Customer or the Customer stops processing credit cards through the company provided by Seller or the Customer is in default for any other reason than the Seller will suffer substantial damages cost of which it is difficult or impossible to estimate. In the effort to liquidate in advance the sum that should represent such damages Customer agrees to pay the Seller the amount of Two Hundred Fifty Dollars (\$250) for each year of the remainder of the four (4) year term or the Visa and MasterCard and Discover and American Express processing volume

Customer Initials: \_\_\_\_\_



of the highest of last six (6) months processing volume (for which processing exists) multiplied by 100 basis points or 1% multiplied by the remaining number of payments under this agreement, whichever is greater. The Customer recognizes this amount is reasonable due to damages of the Seller (which are difficult to estimate), and agrees that it is not a penalty.

6.5. The Customer recognizes the amount of the **ETF** as reasonable due to damages of the Seller (which are difficult to estimate), which may be caused by early termination of this Agreement and the Merchant Agreement, and agrees that the ETF is not a penalty.

6.6. The Customer expressly and irrevocably grants to the Seller the right to enter the premises of the Customer (or premises where the POS is located) and to remove the POS if the Seller is in default according to this Agreement. Such actions of the Seller will cause no liability of the Seller, if permitted by law in the jurisdiction where the POS is located, and the Customer will not resist such actions of the Seller.

## **7. Risk of Loss.**

7.1. The risk of loss from any casualty to the POS and/or any related goods, regardless of the cause, will be the responsibility of the Seller until the POS and/or related goods have been received by Customer; and since then and until the POS is returned to the Seller in its entirety the risk of loss from any casualty to the POS and/or any related goods, regardless of the cause, will be the sole responsibility of the Customer.

7.2. The Customer must carry public insurance policy for the amount sufficient to cover possible full loss of the POS (but not less than \$3,000 per station (Three thousand USD) at all times when the POS is at the premises of the Customer or in the possession of the Customer, and not depending upon the fact of installation of the POS or if the POS is operable. The insurance policy shall be on the name of the Seller as the payee in case of loss or damage of the POS and the amount of the insurance policy shall cover the risk of full loss and shall be approved by the Seller. The Customer must obtain the insurance policy and provide it to the Seller within thirty (30) business days after of installation or shipping of the POS to the Customer, whichever is earlier. In case the Customer does not obtain acceptable for the Seller insurance policy accordingly, then the Seller may insure POS system on its own as it deems reasonable, at no event less than additional 10% to the Monthly Fee. Customer is immediately responsible to compensate the Seller for the cost of the insurance policy. If the Seller insures POS system on its own then each month the Seller bills the Customer, and the Customer agrees to pay to the Seller premium for this service until the Customer arranges a suitable for the Seller insurance policy.

7.3. In case the POS is being modified at the request of the Customer, then the insurance policy must be upgraded at the expense of the Customer to cover the more expensive POS at the date when the more expensive POS is delivered to the Customer.

7.4. At all times the POS shall remain at the address of installation and the Customer must protect the POS from being damaged and/or from excessive wear and tear by abnormal conditions on the premises of the Customer or actions of the Customer's staff and/or any third parties. The POS shall be used only for its dedicated business purpose, meaning that among prohibited uses will be, without any limitation, gaming, chatting, file sharing, social networking, cell phone charging. If the Seller finds out that any prohibited use of the POS takes place, then the Agreement may be immediately terminated by the Seller according to paragraph 6 and the POS removed from the Customer's premises and/or the Customer may be liable for additional fees associates with virus/malware cleanup and returning POS its existing state.

7.5. The Customer is solely and fully responsible for possible theft, damage and/or any other possible loss of entirety, damage or loss of value of the POS. The Customer is responsible for maintaining antivirus means in operating and updated conditions. The Customer is responsible for issuing appropriate passwords/access cards to its staff members and timely discontinuing such cards/passwords or changing them, and for advising to its staff on security measures. The Customer shall provide regular maintenance to the POS, like cleaning, and/or any other according to the documentation. Ventilation at the POS location shall be sufficient to remove excessive heat from the POS. No changes to the POS are allowed to the Customer at any time. The Customer shall abide all applicable federal, state/province and local laws and regulations and investigate legal issues at its own and sole expense. The Customer will immediately notify the Seller in writing should anything unusual happen to the POS.

## **8. Consumer Credit Report.**

The Customer authorizes the Seller to run a consumer credit report on the Customer after this Agreement is executed, before each renewal term and also every time the Customer is late on the payments due to the Seller. The Customer is responsible for the cost of all consumer credit reports run on the Customer by the Seller which shall be added to the Monthly Fee next month after the report was run.

## **9. Acceptance of the Technical Parameters of the POS by the Customer.**

The Customer expressly and irrevocably agrees that at the date this Agreement is executed by the Customer, the Customer accepts the POS technical parameters, specification, and has investigated the suitability of the POS for the needs of the Customer. The Customer understands and agrees that if the POS is not fitting the needs of the Customer during the term of this Agreement, it cannot be grounds for early termination of the Agreement, for refusal of the Customer to pay to the Seller according to this Agreement, and the Customer will not ever try to undertake such actions.

## **10. Limited Warranty for the POS, Seller's Liability Indemnification and Limitation of Remedies of the Customer.**

10.1. The Seller warrants that the POS hardware installed according to this Agreement is free from substantive defects in workmanship and materials. Seller's liability under the foregoing warranty is limited to replacement of defective parts or repair of defects. No other warranty, express or implied, is made by the Seller, and none shall be imputed or presumed.

Customer Initials: \_\_\_\_\_

10.2. The Seller assumes no responsibility for physical damage of the hardware and software including those which may arise from changes to the configuration of the POS made by the Customer without a written consent of the Seller, any hardware, software, additional components added/deleted/replaced by the Customer. All costs (including shipping costs, parts and labor) for service of damaged hardware and software shall be the sole and the own responsibility of the Customer.

10.3. Operating System Software shall be warranted according to Licensing Agreement provided by Microsoft®, POS software manufacturer. POS software is warranted under the License Agreement of the POS manufacturer. Operating System, POS and any other third party software is not warranted by the Seller to be free of defects and errors and is provided on the “as is” basis only.

10.4. The Seller cannot guarantee to the Customer that the POS installed and/or any its parts and components are free from any omissions or errors and that they may fit for any particular requirements or purpose of the Customer. The Customer understands that the POS hardware and/or software may be not free of errors, may be incomplete and may be changed at any time without any kind of a notice. The Customer takes all responsibility and risk for using the POS with all its modifications and customizations and services of the Seller. The Customer takes all responsibility and risk for misuse of the POS.

10.5. The Customer understands that, even if the Seller or the Customer installs antivirus software on the POS and with all current updates installed timely, there is still no guarantee that the information in the POS will not be compromised or partially/fully destroyed, lost or otherwise affected by unauthorized actions of third parties and/or their software and/or hardware. Seller should not be held liable for any damages arising from such actions.

10.6. The Customer understands and expressly and irrevocably agrees that the Seller and/or affiliates, suppliers, sponsors, contractors and sub-contractors of the Seller are not liable for, and the Customer (and/or any third parties) will not be ever compensated in any way by the Seller and/or its affiliates, suppliers, sponsors, contractors and sub-contractors for any amount, representing punitive damages, and/or for any kind of possible disclosed or not disclosed, direct or indirect, incidental, special, economic damages, loss, loss of income, not received income, injury, death of the Customer and/or of any third parties, including any possible consequential damages, disclosed or not disclosed, direct or indirect, incidental, special, economic damages, loss, loss of income, not received income, injury, death of the Customer and/or of any third parties that may be caused by the use, inability to use or not use of the POS (including its hardware, software, office supplies, documentation and any and all relating components) and services of the Seller to the Customer, including but not limited to, caused by hardware and/or software use, misuse or failures, including but not limited to situations when for any reason whatsoever calculated numbers are wrong, taxes are calculated with errors etc. The Seller will take all reasonable efforts to notify respective hardware and/or software manufacturers of any defects in their hardware and/or software. The Seller cannot guarantee that those defects ever will be eliminated by the manufacturer. The Customer agrees that even if the Customer is advised of the right to recover some of its damages in the Customer’s jurisdiction, never will be entitled to collect any damages from the Seller in the aggregate total amount exceeding 2 (Two) month of the Monthly Fee paid by the Customer to the Seller preceding the date of the claimed by the Seller accident.

#### **11. Taxes.**

Sales tax and/or any other applicable federal, state and local taxes shall be paid by the Customer additionally to the payment for services/goods purchased from the Seller and are the Customer’s full responsibility. Applicable taxes shall be added to the Monthly Fee due from the Seller to the Customer and may be changed every month to reflect changes in taxation and/or cumulative discrepancy in tax calculations.

#### **12. Trademarks, Copyrights, Licenses, Property Rights.**

12.1. Any and all trademarks, licenses, patents and copyrights used in the POS (hereinafter referred to as the “**intellectual property**”) belong to the Seller and/or other respective owners, who permitted the Seller to use their intellectual property. In no case can the Customer use for advertisement, advertise, redistribute, copy, change, reengineer the POS and/or any of its components, or in other manner infringe rights of the owners of the intellectual property. In case such infringement takes place, the Customer is obligated to keep the Seller free from any claims and expenses including but not limited to attorney fees. In case such expenses arise at the Seller due to the acts of the Customer, then they shall be compensated totally and solely by the Customer.

12.2. POS shall be property or Seller according to paragraph 4.11

#### **13. Non-circumvention and Confidentiality.**

13.1. Non-circumvention. During the initial term and any additional renewed terms as specified in paragraph 4 of this Agreement, the Customer agrees to use the POS only for its designated purpose and not to purchase point of sale hardware and/or software and/or merchant services from any other source and/or not to use services of any other source except the Seller for the POS and authorized merchant service provider for merchant services (as defined in paragraph 1.3).

13.2. During the initial and any renewed terms of this Agreement, the Customer will not disclose to any third party terms and conditions of this Agreement, will not in any way compete with the Seller in supplying of the POS, will not produce and will not let any third parties to produce derivative works based on the POS or its components in the possession of the Customer, will not hire or try to hire any member of the staff of the Seller or its contractor.

#### **14. Change, Modification, Waiver.**

14.1. This Agreement contains the entire understanding of the Parties relating to the subject matter hereof. No change or modification of this Agreement shall be valid unless it is in writing and signed by each of the Parties hereto except as defined in the paragraph 14.2.

Customer Initials: \_\_\_\_\_

14.2. If this Agreement is amended by the Seller without a written consent of the Customer, then such amendment shall be effective from the First Day of the next month, and it shall be considered accepted by the Customer in case the Customer continues to use the POS on the date when such amendment is effective.

14.3 The failure of the Party to insist upon strict performance of any portion of the provision or any whole provision of this Agreement in any one or more instances shall not be construed as a waiver or relinquishment of the right to insist upon strict compliance with such portion of the provision or the whole provision in the future.

**15. Severability of Provisions, Conflicts with Other Documentation.**

If for any reason, including but not limited to possible conflict of this Agreement with the law or regulation in any other state or jurisdiction, any portion of the provision or a whole provision of this Agreement becomes unacceptable due to its conflict with law or regulation, then such portion of the provision or provision of this Agreement, whichever is less, which contains unacceptable declaration, shall be declared void or invalid, and such declaration shall not affect the validity of the rest of the Agreement, which shall remain in force as if executed with the void or invalid portion of the provision or the whole provision, whichever is less, eliminated. This Agreement shall prevail if any conflicts of terms and conditions arise with any documents exchanged by the Parties.

**16. Governing Law; Forum; Waiver of Trial by Jury.**

16.1. This Agreement is construed according with and shall be governed (including with no limitations any matters arising out of this Agreement, relating to this Agreement (including those which may be in the Agreement or not, tort, or otherwise)) by the laws of the State of New York, USA and without any consideration of possible conflicts of law. This Agreement shall be considered to be fully executed and delivered in the State of New York, New York County.

16.2. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, may be submitted by the Party only to the exclusive jurisdiction of New York State or Federal court sitting in the County of New York, New York City; and the Parties agree that all claims may be heard and resolved only by the mentioned courts. The award to the winning Party shall include also reasonable attorney fees, court expenses or any other reasonable costs or charges in addition to all damages deemed fair by the courts. It is expressly agreed between the Parties that the procedure outlined herein is the sole and exclusive remedy of each Party, and all the Parties expressly and irrevocably waive any and all other legal remedies in any other court or tribunal and in any jurisdiction. If the Seller prevails, then the decision of one of the named in this paragraph courts shall be considered by any collection company or/and any other court in the jurisdiction of the Customer as sufficient to perform the collection.

16.3. Each Party to the fullest permitted by the law extent irrevocably waives any right to a trial by jury for any proceedings which may arise out of or relating to this Agreement (including those which may be in the Agreement or not, tort or otherwise) and/or pertaining to the transactions where the Parties are involved together during the term of this Agreement.

16.4 The Customer has one (1) year from the date of the Seller's default or breach of this Contract to initiate a litigation against the Seller.

16.5. The Customer irrevocably waives the right to insist or demand on any actions or proceedings by the Seller against any third parties.

**17. Force Majeure.**

17.1. The Parties recognize force majeure events as force majeure events or other circumstances beyond the control of the affected Party, including, but not limited to, strikes, acts of God, political unrest, embargo, failure of source of supply, or casualty

17.2. The Seller without any liability may delay performance or cancel this Agreement on account of force majeure events.

17.3. The Customer may cancel this Agreement on account of force majeure events and must return the POS in its entirety to the Seller. If the POS is damaged, then the Customer must cover the replacement cost to the Seller before any other payments after the Customer receives compensation from insurance company or in 5 (Five) business days after the force majeure situation does not exist anymore, whichever is earlier.

17.4. If the Party opposite to the Party, claiming to be under force majeure situation, does not agree to recognize the force majeure, then a written confirmation from Chamber of Commerce of the County/State, received by the Party claiming to be under the force majeure, shall be sufficient evidence of the force majeure situation.

**18. Miscellaneous.**

18.1 This Agreement shall in no way be considered as being an agreement of partnership or being an agreement creating employer-employee relations, or being an agreement of a joint venture between the Parties. Neither Party shall have any claim against any separate deals, ventures, or assets of another Party, nor shall any Party be liable for any other Party's commitments or liabilities in business or personal dealings or situations. The Seller will be only an independent contractor and will retain full control of the work and full control of services being provided to the Customer.

18.2. Each of the Parties has to investigate legal issues, pertaining to this Agreement, at its own and sole expense and cannot challenge another Party or rely on the opinion of another Party.

18.3. The Party has received a legal advice before executing this Agreement, or intentionally executed this Agreement without a legal advice and with full understanding of all possible consequences.

18.4. Each of the individuals (Signatories), signing this Agreement on behalf of the respective Parties, represents and guarantees that each individual (Signatory) has the authority to bind accordingly the respective Party.

18.5. This Agreement supersedes any and all prior oral or written negotiations, presentations, quotes and discussions between the Parties and/or their respective representatives.

Customer Initials: \_\_\_\_\_

18.5 Each Party confirms that it recognizes each provision of this Agreement as fully enforceable and entered into this Agreement voluntarily and without being induced to do so by the opposite Party and/or its attorneys, representatives or agents.

18.6. Each Party has reviewed and fully understood all the text and meaning of this Agreement, which has been prepared in English.

18.7. Numeration of paragraphs, sub-paragraphs, bold font, different size of font and headers in this Agreement are for convenience only, and shall not affect the understanding and meaning of this Agreement.

18.8. All the Signatories must execute this Agreement without any changes (otherwise all changes must be initialized by all the Signatories) and initialize every page of the Agreement except signature pages, which must be signed and dated; otherwise executed counterparts and their copies are not valid.

18.9. If contact information of the Party changes and/or is amended, then such Party shall notify the opposite Party in 3 (Three) business days in writing.

18.10. This Agreement and its provisions shall be binding upon inure and to the benefit of the Parties and their respective successors and assigns. The Customer may assign its rights and obligations or transfer in any other way any of its rights and obligations to third parties only with a written consent of the Seller. Any unauthorized assignments, and/or transfer of rights and/or obligations, made by the Customer, shall be immediately considered null and void, the Customer shall be considered to be in default, and the Seller may immediately terminate this Agreement. The Seller may assign its rights and obligations, partially or in full, to any third party at the own and sole discretion of the Seller.

18.11. This Agreement may be executed in any amount of original counterparts. The Party shall execute all counterparts of this Agreement by the same instrument. Each Party may use its own instrument to execute this Agreement.

18.12. Transmitted by fax/email copies of final executed original counterparts of this Agreement and of any other documents which the Parties execute in writing, shall be treated by the Parties as the actual final executed original counterparts or other executed documents accordingly.

18.13. Notices may be sent by a Party to the opposite Party in writing. The date on the stamp/receipt or the date of the electronic transmission shall be considered as the effective date of the notice.

18.14. Each of the undersigned Signatories has caused this Agreement to be duly executed as of the date first set forth above and does hereby agree to be bound by and to perform all of the terms and conditions set forth in this Agreement.

**19. Individual Personal Guarantee.**

I, \_\_\_\_\_ residing at \_\_\_\_\_ for and in consideration of my request to Seller to receive goods and services according to this Contract for my company as Customer (according to the definition in this Contract) hereby personally guarantee to Seller to timely pay the full amount of the Contract according to the schedule established in this the Contract. I hereby agree to bind myself to immediately pay to Seller any amount which may be due to Seller by Customer whenever Customer fails to pay the same. It is understood that this guarantee shall be a continuing and irrevocable obligation of the Customer to personally pay any and all amounts due from Customer to Seller. I do hereby waive notice of default, non-payment and notice hereof and consent to any modifications of the Contract hereby guarantee. My personal guarantee involves all my personal tangible and intangible assets.

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Seller**

**Customer**

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Position \_\_\_\_\_

Position \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT A. LIST OF HARDWARE AND SOFTWARE TO BE INSTALLED**

Customer Initials: \_\_\_\_\_

Description	Quantity	Monthly Cost	Total Cost
POS Placement Program (Per Month; For POS, drawer, thermal printer)		\$100.00	
Additional Printer		\$12.00	
Additional Cash Drawer		\$8.00	
Bar Code Scanner		\$10.00	
Customer Display		\$10.00	
KDS 1 <sup>st</sup> System		\$50.00	
KDS 2+ System		\$38.00	
Weight Scale lbs.		\$25.00	
Meat Scale		\$40.00	
License Fee (RETAIL)		\$50.00	
License Fee (RESTAURENT)		\$50.00	
MSR		\$10.00	
<b>TOTAL MONTHLY FEE</b>			

**Specific Disclaimer.** The Customer specifically agrees and acknowledges that there was no representation made by the sales representative regarding possibility of cancellation of this agreement or any trial period. The Customer understands that this agreement supersedes any and all prior oral or written negotiations, representations, quotes and discussions between the parties. The Customer understands and agrees that no trial period of this agreement exists except for the portion which relates to Call Button and Call Watch which can be returned within 2 weeks (Ship to Seller's office).

**Seller**

Signature \_\_\_\_\_

**Customer**

Signature \_\_\_\_\_

Customer Initials: \_\_\_\_\_

**EXHIBIT B. OPTIONAL ACCESSORY PURCHASES**

Description	Quantity	Price	Total Cost
Printer – Thermal		\$350.00	
Printer – WIFI		\$450.00	
Label Printer		\$420.00	
<b>TOTAL</b>			

**Specific Disclaimer.** The Customer specifically agrees and acknowledges that there was no representation made by the sales representative regarding possibility of cancellation of this agreement or any trial period. The Customer understands that this agreement supersedes any and all prior oral or written negotiations, representations, quotes and discussions between the parties. The Customer understands and agrees that no trial period of this agreement exists except for the portion which relates to Call Button and Call Watch which can be returned within 2 weeks (Ship to Seller’s office).

**Seller**  
Signature \_\_\_\_\_

**Customer**  
Signature \_\_\_\_\_

## Bank Transfer Authorization Form

I authorize \_\_\_\_\_ to electronically debit my bank account according to the terms outlined below. I acknowledge that electronic debits against my account must comply with United States law.

Business name

### Terms of billing:

- One time on \_\_\_\_\_ for the amount of \$\_\_\_\_\_.  
mm/dd/yy
- Starting on \_\_\_\_\_ and on the \_\_\_\_\_ of each month through \_\_\_\_\_  
mm/dd/yy day of the month mm/dd/yy  
for the amount of \$\_\_\_\_\_.
- Starting on \_\_\_\_\_ for the amount of \$\_\_\_\_\_ and accordingly thereafter per  
mm/dd/yy  
the terms in invoice(s) \_\_\_\_\_.

### Customer bank account information:

\_\_\_\_\_ Routing number Account number

Account type:  Checking  Savings  Consumer  Business

This payment authorization is to remain in effect until I, \_\_\_\_\_, notify  
Customer name

\_\_\_\_\_ of its cancellation by giving written notice in enough time for the  
Business name

business and receiving financial institution to have a reasonable opportunity to act on it.

\_\_\_\_\_ Customer signature Customer printed name Date