

## Equipment Rental Agreement

THIS EQUIPMENT RENTAL AGREEMENT (“AGREEMENT”) GOVERNS YOUR USE OF USEZPAY’S EQUIPMENT. FOR PURPOSE OF THIS AGREEMENT, USEZPAY REFERS TO US EZPAY, LLC AND ITS AFFILIATES (“USEZPAY”)

BY EXECUTING AN ORDER FORM WITH USEZPAY THAT INCORPORATES THESE TERMS AND CONDITIONS OR BY USING ANY EQUIPMENT PROVIDED OR OTHERWISE MADE AVAILABLE BY USEZPAY, YOU (DEFINED AS CUSTOMER IN THE ORDER FORM) AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE MENUFIFU SYSTEM AND SERVICES.

**1. EQUIPMENT OWNERSHIP; RENTAL.** USEZPAY shall provide you a new or refurbished equipment (the “Equipment”) as indicated in the Order Form and you acknowledge that the Equipment is owned by USEZPAY and is delivered to you for rental purposes only during the term of Agreement. At the discretion of USEZPAY, USEZPAY may modify or substitute the Equipment to comply with any rules, regulations and by-laws of Visa U.S.A., Inc., Mastercard International, Inc., JCB International Credit Card Co., Ltd., Discover Card or American Express (collectively, “Card Companies”) and any federal, state or local laws or regulations, whether existing as of the date hereof or hereafter adopted. You hereby authorize USEZPAY, at your expense, to cause this Agreement, or any statement or other instrument in respect of this Agreement showing the ownership and interest of USEZPAY in the Equipment, including Uniform Commercial Code (“UCC”) Financing Statements, to be filed or recorded and refiled and re-recorded, without your signature and, if your signature is required thereon, you irrevocably appoint USEZPAY as your attorney-in-fact to execute and file any such statement or other instrument in your name and on your behalf. USEZPAY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, (i) AS TO THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY EQUIPMENT COVERED BY THIS AGREEMENT, OR (ii) AS TO THE COMPLIANCE OF ANY EQUIPMENT, EITHER AT THE TIME OF DELIVERY OF SUCH EQUIPMENT OR ANY TIME THEREAFTER, WITH ANY RULES, REGULATIONS OR BYLAWS OF THE CARD COMPANIES OR ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, WHETHER EXISTING AS OF THE DATE HEREOF OR HEREAFTER ADOPTED.

**2. TERM; TERMINATION.** This Agreement may be terminated by you or USEZPAY on thirty (30) days prior written notice; provided, however, that if the Sub-merchant Agreement between you and us (“Sub-merchant Agreement”) terminates at any time, this Agreement will automatically and immediately terminate. In the event of failure to comply with the Return Policy or equipment damages due to gross negligence or willful misconduct, except for the monetary obligations such as the monthly payment fees, you shall pay a termination fee to USEZPAY in the amount of \$399.00 per Equipment leased hereunder. In the event you (i) fail to make any payment due under the Order Form or under this Agreement, (ii) cease to do business, (iii) your Sub-merchant Agreement is terminated or you stop processing transactions under your Sub-merchant Agreement; or (iv) file a petition for bankruptcy or has an involuntary petition for bankruptcy filed against you, or become insolvent or have an assignment for the benefit of creditors, USEZPAY may deem this Agreement to have been immediately terminated. Upon termination of this Agreement, you agree to return the Equipment to USEZPAY in the same good operating condition as when it was received from USEZPAY at your sole cost.

**3. EQUIPMENT RETURN.** Upon the termination of this Agreement for any reason, you shall return the Equipment to USEZPAY within thirty (30) days of the termination date in good and working order. “**Good Working Order**” means the condition, functionality and all components of the Equipment at the time such Equipment was provided to you, subject only to reasonable wear and tear, as determined by USEZPAY in its sole discretion. In the event USEZPAY does not receive the Equipment within thirty (30) days of such termination, or if the Equipment is not returned in Good Working Order (even if returned timely), you acknowledge and agree that USEZPAY may automatically charge or debit your designated Bank Account or other on-file payment method

(e.g., credit card, debit card, bank account via ACH, as the case may be), or otherwise set off from amounts due to you by USEZPAY pursuant to the Sub-merchant Agreement or otherwise, a one-time fee for the reasonable cost of the Equipment (“Non-Return Fee”). Such Non-Return Fee will either be in the amount of \$399. In addition to charging the Non-Return Fee, Customer’s failure to return the Equipment within thirty (30) days may result in USEZPAY suspending or terminating the payment processing services otherwise provided pursuant to the Sub-merchant Agreement. For the avoidance of doubt, Equipment will be considered returned upon receipt by USEZPAY.

**4. LOSSES OR DAMAGES OF THE EQUIPMENT.** All Equipment is the property of USEZPAY. Therefore, only USEZPAY will be permitted to program the Equipment. Neither you nor any third party shall program the Equipment without the express written authorization from USEZPAY. If the Equipment programming is altered by anyone other than authorized agents of USEZPAY, you will be responsible for all damages and loss resulting from such unauthorized modification and usage.

a. You are responsible for all losses and damages to the Equipment plus any related expenses until the Equipment is returned to USEZPAY in good condition, regardless of fault. You shall obtain an insurance policy with a ‘loss payee’ clause to cover all loss and damage to the Equipment plus related expenses, whereby payment under such policy for any and all loss and damage to the Equipment shall be made to USEZPAY, and you shall provide proof of such policy to USEZPAY upon request. Should you fail to obtain such insurance policy and provide proof of the same upon request, within 3 months of the date of this Agreement, USEZPAY shall charge you an additional Equipment Risk Fee of \$15/month to solely cover loss and damage to the FR Equipment arising out of your unintentional act.

b. In the event of theft or damage caused by abuse of the Equipment that renders it commercially unusable, you will pay USEZPAY the current list price of the Equipment. You agree that any individual unit of Equipment sustaining in excess of \$500.00 of damage will be deemed commercially unusable for the purposes of this paragraph. Any Equipment not returned for a period in excess of thirty (30) days following the termination of this Agreement will also be deemed a total loss.

**5. DAMAGE AND REPAIR.** If the Equipment requires repair due to improper use or care by you, you will be responsible for such repair costs. You will not use the Equipment if it is damaged or in need of repair and will be responsible for all damage to the Equipment resulting from abuse. You will not permit any repairs to the Equipment, or replacement of any part of the Equipment, without the prior written consent of USEZPAY. You will pay for all unauthorized repairs and replacement parts, as well as the cost of restoring any unauthorized alterations.

**6. YOUR MERCHANT AGREEMENT.** You agree that, at all times during the term of this Agreement, you shall be a party to a certain merchant card processing agreement with USEZPAY or a credit card processor designated by USEZPAY pursuant to which you receive card processing services (“Merchant Agreement”).

**7. FEES.** You authorize USEZPAY to charge a one-time and non-refundable fee as set forth in the Order Form for the Equipment setup (“Equipment Setup Fee”).

**8. YOUR REPRESENTATIONS AND WARRANTIES.** You hereby represent and warrant that: (a) you are a business entity duly organized, validly existing and in good standing under the law of the state in which it was organized and has all requisite power and authority to execute this Agreement and to perform all of the agreements, undertakings, representations and warranties herein contained; (b) you have the legal power and authority to enter into this Agreement; (c) you are a legal resident of, or are a business entity authorized to conduct business in any, jurisdiction in which it operates; and (d) the name identified on the Order Form is your business name under which you sell goods and services.

**9. CHANGES TO THIS AGREEMENT.** This is an agreement between you and USEZPAY. Therefore, any verbal

agreement or promises made regarding the rental terms for the Equipment by any third party will not affect or modify the terms of this Agreement. Changes to this Agreement are effective only if in writing and signed or initialed by both you and USEZPAY.

**10. DISCLAIMERS.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, USEZPAY HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF YOUR ABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON- INFRINGEMENT AND QUALITY, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. USEZPAY MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE RELIABILITY, AVAILABILITY, TIMELINESS, SUITABILITY, ACCURACY OR COMPLETENESS OF THE EQUIPMENT OR THE RESULTS YOU MAY OBTAIN BY USING THE EQUIPMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, USEZPAY DO NOT REPRESENT OR WARRANT THAT (A) THE OPERATION OR USE OF THE EQUIPMENT WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE; OR (B) THE QUALITY OF THE EQUIPMENT WILL MEET YOUR REQUIREMENTS. YOU ACKNOWLEDGE THAT USEZPAY DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE EQUIPMENT MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. USEZPAY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE OR LOSS OF PROFIT RESULTING FROM SUCH PROBLEMS. WITHOUT LIMITING THE FOREGOING, USEZPAY DOES NOT WARRANT OR GUARANTEE THAT ANY OR ALL SECURITY ATTACKS WILL BE DISCOVERED, REPORTED OR REMEDIED, OR THAT THERE WILL NOT BE ANY SECURITY BREACHES BY THIRD PARTIES. EXCEPT WHERE EXPRESSLY PROVIDED OTHERWISE BY USEZPAY, THE EQUIPMENT IS PROVIDED TO YOU ON AN "AS IS" BASIS, EXCLUSIVE OF ANY WARRANTY WHATSOEVER. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

**11. YOUR INDEMNIFICATION.** You shall defend, indemnify and hold harmless USEZPAY from and against any and all loss, liability, cost (including attorney's fees), damages and expenses arising from or related to: (a) your breach of this Agreement; (b) your negligent or willful act, omission or misuse of the Equipment; or (c) any third-party claim arising out of your use of the Equipment.

**12. LIMITATION OF LIABILITY.** EXCEPT FOR (A) AMOUNTS PAYABLE UNDER A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE GREATER OF \$500 OR THE TOTAL AMOUNT PAID BY YOU AND YOUR AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER THE ORDER FORM AND THIS AGREEMENT.

**13. GOVERNING LAW AND JURISDICTION; JURY WAIVER.** The parties agree that all performances and transactions under this Agreement will be deemed to have occurred in Delaware and that your entry into and performance of this Agreement will be deemed to be the transaction of business within the State of Delaware. This Agreement will be governed by Delaware law, without regard to its conflicts-of-law principles, and applicable federal law. The parties hereby knowingly, intelligently and voluntarily consent to the exclusive jurisdiction and venue for any action relating to the subject matter of this Agreement in either the state or federal courts of California. The parties consent to the jurisdiction of such courts. The parties hereby knowingly, voluntarily and intelligently waive any claim or defense in any such legal action, suit or proceeding commenced in any of the above-referenced courts asserting that it is not subject personally to the jurisdiction of such court, that service upon it as hereinabove set forth is invalid, that its property is immune or exempt from attachment or execution, that the legal action, suit or proceeding is brought in an inconvenient forum, that the venue of the legal action, suit or proceeding is improper or that this Agreement, or the subject matter hereof, may not be enforced in or by such court. In the event any controversy or claim between or among the parties, their agents, employees, representatives, or affiliates shall arise in any judicial or legal proceeding, EACH PARTY HEREBY KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY WAIVES ITS RESPECTIVE RIGHT TO TRIAL BY JURY OF SUCH CONTROVERSY OR

CLAIM.

**14. ATTORNEY'S FEES.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement and USEZPAY is the prevailing party, USEZPAY shall be entitled to its reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which USEZPAY may be entitled.

**15. NO LIABILITY.** USEZPAY may perform services for the Equipment from time to time upon your request, which may result in service interruptions, delays, errors or loss of profit. You acknowledge that USEZPAY will not be liable for any such interruptions, delays, errors and loss of profit resulting from such services.

**16. TRANSLATION.** Notwithstanding any translation of this Agreement not in the English language, the English language version of this Agreement shall rule and the other language version shall be treated in the capacity of being created merely for the purpose of convenience.

**17. RIGHTS CUMULATIVE.** All rights and remedies existing in this Agreement are cumulative to, and not exclusive of, any other rights or remedies available under contract or applicable law.

**18. HEADINGS.** The headings listed after each section number in this Agreement are inserted for convenience only and do not constitute a part of this Agreement and are not to be considered in connection with the interpretation or enforcement of this Agreement.

**19. WAIVER.** Failure by USEZPAY to enforce one or more of the provisions of this Agreement shall not constitute a waiver of the right to enforce the same or other provision in the future. All waivers must be signed by the waiving party.

**20. ENTIRE AGREEMENT.** This Agreement, including the Order Form, any separate schedule of fees, the Rules, information contained in websites or electronic links referenced in this Agreement, expresses the entire understanding of the parties with respect to its subject matter and except as provided herein. Reference to "this Agreement" also includes all documents, websites and electronic links incorporated into this Agreement by reference.

**21. SEVERABILITY.** If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable and binding on the parties.

**22. ASSIGNMENT.** This Agreement may be assigned by USEZPAY, but may not be assigned by you, directly or by operation of law, without the prior written consent of USEZPAY, which may be withheld in its sole discretion. If you nevertheless assign this Agreement without such consent, this Agreement will be binding upon the assignee at the option of USEZPAY, but otherwise such assignment shall be null and void, and of no force and effect. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs and personal representatives for an individual, and otherwise its permitted successors and assigns.

**23. RELATIONSHIP OF THE PARTIES.** The parties are independent contractors and nothing in this Agreement shall make them joint ventures, partners, employees, agents or other representatives of the other party.

**24. ELECTRONIC SIGNATURE.** You may become a party to, and become bound by, this Agreement by completing the Order Form and accepting it electronically over the Internet or physically signing. If done electronically, this can be done by clicking or entering "I Agree", by providing an electronic form of signature or otherwise by affirmatively indicating acceptance or consent where requested on an electronic version of the Order Form (any such method constituting an "Electronic Consent"). By providing such Electronic Consent, you acknowledge that you have received and reviewed all applicable pages, terms and conditions of this Agreement, and you represent, warrant, consent and agree as follows:

- a. the electronic application process allows you to sign and agree to legally binding agreements online by providing its Electronic Consent.
- b. You intend to use the electronic application process to provide its Electronic Consent.
- c. Your Electronic Consent is legally binding, and is governed by the Electronic Signatures in Global and National Commerce Act of 2000, and/or the Uniform Electronic Transactions Act governances (or an amended version thereof) in its state of residence, and you agree to be bound by these governances.
- d. the individual providing Electronic Consent on your behalf is authorized by you to do so.
- e. the Electronic Consent will be binding upon you, and will not be construed by a court of law to have any less effect than a standard ink or paper signature.
- f. the information provided on the electronic version of the Order Form is complete and accurate, and USEZPAY is authorized to verify the information on such Order Form and to receive and exchange information about you.
- g. the complete and legible Order Form and this Agreement has been provided to you, and you (a) was technically capable of opening, reading, printing, downloading and/or saving all sections of the Order Form and this Agreement, and (b) had a reasonable opportunity to open each section of the Order Form and this Agreement, read it, and sign and agree to it by providing its Electronic Consent.
- h. no strikeouts, interlineations, additions or modifications to the electronic version of the Order Form and this Agreement may be made.
- i. the electronic version of the Order Form and this Agreement, as accepted by the Electronic Consent of you, may be transmitted to or from USEZPAY or their designees and/or retained electronically by USEZPAY or their designees, which will constitute an original.
- j. The electronic version of the Order Form and this Agreement is subject to approval by USEZPAY.