



# MERCHANT PROCESSING AGREEMENT MERCHANT APPLICATION

CSDE:		<input checked="" type="checkbox"/> NEW LOCATION	<input type="checkbox"/> OWNERSHIP CHANGE	<input type="checkbox"/> ADDITIONAL LOCATION	<input type="checkbox"/> SKYTAB UPGRADE
AGENT NAME WENDY SCHOFIELD	REP CODE 083WS	OFFICE USE ONLY	SIC CODE		
OFFICE PHONE	OFFICE CODE SP083		FAIR ISAAC SCORE		

01   MERCHANT INFORMATION					
NAME OF ACCOUNT (DOING BUSINESS AS)			EXACT LEGAL NAME		
DBA ADDRESS (IF DIFFERENT FROM LEGAL)			LEGAL ADDRESS		
CITY	STATE	ZIP	CITY	STATE	ZIP
DBA EMAIL	DBA PHONE	WEBSITE ADDRESS		FEDERAL TAX I.D. NUMBER (9 DIGITS)	
AUTHORIZED CONTACT NAME		AUTHORIZED CONTACT EMAIL		AUTHORIZED CONTACT PHONE	
TYPE OF OWNERSHIP: <input type="checkbox"/> SOLE PROPRIETOR <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> LLC <input type="checkbox"/> NON-PROFIT <input type="checkbox"/> GOVERNMENT <input type="checkbox"/> ASSOCIATION					

02   MERCHANT PROFILE			
MERCHANTISE/SERVICE SOLD:		PERCENT OF BUSINESS	
MONTHLY VOLUME: \$	CARD SWIPED		0 %
AVERAGE TICKET AMOUNT: \$	HIGHEST TICKET AMOUNT: \$	MANUAL KEY WITH IMPRINT	0 %
		CARD NOT PRESENT	0 %
		TOTAL	100%
DOES MERCHANT CONDUCT BUSINESS SEASONALLY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
IF SEASONAL, INDICATE OPERATING MONTHS: <input type="checkbox"/> JAN <input type="checkbox"/> FEB <input type="checkbox"/> MAR <input type="checkbox"/> APR <input type="checkbox"/> MAY <input type="checkbox"/> JUN <input type="checkbox"/> JUL <input type="checkbox"/> AUG <input type="checkbox"/> SEP <input type="checkbox"/> OCT <input type="checkbox"/> NOV <input type="checkbox"/> DEC			
WHEN IS THE CARDHOLDER BILLED FOR PRODUCTS/SERVICES? <input type="checkbox"/> ON ORDER <input type="checkbox"/> SHIPMENT			
DELIVERY OF PRODUCTS: <input type="checkbox"/> TIME OF SALE <input type="checkbox"/> 1-3 DAYS <input type="checkbox"/> 3-5 DAYS <input type="checkbox"/> 5-15 DAYS <input type="checkbox"/> 15 DAYS +			

03   BANKING INFORMATION		
NAME OF MERCHANT'S BANK	ROUTING/ABA #	DBA CHECKING ACCOUNT
In accordance with the Merchant Processing Agreement and Gateway Services Agreement, fund transfers will be made to/from the account set forth in the enclosed voided check or bank letter.		

04   CERTIFICATION OF BENEFICIAL OWNER(S)							
<b>I: BENEFICIAL OWNERSHIP INFORMATION:</b> Provide the following information for each individual, if any, who directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25% or more of the equity interest of the legal entity listed on this form. If no individual meets this definition, please enter the business's owners or officers and enter 0% as "% of ownership".							
#1	LAST NAME	FIRST NAME	M.I.	DOB	% OF OWNERSHIP		
					0		
ADDRESS (NO P.O. BOX)		CITY	STATE	ZIP	SSN (US PERSONS)		
EMAIL ADDRESS	MOBILE #	ID TYPE	ID #	EXP. DATE	ISSUING STATE/COUNTRY	PASSPORT # (NON-US CITIZENS)	
#2	LAST NAME	FIRST NAME	M.I.	DOB	% OF OWNERSHIP		
ADDRESS (NO P.O. BOX)		CITY	STATE	ZIP	SSN (US PERSONS)		
EMAIL ADDRESS	MOBILE #	ID TYPE	ID #	EXP. DATE	ISSUING STATE/COUNTRY	PASSPORT # (NON-US CITIZENS)	

1551 Hillshire Dr., Las Vegas, NV 89134

www.shift4.com

<b>04 CERTIFICATION OF BENEFICIAL OWNER(S) cont'd</b>										
<b>#3</b>	LAST NAME			FIRST NAME			M.I.	DOB		% OF OWNERSHIP
ADDRESS (NO P.O. BOX)				CITY			STATE	ZIP	SSN (US PERSONS)	
EMAIL ADDRESS			MOBILE #	ID TYPE	ID #	EXP. DATE	ISSUING STATE/COUNTRY		PASSPORT # (NON-US CITIZENS)	
<b>#4</b>	LAST NAME			FIRST NAME			M.I.	DOB		% OF OWNERSHIP
ADDRESS (NO P.O. BOX)				CITY			STATE	ZIP	SSN (US PERSONS)	
EMAIL ADDRESS			MOBILE #	ID TYPE	ID #	EXP. DATE	ISSUING STATE/COUNTRY		PASSPORT # (NON-US CITIZENS)	
<b>II: MANAGING RESPONSIBILITY (REQUIRED):</b> Provide information below for one individual with significant responsibility for managing the legal entity previously listed on this form, such as, an executive officer or senior manager (e.g. Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, Treasurer); or Any other individual who regularly performs similar functions. If appropriate, an individual listed in C: BENEFICIAL OWNERSHIP INFORMATION (above) may be listed in this section. <b>INDIVIDUAL WITH SIGNIFICANT CONTROL:</b>										
LAST NAME				FIRST NAME			M.I.	DOB		% OF OWNERSHIP
ADDRESS (NO P.O. BOX)				CITY			STATE	ZIP	SSN (US PERSONS)	
ID TYPE				ID #	EXP DATE		ISSUING STATE/COUNTRY		PASSPORT # (NON-US CITIZENS)	
EMAIL ADDRESS				MOBILE #			TITLE			

<b>05 MERCHANT ACCOUNT RATES</b>										
MERCHANT TYPE: <input type="checkbox"/> RETAIL <input type="checkbox"/> RESTAURANT <input type="checkbox"/> LODGING <input type="checkbox"/> CARD-NOT-PRESENT <input type="checkbox"/> E-COMMERCE										

<input checked="" type="checkbox"/> <b>OPTION 1 - ADVANTAGE PROGRAM PRICING</b> PRICING FOR VISA/MASTERCARD/DISCOVER: ADJUSTMENT PERCENTAGE <u>3.846</u> % <small>I acknowledge that this allows my business to enable either dual pricing, a supplemental fee (with discount) for all transaction types, or a cash discount where I display non-cash pricing. I will operate the features in a compliant fashion pursuant to the Rules and Laws. I acknowledge that I will be responsible for any penalties and fees for failing to operate in a compliant fashion. Terms &amp; conditions at www.shift4.com/legal.</small>										
<input type="checkbox"/> <b>OPTION 2 - FLAT RATE PRICING</b> PRICING FOR VISA/MASTERCARD/DISCOVER: FLAT RATE: _____										

<input type="checkbox"/> <b>OPTION 3 - SIMPLECHANGE PRICING</b> PRICING FOR VISA/MASTERCARD/DISCOVER: <input type="checkbox"/> NET <input type="checkbox"/> GROSS CREDIT/DEBIT: SIMPLECHANGE, DUES & ASSESSMENTS + _____										
<small>All AMEX transactions will be charged a AMEX 0.25% Sponsorship Fee and as applicable a Card Not Present Fee of 0.30% and a Cross Border Transaction Fee of 0.40%. Fees or charges may be added or changed by an amendment to the Merchant Processing Agreement with 30 days notice. AMEX ESA Program acceptance will be assessed at the same processing rates of Visa/Mastercard/Discover unless otherwise specified.</small>										

<input type="checkbox"/> <b>OPTION 4 - INTERCHANGE PLUS PRICING</b> PRICING FOR VISA/MASTERCARD/DISCOVER: <input type="checkbox"/> NET <input type="checkbox"/> GROSS CREDIT: INTERCHANGE, DUES & ASSESSMENTS + _____ DEBIT: INTERCHANGE, DUES & ASSESSMENTS + _____										
<small>Please review the Merchant Processing Agreement at www.shift4.com/legal for additional information on which interchange programs apply. "AMEX Cost" includes all Interchange/Discount, Dues, Assessments, surcharges, plus an AMEX 0.25% Sponsorship Fee applicable for AMEX transactions. For more information on interchange rates visit www.visa.com, www.mastercard.com or www.americanexpress.com. The following surcharges also apply to American Express transactions when applicable: Card Not Present Fee of 0.30% and Cross Border Transaction Fee of 0.40%. Fees or charges may be added or changed by an amendment to the Merchant Processing Agreement with 30 days notice. AMEX ESA Program acceptance will be assessed at the same processing rates of Visa/Mastercard/Discover credit section unless otherwise specified.</small>										

<input type="checkbox"/> <b>OPTION 5 - TIERED PRICING</b> PRICING FOR VISA/MASTERCARD/DISCOVER: SELECT ONE: <input type="checkbox"/> 2 - TIER (CARD-NOT-PRESENT/E-COMMERCE ONLY) RATE 1: _____ RATE 2: <u>RATE 1 +</u> <input type="checkbox"/> 3 - TIER RATE 1: _____ RATE 2: <u>RATE 1 +</u> RATE 3: <u>RATE 1 +</u> <input type="checkbox"/> 4 - TIER RATE 1: _____ RATE 2: _____ RATE 3: <u>RATE 2 +</u> RATE 4: <u>RATE 2 +</u>										
<b>FOR AMERICAN EXPRESS ACCEPTANCE SELECT ONE PROGRAM:</b> <input type="checkbox"/> <b>PRICING FOR AMERICAN EXPRESS OPT BLUE PROGRAM:</b> SELECT ONE: <input type="checkbox"/> TIERED: RATE 1: _____ + \$ _____ RATE 2: _____ + \$ _____ RATE 3: _____ + \$ _____ <input type="checkbox"/> BUNDLED: _____ + \$ _____										
<input type="checkbox"/> <b>PRICING FOR AMERICAN EXPRESS ESA PROGRAM:</b> SE NUMBER: _____ BRAND VOLUME: _____ + \$ _____										
<small>Where tiered pricing is selected (Option 5), as indicated above, the fees quoted in the above fee schedule plus Assessments shall apply to each credit and debit transaction in addition to the rates set forth in the Merchant Processing Agreement. Assessments are charged as follows: Visa: 0.14%, MasterCard: 0.13%, Discover: 0.13%. "AMEX Cost" includes all Interchange/Discount, Dues, Assessments, surcharges, plus an AMEX 0.25% Sponsorship Fee applicable for AMEX transactions. The following surcharges also apply to American Express transactions when applicable: Card Not Present Fee of 0.30% and Cross Border Transaction Fee of 0.40%. For more information on interchange rates visit www.visa.com, www.mastercard.com, www.americanexpress.com, or www.discover.com. Fees or charges may be added or changed by an amendment to the Terms and Conditions with 30 days notice. Merchant shall be charged a .20% fee or another amount as set forth on the merchant application for all volume processed through AMEX ESA and an additional transaction fee equal to the amount currently being charged for Visa, MasterCard, and Discover transactions.</small>										

<b>06 TRANSACTION CHARGES</b>										
<input checked="" type="checkbox"/> VISA/MASTERCARD/DISCOVER: <u>SECTION 5</u> + \$ _____ TRANSACTION FEE										
<input type="checkbox"/> PIN DEBIT (OVER NETWORK PASS-THROUGH): _____ % + \$ _____ TRANSACTION FEE										
<input type="checkbox"/> EBT (FCS ID: _____) <u>N/A</u> + \$ _____ TRANSACTION FEE										
<input checked="" type="checkbox"/> BATCH: \$ <u>0</u> EACH										
<input checked="" type="checkbox"/> VOICE AUTHORIZATION FEE: \$ _____ 0 EACH										
<input checked="" type="checkbox"/> CHARGEBACK FEE: \$ _____ 25 EACH										
<input checked="" type="checkbox"/> RETRIEVAL REQUEST: \$ _____ 15 EACH										
<input checked="" type="checkbox"/> NSF FEE: \$ _____ 25 EACH PLUS NACHA FEES										
<small>All other applicable Card Brand fees will be passed through at the Card Brand's Rate. For more information, please contact Shift4 Payments, LLC (d/b/a Shift4). \$.015 applies to each transaction to cover enhanced security service \$0.005 fee applies to all transactions to cover association fees. \$0.0025 fee applies to all transactions to cover bank sponsorship fees. Fees or charges may be added or changed by an amendment to the Terms and Conditions with 30 days notice.</small>										

07 SERVICE CHARGES

MONTHLY MINIMUM: \$ 25 MONTHLY MC PER LOCATION FEE: \$ 25 DEBIT ACCESS FEE: \$ 0
MONTHLY ADMINISTRATIVE FEE \$ 0 MONTHLY PREMIUM SERVICE & SUPPORT FEE \* : \$ 0

Fees or charges may be added or changed by an amendment to the Merchant Processing Agreement with 30 days notice.

08 LIGHTHOUSE BUSINESS MANAGEMENT SYSTEM

For the first 60 days following the opening of your merchant account, the Lighthouse Business Management System (LHBMS) will be made available to you at no additional cost ("Introductory Period").

The Lighthouse Administrators designated in Section 4 will receive a Lighthouse registration email that will grant them access to change bank deposit account, profile settings, link merchant accounts, virtual terminal, statements and more.

Additionally, for SkyTab POS merchants, for the first 60 days following the opening of your merchant account, Workforce will be made available to you at no additional cost ("Introductory Period").

09 MERCHANT COMPLIANCE

An annual \$129.99 compliance fee will be charged to Merchant each January, unless 30 days notice is provided for a change in billing date. Merchant represents and warrants that as of the date of signing this Agreement and throughout any term of this Merchant Processing Agreement...

10 VISA DISCLOSURE

MEMBER BANK (ACQUIRER) INFORMATION

Citizen's Bank, N.A.
1 Citizens Plaza
Providence, RI 02903
Tel: (877) 550-5933

IMPORTANT MEMBER BANK (ACQUIRER) RESPONSIBILITIES

- 1. A Visa Member is the only entity approved to extend acceptance of Visa products directly to a Merchant.
2. A Visa Member must be a principal (signer) to the Merchant Agreement
3. A Visa Member is responsible for educating Merchants on pertinent Visa Rules with which Merchants must comply.
4. The Visa Member is responsible for and must provide settlement funds to the Merchant.
5. The Visa Member is responsible for all funds held in reserve that are derived from settlement.

IMPORTANT MERCHANT RESPONSIBILITIES

- 1. Ensure compliance with cardholder data security and storage requirements.
2. Maintain fraud and disputes below thresholds.
3. Review and understand the terms of the Merchant Agreement.
4. Comply with Visa Rules.

The responsibilities listed above do not supercede terms of the Merchant Agreement and are provided to ensure the Merchant understands some important obligations of each party and that the Visa Member (Acquirer) is the ultimate authority should the Merchant have any problems.

11 CERTIFICATION AGREED TO (REQUIRED)

I, (print name) \_\_\_\_\_, hereby certify, to the best of my knowledge, that the information provided in section 04, Certification of Beneficial Owner(s), is complete and correct for all accounts

X

SIGNATURE

PRINT NAME

DATE

12 PERSONAL GUARANTY (NO TITLES)

This general, absolute, and unconditional continuing Guaranty ("GUARANTY") by the undersigned (collectively "GUARANTOR" or "my" or "I" or "me"), is for the benefit of Citizens Bank, N.A. and/or Shift4 Payments, LLC ("Shift4") (each a "Guaranty Party" and collectively the "Guaranty Parties").

AGREED AND ACCEPTED

X

AUTHORIZED SIGNER #1 FROM APPLICATION - SIGNATURE

DATE

X

AUTHORIZED SIGNER #2 FROM APPLICATION - SIGNATURE

DATE

PRINT NAME

PRINT NAME

13 SIGNATURES

By their execution below of the Merchant Processing Agreement the undersigned parties agree to abide by the Merchant Processing Agreement (the "Agreement").

MERCHANT warrants that the information provided on this Merchant Application is complete and accurate. MERCHANT authorizes Shift4 Payments, LLC d/b/a Shift4 ("Shift4" or "ISO") and BANK to provide a copy of this Merchant Application to any third party for the services requested.

THIS AGREEMENT (INCLUDING ADDITIONAL FEES) MAY BE AMENDED WITH THIRTY (30) DAYS NOTICE TO MERCHANT.

EQUIPMENT FEE UPON TERMINATION. If Company does not receive Merchant's equipment within fifteen (15) days of Merchant's termination or expiration of the term, Merchant authorizes Company to debit Merchant per each payment processing terminal (measured by terminal identification number) provided by Company in the amount of: (i) Two Hundred (\$200) Dollars for a standard EMV/Contactless terminal (ex. VX520, S80, iPP320); (ii) Three Hundred(\$300)Dollars for an enhanced EMV/Contactless terminal (ex. PAX A930, S300, S90, iPP350), or (iii) Five Hundred (\$500) Dollars for a premium POS terminal bundle (ex. iSC480, POS Bundle). This Non-Return Fee is in addition to any fees related to point-of-sale equipment provided under a POS System Service Agreement.

MERCHANT AND COMPANY WAIVE THEIR RIGHTS TO SUE BEFORE A JUDGE OR JURY AND PARTICIPATE IN A CLASS ACTION AND AGREE TO RESOLVE ALL CLAIMS AND DISPUTES THROUGH BINDING INDIVIDUAL ARBITRATION. SEE ARTICLE VII AT www.shift4.com/legal.

In witness whereof the parties hereto have caused this Agreement to be executed by their duly authorized representatives effective on the date signed or approved by BANK.

If applicable, MERCHANT agrees by its signature below to the TMS American Express Opt Blue Program Agreement. For details, please see www.shift4.com/legal.

MERCHANT agrees by its signature below to the Shift4 Gateway Services Agreement. For details, please see www.shift4.com/legal.

BANK and Company are authorized to perform such functions under the Merchant Processing Agreement, the Gateway Services Agreement, and the POS System Service Agreement Terms and Conditions, as applicable, for the purposes set forth in the applicable agreement.

PRINT LEGAL NAME OF MERCHANT BUSINESS

[Empty box for merchant business name]

X

AUTHORIZED SIGNER #1 FROM APPLICATION - SIGNATURE

DATE

X

AUTHORIZED SIGNER #2 FROM APPLICATION - SIGNATURE

DATE

PRINT NAME

TITLE

PRINT NAME

TITLE

X

ACCEPTED BY SHIFT4

DATE



**OWNERS OR OFFICERS**

Principal #1			Social Security Number		Principal #2		Social Security Number	
Residence Address					Residence Address			
City		State	ZIP		City		State	ZIP

**Personal Guaranty:** This general, absolute, and unconditional Guaranty ("Guaranty") by the undersigned (collectively "Guarantor" or "my" or "I" or "me") is for the benefit of Shift4 Payments, LLC d/b/a Future POS ("Company") and its affiliates and subsidiaries. For value received, and in consideration for the mutual undertakings contained in the Agreements, exhibits, and all other related agreements entered into between Merchant and Company or its parents, affiliates, successors, and assigns, I absolutely and unconditionally guarantee the full performance of all Merchant's obligations to Company, together with all costs, expenses, and attorneys' fees incurred by Company, its parents, affiliates, successors, or assigns, in connection with any action, inactions, or defaults of Merchant with respect to this Agreement or any other Agreement currently in effect or in the future entered into between Merchant or its principals and Company, its parents, affiliates, successors, or assigns. I waive any right to require Company, its parents, affiliates, successors, or assigns, to proceed against other entities or Merchant. There are no conditions attached to the enforcement of this Guaranty. I authorize, Company, its parents, affiliates, successors, or assigns to make from time to time any personal credit or other inquiries and agree to provide, at Company's request, financial statements and/or tax returns. I agree that this Guaranty shall be governed and construed in accordance with the State of Pennsylvania, and that the courts of Pennsylvania shall have and be vested with personal jurisdiction. The termination of this Agreement or Guaranty shall not release me from liability with respect to any obligations incurred before the effective date of termination. No termination of this Guaranty shall be effected by any change in my legal status or any change in the relationship between Merchant and me. This Guaranty shall bind and inure to the benefit of the personal representatives, parents, heirs, administrators, successors and assigns of Guarantor and Company.

**AGREED AN ACCEPTED:**

<input checked="" type="checkbox"/>	_____	_____
	PRINCIPAL 1 SIGNATURE	PRINT NAME
<input checked="" type="checkbox"/>	_____	_____
	PRINCIPAL 2 SIGNATURE	PRINT NAME

**ACH Authorization:** The fees and charges as specified in POS Exhibit A and the terms and conditions shall be debited from Merchant's account upon the execution of this Service Agreement and then on a monthly basis thereafter. All other charges payable hereunder shall be debited during the month in which they were incurred. Authorized Merchant Representative's signature below authorizes Shift4 Payments, LLC d/b/a Future POS ("Company"), its affiliates, subsidiaries, designated assignees, or third party providers, including but not limited to Company, to initiate ACH transfer entries to credit and/or debit the account identified in the voided check provided to Company for the fees and charges incurred under the Service Agreement. This authorization shall remain in effect unless and until Company receives written notification from Merchant that this authorization has been terminated in such time and manner to allow Company to act.

**Credit Inquiry Authorization:** Authorization is hereby granted by the Merchant representative who has signed below to Shift4 Payments, LLC d/b/a Future POS ("Company") to obtain a consumer credit report through a credit reporting agency chosen by Company. Authorized Merchant Representative understands and agrees that Company intends to use the consumer credit report for the purposes of evaluating my financial readiness to enter into this Service Agreement. Authorized Merchant Representative understands that this credit report will be retained on file at the Company office for use only by Company staff. This information will not be disclosed to anyone by Company without written consent unless required by law. Authorized Merchant Representative's signature below authorizes the release to the credit reporting agency of financial information which I have supplied to Company in connection with such an evaluation. Authorization is further granted to the credit reporting agency to use photostatic reproduction of this form if required to obtain any information necessary to complete my consumer credit report.

SIGNING BELOW GRANTS COMPANY AUTHORIZATION TO DEBIT THE MERCHANT ACCOUNT AS SET FORTH HEREIN AND GRANTS COMPANY PERMISSION TO THE RELEASE OF FINANCIAL INFORMATION TO THE CREDIT REPORTING AGENCY AND GRANTS PERMISSION FOR COMPANY TO OBTAIN A COPY OF MY CREDIT REPORT.

PLEASE READ THIS SERVICE AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION, INCLUDING YOUR REQUIRED USE OF COMPANY'S TRANSACTION PROCESSING SERVICES. THIS AGREEMENT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO A MERCHANT IN THE EVENT OF A DISPUTE (PLEASE SEE SECTION 11 (e) FOR FURTHER DETAILS).

THE INITIAL TERM OF THE SERVICE AGREEMENT IS FOR THIRTY (30) MONTHS. PLEASE SEE SECTION 3 FOR FURTHER DETAILS.

BY THEIR EXECUTION BELOW, THE UNDERSIGNED AGREES TO ABIDE BY THE SERVICE AGREEMENT. THE SERVICE AGREEMENT CONSISTS OF THE POS EXHIBIT A, THE POS ORDER FORM, AND THE TERMS AND CONDITIONS. MERCHANT ACKNOWLEDGES RECEIPT OF SERVICE AGREEMENT TERMS AND CONDITIONS. THE SERVICE AGREEMENT REQUIRES THE USE OF COMPANY'S TRANSACTION PROCESSING SERVICES UNDER A SEPARATE MERCHANT TRANSACTION PROCESSING AGREEMENT. MERCHANT WARRANTS THAT THE INFORMATION PROVIDED TO COMPANY IS COMPLETE AND ACCURATE.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED REPRESENTATIVES EFFECTIVE ON THE DATE SIGNED OR APPROVED BY COMPANY.

**AGREED AND ACCEPTED:**

MERCHANT LEGAL NAME: \_\_\_\_\_

<input checked="" type="checkbox"/>	_____	_____
	PRINCIPAL 1 SIGNATURE	PRINT NAME
<input checked="" type="checkbox"/>	_____	_____
	PRINCIPAL 2 SIGNATURE	PRINT NAME

**POS SYSTEM SERVICE AGREEMENT  
TERMS AND CONDITIONS**

This POS System Service Agreement ("Service Agreement") by and between Shift 4 Payments d/b/a Future POS ("Company") and Merchant consists of these Terms and Conditions, and POS Exhibit A, all of which are incorporated herein by reference. The Service Agreement is binding on the parties on the date that Company approves Merchant's signed POS Exhibit A.

PLEASE READ THIS SERVICE AGREEMENT AND UNDERSTAND EACH PROVISION. IT REQUIRES YOU TO USE COMPANY'S PROCESSING SERVICES. SECTION 11.e REQUIRES ALL CLAIMS OR DISPUTES WITH COMPANY ABOUT ANY COMPANY PRODUCT OR SERVICE TO BE RESOLVED IN BINDING INDIVIDUAL ARBITRATION—NOT IN A CLASS ACTION, AND NOT IN COURT BEFORE A JUDGE OR JURY. SECTIONS 8 & 9 LIMIT COMPANY'S LIABILITY AND YOUR REMEDIES.

1. **DEFINITIONS.** (a) "Effective Date" means the Install Date. (b) "Equipment" means the Company POS Systems and related peripherals selected on POS Exhibit A. (c) "Install Date" means the date on which the Merchant utilized Company Processing Services for a transaction in excess of \$5.00 or ninety (90) days, whichever is sooner. (d) "Merchant" means the business listed on POS Exhibit A. (e) "Merchant Location" means the Merchant's address listed on POS Exhibit A. (f) "Processing Services" means Company's credit, debit, electronic payment, and gift card processing services as provided for under the Company Merchant Transaction Processing Agreement. (g) "Software" means the software programs installed on or made available through use of the Equipment, including any application programming interfaces, updates, enhancements, or modifications made by Company.

2. **EXCLUSIVE PROCESSING REQUIREMENT**

- a. **Company's Processing Services.** Merchant's use of the Equipment requires exclusive use of Company's Processing Services at all times. Merchant agrees not to use credit, debit, electronic payment, or gift card processing services from any provider except Company. By entering into this Service Agreement, and as a condition precedent to Company providing Equipment to Merchant, Merchant agrees to enter into a Company Merchant Transaction Processing Agreement. The Processing Agreement consists of the Merchant Application and the Terms and Conditions, together with its addenda, attachments, and schedules.
- b. **Failure to Process with Company.** (i) If at any time after the Install Date Merchant stops using Company's Processing Services, in whole or in part, then Company shall charge Merchant \$75.00 per Equipment terminal for each 30-day period that Company's Processing Services are not used ("Inactivity Fee"). The Inactivity Fee is in addition to any other fees or charges. Notwithstanding the foregoing, Company reserves the right to terminate this Service Agreement or suspend Merchant's access to the Equipment and/or Software for Merchant's intentional non-use of Company's Processing Services. (ii) Company reserves the right to stop the Software from functioning or revoke the Software License in the event Merchant does not utilize the Processing Services.

3. **TERM COMMITMENT**

- a. **Term** This Service Agreement begins on the Effective Date and continues for thirty (30) months ("Initial Term"). At the expiration of the Initial Term, this Service Agreement automatically renews for successive one (1) year periods (each, a "Renewal Term") unless Merchant provides Harbortouch with written notice of Merchant's intent not to renew the Service Agreement at least 30 days prior to the expiration of the Initial Term or any Renewal Term.
- b. **Term Commitment.** Merchant understands that it is receiving Equipment and Software from Company at favorable pricing in exchange for Merchant's term commitment. In addition to Merchant's rights set forth in Section 3(a), Merchant may terminate this Service Agreement subject to the following conditions:
  - (i). Merchant may terminate this Service Agreement for any reason prior to the Install Date. All Equipment must be returned to Company within 15 days following termination. Upon completion of cancellation paperwork, Merchant shall be provided with shipping labels in order to return all equipment to Company.
  - (ii). Merchant may terminate this Service Agreement upon Company's default of any material obligation to Merchant hereunder and the failure of Company to cure such default within thirty (30) days after written notice of such default is received. In the event Merchant terminates this Service Agreement for any other reason after the Install Date, Merchant shall be in material breach of this Service Agreement. Upon completion of cancellation paperwork, Merchant shall be provided with shipping labels in order to return all equipment to Company.
  - (iii). Company may debit the fees derived from Merchant's termination of this Agreement from Merchant's bank account on file with Company within 30 days of the date this Service Agreement is terminated. Merchant is responsible for all additional fees and charges (including taxes) incurred under this Service Agreement.
- c. **Company's Termination Rights.** Company may, without notice, suspend Merchant's access to the Equipment and Software and/or terminate this Service Agreement for any of the following reasons: (i) material breach of this Service Agreement; (ii) unlawful use of the Equipment, Software, or Processing Services; (iii) unauthorized modification of the Equipment or Software or installation of unauthorized third-party software; (iv) failure or refusal to pay fees or charges on time; (v) material breach of the Merchant Transaction Processing Agreement; or (vi) insolvency or bankruptcy. Company may, in its sole discretion, withhold Merchant's funds derived from use of the Processing Services in order to satisfy all fees and charges incurred under this Service Agreement.
- d. **Trial Period.** Merchant may cancel the Service Agreement without any penalty within thirty (30) calendar days from the Install Date ("Trial Period"). IF MERCHANT DOES NOT CANCEL BEFORE THE EXPIRATION OF THE TRIAL PERIOD THEN MERCHANT SHALL BE BOUND BY THE TERMS AND CONDITIONS OF THE SERVICE AGREEMENT. Notwithstanding anything to the contrary herein, Merchant shall be responsible for the cost of shipping Equipment to and from the Merchant Location and any additional wiring completed. All fees and charges incurred by Merchant will be charged in accordance with the Service Agreement's Terms and Conditions. ALL CHARGES UNDER THE MERCHANT TRANSACTION PROCESSING AGREEMENT AND THE SERVICE AGREEMENT WILL APPLY DURING THE TRIAL PERIOD. If Merchant cancels, Merchant must make available to Company, in substantially as good condition as when received, the Equipment delivered to Merchant under the Service Agreement; or comply with the instructions of Company regarding the return shipment of the Equipment and add-ons as set forth in POS Exhibit A. ALL COSTS ASSOCIATED WITH THE RETURN OF EQUIPMENT TO COMPANY SHALL BE BORNE BY THE MERCHANT. MERCHANT AUTHORIZES COMPANY TO DEBIT MERCHANT'S ACCOUNT UPON RECEIPT OF NOTICE OF CANCELLATION. Additional Equipment added after the original Install Date will not be eligible for the 30 day Trial Period.
- e. **Company's Termination Rights.** Company may, without notice, suspend Merchant's access to the Equipment and Software and/or terminate this Service Agreement for any of the following reasons: (i) material breach of this Service Agreement; (ii) unlawful use of the Equipment, Software, or Processing Services; (iii) unauthorized modification of the Equipment or Software or installation of unauthorized third-party software; (iv) failure or refusal to pay fees or charges on time; (v) material breach of the Merchant Transaction Processing Agreement; or (vi) Insolvency or bankruptcy. Company may, in its sole discretion, withhold Merchant's funds derived from use of the Processing Services in order to satisfy all fees and charges incurred under this Service Agreement.
- f. **Trial Period.** Merchant may cancel the Service Agreement without any penalty within thirty (30) calendar days from the Install Date ("Trial Period"). IF MERCHANT DOES NOT CANCEL BEFORE THE EXPIRATION OF THE TRIAL PERIOD THEN MERCHANT SHALL BE BOUND BY THE TERMS AND CONDITIONS OF THE SERVICE AGREEMENT. Notwithstanding anything to the contrary herein, Merchant shall be responsible for the cost of shipping Equipment to and from the Merchant Location and any additional wiring completed. All fees and charges incurred by Merchant will be charged in accordance with the Service Agreement's Terms and Conditions. ALL CHARGES UNDER THE MERCHANT TRANSACTION PROCESSING AGREEMENT AND THE SERVICE AGREEMENT WILL APPLY DURING THE TRIAL PERIOD. If Merchant cancels, Merchant must make available to Company, in substantially as good condition as when received, the Equipment delivered to Merchant under the Service Agreement; or comply with the instructions of Company regarding the return shipment of the Equipment and add-ons as set forth in POS Exhibit A. ALL COSTS ASSOCIATED WITH THE RETURN OF EQUIPMENT TO COMPANY SHALL BE BORNE BY THE MERCHANT. MERCHANT AUTHORIZES COMPANY TO DEBIT MERCHANT'S ACCOUNT UPON RECEIPT OF NOTICE OF CANCELLATION. Additional Equipment added after the original Install Date will not be eligible for the 30 day Trial Period.

4. **FEES AND PAYMENT**

- a. **Total Monthly Service Fees.** Merchant shall pay the Total Monthly Service Fee listed on POS Exhibit A on the first business day of each month starting on the Install Date. Merchant permits Company to re-debit Merchant's bank account should any attempt to collect fees reject for any reason.
- b. **Shipping Fees.** Company will ship all Equipment via nationally recognized courier service (e.g., UPS). Merchant is responsible for all shipping costs and authorizes Company to debit Merchant's account. Company shall have no liability for failure of Equipment to reach its destination in a timely manner once it has delivered the Equipment to the carrier. The current shipping fees are:

		<b>Ground</b>	<b>2nd Day Air</b>	<b>Next Day Air</b>
<b>Contiguous U.S.</b>	Per Base Package	<b>\$25.00</b>	<b>\$51.50</b>	<b>\$76.95</b>
	Per Additional Accessory	<b>\$11.00</b>	<b>\$26.00</b>	<b>\$39.00</b>
<b>Alaska &amp; Hawaii</b>	Per Base Package	<b>N/A</b>	<b>\$139.50</b>	<b>\$199.50</b>
	Per Additional Accessory	<b>N/A</b>	<b>\$75.00</b>	<b>\$99.00</b>

- c. **Changes to Terms and Fees.** Company may change any terms, conditions, rates, fees, expenses, or charges incurred under this Service Agreement upon 30 days' written notice to Merchant. Using the Equipment or Service after a change takes effect constitutes acceptance of the change. But Company will not change the Total Monthly Service Fees listed on POS Exhibit A during the Initial Term.
- d. **Billing, Payments, and Credit Authorization.** Merchant grants to Company Automated Clearing House ("ACH") Authorization to credit and debit Merchant's demand deposit account for all fees and charges incurred under this Service Agreement. Should any ACH debit made upon Merchant's demand deposit account for payment due under this Service Agreement reject for any reason, Merchant shall be charged a \$25.00 Non-Sufficient Funds Fee ("NSF Fee"). This authorization shall survive termination and last as long as Merchant owes any fees or charges, incurred under this Service Agreement.

5. **MERCHANT'S RESPONSIBILITIES**

- a. **Equipment Failure.** Merchant must notify Company immediately upon Equipment or Software failure. Merchant must allow Company unrestricted and free access to the Equipment and Software to correct failures. Merchant must provide any necessary data communication facilities and equipment at no charge to Company.
- b. **Activation of Equipment.** Upon installation of the Equipment at the Merchant Location, Merchant represents and warrants that: (i) Merchant received and accepts the Equipment; (ii) customization of the Equipment and/or Software (for example, the menu) was satisfactorily programmed to Merchant's specifications; (iii) the Equipment is in good working order; and (iv) the Equipment was tested and is capable of performing Processing Services.
- c. **Title to Equipment.**
  - (i) *Initial Term.* In the event Merchant materially breaches this Service Agreement, may demand return of the Equipment, and Merchant shall be required to return the Equipment to Company within 15 days of receiving Company's written request. Merchant agrees to continue to pay the Total Monthly Service Fee as indicated on Exhibit A until such calendar month that Merchant returns all equipment to Company. The requirement to return the Equipment to Company shall be in addition to and shall not preclude Company from exercising any other right or remedy under this Service Agreement or applicable law.



- (ii) **Security Interest.** Merchant hereby grants to Company a first priority purchase money security interest in the Equipment (including any replacements, substitutions, additions, attachments and proceeds). Merchant agrees that Company may file, on Merchant's behalf, a UCC-1 Financing Statement and/or other necessary documentation sufficient to protect and secure Company's security interest. Merchant will promptly execute any other required documents and/or records reasonably requested by Company for the purpose of securing Company's rights in the Equipment.
- d. **Taxes.** Merchant shall be responsible for all sales, use, excise, stamp, documentary, value added, and ad valorem taxes, license and registration fees, assessments, fines, penalties, and similar charges imposed on the ownership, possession, or use of the Equipment by any state, local, or federal governmental or regulatory authority and shall issue, where required and requested, a valid tax exemption certificate to Company. Merchant will reimburse Company for any of these taxes that Company pays or advances on behalf of Merchant.
- e. **Merchant's Maintenance Efforts.** Merchant shall maintain and protect the Equipment in good operating condition, repair, and appearance, and protect the Equipment from deterioration other than normal wear and tear; shall use the Equipment in the regular course of its business, within its normal operating capacity, without abuse, and shall comply with all laws, regulations, directives, requirements, and rules with respect to the use, maintenance, and operation of the Equipment and Software; Merchant shall use the Equipment and Software solely for business purposes; shall not make any modification, alteration or addition to the Equipment or Software without the written consent of Company; shall not affix, and shall not remove the Equipment from the Merchant Location without Company's written consent, which shall not be unreasonably withheld.
- f. **Equipment Condition and Return.** All Equipment must be returned to Company by Merchant within the timeframes specified by this Service Agreement in good operating condition other than normal wear and tear. Merchant will not change or remove any lettering or numbering on the Equipment. To extent permitted by applicable law, without demand or legal process, Company and its agents may enter into the premises, including the Merchant Location, where the Equipment may be found and take possession of and remove the Equipment, without incurring any liability for such retaking. To the extent liability arises, Merchant shall indemnify and hold harmless Company from any such liability. Any Equipment that is, in Company's sole discretion, damaged beyond normal wear and tear or is not returned when due will result in a charge to Merchant of the full cost of the Equipment to Company.
- g. **Merchant Security.** Merchant shall be responsible for (i) maintaining virus protection and security for all of its systems, data, and overall network access, and (ii) all risk of loss, theft, damage, or destruction of the Equipment from any cause whatsoever after taking possession of the Equipment. Merchant acknowledges that security and access to any Equipment located on its premises is solely Merchant's responsibility and agrees to notify Company immediately if Equipment is lost, destroyed, stolen, or taken by any other person. Merchant shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at Merchant's sole cost and expense. Merchant shall be solely responsible for storing and backing up Merchant's data stored on the Equipment. Company shall have no liability to Merchant for loss or destruction of Merchant's data.
- h. **Insurance.** While the Equipment is in Merchant's possession or control, Merchant shall insure the Equipment at its own cost and expense against loss or damage from fire, theft, bodily injury, or other casualty in an amount not less than twelve times the Total Monthly Service Fee listed on POS Exhibit A. At Company's request, Merchant shall provide a certificate of insurance to Company naming it as a loss payee or additional insured with respect to loss of or damage to the Equipment during the Initial Term.
- 6. COMPANY'S RESPONSIBILITIES**
- a. **Installation.**
- (i) Merchant shall be entitled to a one-time installation of the Equipment at the Merchant Location. Merchant must make an installation appointment with Company and confirm that appointment at least 48 hours prior to the appointment. Merchant shall be billed a \$199.00 reschedule fee if (i) Merchant reschedules the installation less than 24 hours prior to the appointment;
- (ii) an authorized representative of the Merchant is not available to acknowledge the installation in writing; or (iii) the Merchant Location, in Company's reasonable discretion, is not suitable to conduct the installation ("Reschedule Fee").
- (ii) Merchant agrees that the installation of the Equipment must be completed within 60 days from the date the Equipment is shipped by Company. Upon the expiration of the 60-day period, the Equipment will be deemed installed and the Install Date deemed to have occurred.
- b. **Equipment / Software Support and Maintenance.** Company shall provide Merchant with 24 hours a day, 7 days a week remote technical support for the Equipment and Software. Company will use commercially reasonable efforts to answer questions and resolve any problems related to the Equipment and Software, but does not guarantee resolution of the problems reported. Company shall provide remote support to determine if the Equipment is defective and, if so, at Company's sole discretion, it will: repair Equipment, send replacement parts, and/or replacement Equipment. Merchant must return all defective Equipment to Company within 15 days of receipt of the replacement Equipment. Merchant's failure to maintain the Equipment as set forth in Section 5.e shall result in additional charges for service and/or replacement of the Equipment.
- c. **Training.** During the installation of the Equipment, Merchant shall receive a complimentary training session. Merchant may request additional onsite training, subject to Company's approval and technician availability; additional charges may apply.
- d. **Software Customization.** Company shall provide reasonable Software customization based on the information requested by Company and provided by Merchant. Any additional customization after the Equipment has been shipped to Merchant is excluded from this Service Agreement and will be charged at Company's then current rate. Company DOES NOT WARRANT THAT CUSTOMIZATION WILL BE FREE FROM DEFECTS OR MISTAKES. Company EXPRESSLY DISCLAIMS AND MERCHANT AGREES TO HOLD Company HARMLESS FOR ANY ERRORS IN THE EQUIPMENT AND SOFTWARE.
- e. **Software Updates.** Company may, in its sole discretion, make Software updates available to Merchant. Merchant must install all Software updates within 30 days. Company reserves the right not to provide support services, or charge Merchant additional fees for support, if Merchant does not install a Software update on time.
- f. **Non-standard Support and Maintenance.** Company may, in its sole discretion and for additional charges, provide services and repair, redesign, reinstall, reconfigure, or replace the Equipment when either such services are required due to causes not attributable to normal wear and tear, including: (i) Merchant's failure to continually maintain the Merchant Location in conformance with commercially reasonable standards; (ii) impairments in the performance of the Equipment resulting from changes to the Equipment made by Merchant or mechanical, electrical, or electronic interconnections made by Merchant; (iii) damage caused by accidents, natural disasters, or the negligence of, or improper use or misuse of, the Equipment by Merchant; (iv) damage or necessity of repair resulting from unauthorized maintenance by Merchant or any third party other than Company or its authorized representative; (v) damage or repair necessitated as a result of relocation of the Equipment; (vi) change in laws or Card Association rules that require service, repair, or replacement beyond normal day-to-day maintenance; (vii) any third-party hardware or software in conjunction with the use of the Equipment without Company's express written consent; or (viii) theft of the Equipment.
- 7. LIMITED SOFTWARE LICENSE**
- Company grants to Merchant a non-exclusive, non-transferrable, royalty free license, without the right to sublicense, to use the Software internally in conjunction with the Equipment. Company reserves all rights not extended hereunder. Merchant may not alter, reverse engineer, decompile, or disassemble the Software, or otherwise attempt to derive source code from the Software. Merchant may not manufacture, copy, sublicense, distribute, replicate, transfer or otherwise dispose of any copies of the Software. Nothing contained in this Service Agreement shall give Merchant any ownership interest, or title to, the Software, source code, and the related documentation. Merchant acknowledges that the performance of the Software is conditioned on Merchant providing, at its sole cost and expense a continuously available and secure network. This license shall immediately terminate upon expiration or termination of this Service Agreement except if Merchant is still processing transactions through a Merchant Transaction Processing Agreement with Company and is paying the Software Support Fee. This license is not a license of any trademarks, service marks, trade names, or logos, and does not include any software other than the Software. Company reserves the right to amend or otherwise modify this license upon notice to Merchant at any time. Using the Software after an amendment or modification takes effect constitutes acceptance of it.
- 8. WARRANTY LIMITATION AND DISCLAIMER.**
- EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE AGREEMENT, COMPANY, DOES NOT MAKE (AND EXPRESSLY DISCLAIMS) ANY REPRESENTATIONS AND WARRANTIES IN RESPECT OF THE EQUIPMENT, SOFTWARE, PROCESSING SERVICES, AND/OR OTHER SERVICES PROVIDED BY COMPANY UNDER THIS SERVICE AGREEMENT, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. COMPANY DOES NOT GUARANTEE THAT THE EQUIPMENT OR SOFTWARE WILL SATISFY MERCHANT'S REQUIREMENTS, OR THAT THE OPERATIONS OF SUCH WILL BE UNINTERRUPTED OR ERROR FREE. THE EQUIPMENT, SOFTWARE, AND PROCESSING SERVICES ARE PROVIDED WITH ALL FAULTS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT WILL BE WITH THE MERCHANT. SHOULD THE EQUIPMENT OR SOFTWARE PROVE DEFECTIVE, MERCHANT, AND NOT COMPANY, ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING OR REPAIR. COMPANY SHALL NOT BE LIABLE FOR ANY COSTS OR FOR PERFORMING ANY SERVICES HEREUNDER ARISING IN CONNECTION WITH MERCHANT'S NEGLIGENCE, ABUSE, MISUSE, OR FAILURE TO PERFORM ROUTINE MAINTENANCE OR STANDARD OPERATING PROCEDURES. COMPANY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, THAT AFTER THE INITIAL INSTALLATION OF THE EQUIPMENT AND SOFTWARE, THAT THE EQUIPMENT, SOFTWARE OR CUSTOMER'S DATA WILL REMAIN VIRUS-FREE. MERCHANT WAIVES ANY CLAIMS HEREUNDER AGAINST COMPANY ARISING FROM MERCHANT'S FAILURE TO HAVE OR MAINTAIN CURRENT VIRUS PROTECTION, OR FROM A FAILURE OR BREACH OF CUSTOMER'S SECURITY FOR MERCHANT'S SYSTEMS OR DATA, OR FROM ANY UNAUTHORIZED ACCESS TO MERCHANT'S SYSTEMS. COMPANY FURTHER DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR PROBLEMS FROM MERCHANT'S DECISION TO USE A PARTICULAR INTERNET SERVICE PROVIDER OR MERCHANT'S ABILITY TO CONNECT TO THE INTERNET. MERCHANT ACKNOWLEDGES THAT ITS ABILITY TO ACCESS DATA, RECEIVE REMOTE TECHNICAL SUPPORT, AND OPERATE THE EQUIPMENT, MAY BE AFFECTED BY PROBLEMS WITH MERCHANT'S INTERNET CONNECTIVITY. ANY SUCH PROBLEMS ARE OUTSIDE OF COMPANY'S CONTROL. MERCHANT WAIVES ANY CLAIMS IT MAY HAVE AGAINST COMPANY DUE TO MERCHANT'S INABILITY TO ACCESS DATA OR CONNECT TO THE INTERNET WHICH IS BASED ON OR ARISING OUT OF ANY OF THE FOREGOING REASONS.
- 9. LIMITATION OF LIABILITY**
- COMPANY AND COMPANY'S AFFILIATES (INCLUDING PARENTS, SUBSIDIARIES, AND OTHER RELATED ENTITIES), SUCCESSORS, AND ASSIGNS SHALL NOT BE LIABLE TO MERCHANT OR MERCHANT'S OWNERS, PARTNERS, SHAREHOLDERS, AFFILIATES (INCLUDING PARENTS, SUBSIDIARIES, AND OTHER RELATED ENTITIES), SUCCESSORS, OR ASSIGNS, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, BUSINESS INTERRUPTION, OR ECONOMIC DAMAGES (INCLUDING THOSE ASSOCIATED WITH IMPROPER OR INADEQUATE TAXES CHARGED), OF ANY KIND, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY ARISING OUT OF THIS SERVICE AGREEMENT, OR MERCHANT'S USE (OR INABILITY TO USE) THE EQUIPMENT OR SOFTWARE, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT SHALL THE MERCHANT BE ENTITLED TO RECOVER OR COLLECT ANY DAMAGES IN EXCESS OF THE FEES PAID UNDER THIS SERVICE AGREEMENT DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE DATE OF MERCHANT'S FIRST CLAIM OF INJURY OR DAMAGE. IN NO EVENT SHALL COMPANY OR COMPANY'S AFFILIATES (INCLUDING PARENTS, SUBSIDIARIES, AND OTHER RELATED ENTITIES), SUCCESSORS, OR ASSIGNS, BE RESPONSIBLE FOR ANY LIABILITY OR DAMAGE INCURRED AS A RESULT OF DOWNTIME OF THE EQUIPMENT OR SOFTWARE.
- 10. GENERAL INDEMNITY**
- Merchant agrees to indemnify, defend, and hold Company, Company's affiliates (including parents, subsidiaries, and other related entities), employees, contractors, subcontractors, successors, assigns, and agents (collectively the "Company Indemnified Parties") harmless from and against any and all costs, damages, penalties, claims, actions, suits (collectively "Claims") of whatsoever kind and nature arising out of, related to, arising from, or in connection with Merchant's unauthorized modification or misuse of the Equipment or Software, or Merchant's

breach of this Service Agreement, or from Merchant's negligent acts or omissions. Merchant's indemnification obligation includes payment of all reasonable attorneys' fees, costs and expenses. Merchant shall promptly notify Company in writing of any Claim and any such suit will not be settled without Company's consent, such consent not to be unreasonably withheld. Merchant shall retain counsel reasonably acceptable to Company and Company shall cooperate in the defense of such claim. Company may appear, in its sole discretion and at its own expense, through counsel if selected.

#### 11. MISCELLANEOUS TERMS INCLUDING BINDING ARBITRATION AGREEMENT

- a. Assignment.** Merchant shall not have the right to assign or otherwise transfer its rights or obligations under this Service Agreement except with the written consent of Company. Company shall have the right to assign any or all of its interest, rights, and obligations in this Service Agreement without the need for consent from Merchant. Any prohibited assignment shall be null and void. This Agreement shall be binding upon the heirs, successors, and permitted assigns of the parties.
- b. Amendments.** This Service Agreement may be amended by Company, Company's affiliates, or assigns, upon 30 days' written notice. Using the Equipment after a change takes effect constitutes acceptance of the amendment.
- c. Notices.** Notices permitted or required to be given hereunder shall be deemed sufficient if given by First-Class Mail or electronic mail addressed to Merchant's address on POS Exhibit A or Company's address in Section 11.e(iii) (or other addresses the parties may designate by like notice from time to time). Notices so given shall be effective as of the date received.
- d. Severability.** In the event that any of the terms of this Service Agreement are in conflict with any rule of laws, regulations, provisions or otherwise unenforceable under the laws or regulations of any government or subdivision thereof, such terms shall be deemed amended so that such term of provision complies with such applicable law or regulation, but such invalidity, unenforceability, or revision shall not invalidate any of the other terms of this Service Agreement and it shall continue in force, unless the invalidity or unenforceability of any such provisions hereof does substantial violence to, or where the invalid or unenforceable provisions comprise an integral part of, or are otherwise inseparable from, the remainder of this Service Agreement. Section 11.e(viii) applies if any part of the Arbitration Agreement (Section 11.e) is found illegal or unenforceable and prevails over this section if inconsistent with it.
- e. Binding Arbitration Agreement.** The term "Merchant" in this Section 11.e ("Arbitration Agreement") includes Merchant and the Guarantor(s) listed on POS Exhibit A. This Arbitration Agreement binds all of them and Company.
- (i). Company and Merchant agree to resolve all claims and disputes of every kind between them or their respective owners, partners, shareholders, affiliates (including parents, subsidiaries, and other related entities), predecessors, successors, or assigns only through binding individual arbitration before the American Arbitration Association ("AAA"). This Arbitration Agreement is to be broadly interpreted. It includes: (A) claims or disputes relating to any aspect of the relationship between Company and Merchant including claims or disputes relating to this Service Agreement, the Equipment, the Software, the Processing Agreement, any Company product or service, and any agreement to which Merchant and Company are parties (even if the claim or dispute does not involve the Service Agreement), whether based in contract, tort, statute, fraud, misrepresentation, omission, or any other theory; (B) claims or disputes that arose before this Service Agreement or any other agreement became effective (including claims or disputes relating to advertising); (C) claims or disputes that are the subject of purported class action litigation on the date this Service Agreement becomes effective but Merchant is not a member of a certified class on that date; and (D) claims or disputes that arise after the termination of this Service Agreement but relate to it or to the Equipment or Software.
  - (ii). Class Action Waiver. Merchant and Company waive their rights to sue before a judge or jury and to participate in a class action, class-wide arbitration, private attorney general action, or any other proceeding in which a party acts in a representative capacity. Instead, any claim or dispute will be resolved on an individual basis by a neutral arbitrator whose decision (called an "award") will be final except for a limited right of appeal under the Federal Arbitration Act. The arbitrator may not join or consolidate proceedings together without the consent of all parties to all proceedings.
  - (iii). Before seeking arbitration, Company or Merchant must first send to the other, by certified mail return receipt requested or a courier service that requires a signature upon delivery, a written Notice of Dispute ("Notice"). A Notice to Company must be addressed to Shift4 Legal Department, 2202 N. Irving Street, Allentown, PA 18109. A Notice to Merchant must be addressed to its address in Company's records. The Notice must (A) describe the nature and basis of the claim or dispute; and (B) set forth the specific relief sought. If Company and Merchant do not reach an agreement to resolve the claim or dispute within 30 days after the Notice is received, Merchant or Company may commence an arbitration.
  - (iv). Company or Merchant may bring an individual suit in a small claims court instead of sending a Notice or arbitrating. Merchant may sue in the small claims court in the county of Merchant's principal place of business or Lehigh County, Pennsylvania; Company may sue in the small claims court in Merchant's principal place of business. This Arbitration Agreement does not preclude Merchant from bringing issues to the attention of federal, state, or local agencies (including an attorney general or the Office of the Comptroller of the Currency). Such agencies can, if the law allows, seek relief against Company on Merchant's behalf.
  - (v). The AAA's Commercial Arbitration Rules, as modified by this Arbitration Agreement, apply. To commence an arbitration, submit a Demand for Arbitration with the required fee to the AAA and send a copy to Company at the address in Section 11.e(ii). For information, visit [adr.org](http://adr.org) or call 1-800-778-7879. For disputes involving \$25,000 or less, any hearing will be telephonic unless the arbitrator finds good cause to hold an in-person hearing. Any in-person hearing will be held in the county of Merchant's principal place of business.
  - (vi). For disputes involving \$75,000 or less, Company will pay all AAA and arbitrator's fees and will promptly refund Merchant's filing fee, unless the arbitrator finds the arbitration frivolous or brought for an improper purpose. For disputes involving more than \$75,000, AAA rules govern fees. Company will not seek its attorney's fees or expenses in any arbitration.
  - (vii). The arbitrator may award the same relief as a court could but may award declaratory or injunctive relief only to the individual party and only to the extent necessary to provide relief for that party's individual claim. Any court with jurisdiction may enforce the arbitrator's award.
  - (viii). If the class action waiver in Section 11.e(ii) is found to be illegal or unenforceable as to all or any part of a claim or dispute, then the Arbitration Agreement is null and void as to that part, which shall proceed in court with the rest proceeding in individual arbitration. If any other provision of the Arbitration Agreement is found to be illegal or unenforceable, that provision shall be severed and the rest will continue to apply in individual arbitration.
  - (ix). Notwithstanding any provision to the contrary, if Company makes any future change to this Arbitration Agreement (other than address changes) during the Initial Term or a Renewal Term, Merchant may reject that change by sending Company written notice within 30 days of receiving notice of the change to the address in Section 11.e(iii). The version of the Arbitration Agreement in force just before the rejected change will govern.
- f. Binding Agreement.** This Agreement shall not become a binding Agreement between the Parties until it is approved by Company. The commencement of the transaction processing under this Agreement shall constitute Company's approval and its signature to this Agreement.
- g. Governing Law.** The laws of the State of Merchant's principal place of business govern this Service Agreement, including claims for its enforcement or breach, except that the Federal Arbitration Act governs all matters relating to arbitration.
- h. Privacy Policy.** By entering into this Service Agreement you agree to abide by the terms of Company's Privacy Policy. The Privacy Policy can be found at [www.shift4.com/privacypolicy](http://www.shift4.com/privacypolicy). For avoidance of doubt, you give Company the permission to, but not limited to, collect and allow third parties to utilize: User-Provided Information, Service Information, Third-Party Software Information, and Transaction Data.
- i. One-Year Limit on Claims and Disputes.** Any claim or dispute must be filed in arbitration or small claims court (or in court if the Arbitration Agreement is found to be illegal or unenforceable so as to permit filing in court) within one (1) year of the date it first could be filed. Otherwise it is permanently barred.
- j. Conflicting Terms.** This Service Agreement shall prevail over any conflicting terms or oral statements that may be contained in any instructions or other communications Merchant submits to Company with respect to this Service Agreement.
- k. Independent Contractor.** Nothing in this Service Agreement or in its performance shall be construed to create any partnership, joint venture, or relationship of principal and agent or employer and employee between Company and Merchant or any of their respective affiliates or subsidiaries. Company and Merchant are and shall remain independent contractors. As such, neither Merchant nor any employees, agents, or affiliated persons of Merchant shall be entitled under any circumstances to maintain any action against Company for any bodily injury incurred by Merchant or any employees, agents, or affiliated persons of Merchant (including, but not limited to, the filing of claims under the workers' compensation laws of any state). Furthermore, Merchant acknowledges that Merchant shall be solely responsible for the purchase and maintenance of employment, and workers' compensation, and liability insurance coverage related to its employees, agents, or contractors, and that Company shall have no responsibility for any such coverage.
- l. Force Majeure.** Any delay or nonperformance of any provision of this Service Agreement (other than for payment of fees or charges incurred under this Service Agreement or the requirement to file claims or disputes within one (1) year) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Service Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.
- m. No Waiver of Rights.** Unless expressly provided herein, no failure or delay on the part of any party in exercising any right under this Service Agreement will operate as a waiver of that right, nor will any single or partial exercise of any right preclude any further exercise of that right.
- n. Survival of Some Terms.** Sections 2, 3, 4, 5(d), 7, 8, 9, 10, and 11, and any other provision that by its terms survives termination, shall survive the termination of this Service Agreement and continue to bind Company and Merchant.
- o. Entire Agreement.** COMPANY'S REPRESENTATIVES MAY HAVE MADE ORAL STATEMENTS REGARDING THE EQUIPMENT, SOFTWARE, OR SERVICES. NONE OF THE ORAL STATEMENTS CONSTITUTE WARRANTIES, MERCHANT SHALL NOT RELY ON ANY OF THEM, AND THEY ARE NOT PART OF THIS SERVICE AGREEMENT. THIS SERVICE AGREEMENT, INCLUDING ITS EXHIBITS, CONSTITUTES THE ENTIRE AGREEMENT OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF, AND SUPERSEDES ALL PREVIOUS PROPOSALS, ORAL OR WRITTEN, AND ALL NEGOTIATIONS, CONVERSATIONS, OR DISCUSSIONS HERETOFORE HAD BETWEEN THE PARTIES RELATED TO THIS SERVICE AGREEMENT. MERCHANT ACKNOWLEDGES THAT IT HAS NOT BEEN INDUCED TO ENTER INTO THIS SERVICE AGREEMENT BY ANY REPRESENTATIONS OR STATEMENTS, ORAL OR WRITTEN, NOT EXPRESSLY CONTAINED IN THIS SERVICE AGREEMENT.