

Terms and Conditions

This Equipment Lease Agreement (“Agreement”) is being entered into by and between Finova Capital LLC, a Delaware limited liability company, its successors and assigns (hereinafter we, our, us and/or Lessor) and the Lessee identified as the Merchant above in this Agreement its successors and permitted assigns (hereinafter you, your, and/or Lessee). Lessee hereby authorizes us or our designees, to withdraw any amounts including any and all taxes, fees and charges, now due or hereinafter imposed, owed by Lessee in conjunction with this Agreement by initiating debit entries to Lessee's account at the bank named above, or such other bank as the Lessee may from time to time use (hereinafter “Bank”), in which case Lessee shall deliver prior written notice thereof and such other information regarding the other bank account as Lessor may request. In the event of default of Lessee's obligations hereunder, Lessee authorizes debit of its account for the full amount due under this Agreement. Further, Lessee authorizes Bank to accept and to charge any debit entries initiated by Lessor to Lessee's account. Any incorrect charge will be corrected upon notification to us, by either a credit or debit to Lessee's account. In the event that Lessor withdraws funds erroneously from Lessee's account, Lessee authorizes Lessor to credit Lessee's account for any such amount. The authorizations in this paragraph are to remain in full force and effect until Lessor and Bank have received written notice from Lessee of its termination in such time and in such manner as to afford Lessor and Bank a reasonable opportunity to act. Lessee acknowledges that if Lessee revokes such authorization during the term of the Lease in violation hereof, Lessee shall be in default under this Agreement without the requirement of any prior notice from Lessor as a precondition for such default.

1. Equipment. We agree to lease to you and you agree to lease from us the equipment listed above on this Agreement or such other comparable equipment we provide you (the “Equipment”), according to the terms and conditions of this Agreement.

2. Effective Date, Term and Interim Rent. (a) This Agreement becomes effective on the date any piece of the Leased Equipment is delivered to you (the “Delivery Date”). This Agreement remains in effect until all of your obligations and all of our obligations under it have been satisfied. (b) This Agreement (i) has a lease term (the “Lease Term”) which begins on a date designated by us after receipt of all required documentation in a form satisfactory to us (the “Commencement Date”) and continues for the number of months indicated on the Agreement and (ii) may have one or more renewal terms (“Renewal Term”). The Lease Term, any Renewal Term (if any) and the Interim Term below are collectively referred to as the “Term”. (c) You agree to pay an interim lease payment in the amount of one-thirtieth (1/30th) of the monthly lease charge for each day from and including the Delivery Date to but excluding the Commencement Date (the “Interim Term”). (d) IN ADDITION TO ENTERING INTO THIS AGREEMENT, YOU MAY BE ENTERING INTO AN AGREEMENT (A “MERCHANT AGREEMENT”) WITH A THIRD-PARTY SERVICE PROVIDER FOR MERCHANT PROCESSING SERVICES. THIS AGREEMENT IS SEPARATE AND DISTINCT FROM THE MERCHANT AGREEMENT. WE ARE NOT AN AGENT OF SUCH SERVICE PROVIDER, NOR IS SUCH SERVICE PROVIDER AN AGENT FOR US. UPON TERMINATION OF YOUR MERCHANT AGREEMENT, YOU ACKNOWLEDGE THAT YOU MAY NOT BE ABLE TO USE THE EQUIPMENT AND/OR SOFTWARE LEASED

UNDER THIS AGREEMENT WITH ANOTHER SERVICE PROVIDER. YOU ACKNOWLEDGE THAT WE DID NOT MANUFACTURE THE EQUIPMENT NOR DID WE SELECT IT FOR YOU. WE ARE LEASING THE EQUIPMENT AND/OR SOFTWARE TO YOU UNDER THIS AGREEMENT "AS IS, WHERE IS" AND WITH ALL FAULTS. ALL WARRANTIES EXPRESS OR IMPLIED, MADE TO YOU OR ANY OTHER PERSON ARE HEREBY DISCLAIMED INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, QUIET ENJOYMENT, OR INFRINGEMENT. THIS AGREEMENT IS NON-CANCELABLE FOR THE FULL TERM INDICATED. YOUR OBLIGATION TO PAY ALL PAYMENTS AND OTHER AMOUNTS, AND TO PERFORM YOUR OTHER OBLIGATIONS, UNDER THIS AGREEMENT IS ABSOLUTE AND UNCONDITIONAL AND WILL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SETOFF, DEFENSE, OR COUNTERCLAIM FOR ANY REASON WHATSOEVER, INCLUDING ANY DEFECT IN THE EQUIPMENT AND/OR SOFTWARE, THE TERMINATION OF THE MERCHANT AGREEMENT OR THE FAILURE OF ANY PARTY TO PROVIDE SERVICES RELATED TO THE EQUIPMENT AND/OR THE SOFTWARE TO YOU.

3. Site Preparation. The Equipment will be delivered to a site designated by you. You will prepare the installation site(s) for the Equipment, including but not limited to the power supply circuits and phone, or other communication lines, in conformance with the manufacturer's and our specifications and will make the site(s) available to us by the confirmed shipping date.

4. Payment of Amounts Due. (a) The first monthly lease charge, together with the interim lease payment for the Interim Term, is due and payable on the Commencement Date and all subsequent monthly payments are due on the same day of each successive month thereafter of the Term for the Leased Equipment. You agree to pay all assessed cost for delivery and installation of Equipment. (b) In addition to the monthly lease charge, you shall pay, or reimburse us for, amounts equal to any taxes or assessments on or arising out of this Agreement or the Equipment, and related supplies or any services, use or activities hereunder, including without limitation, state and local sales, use, property, privilege and excise tax, exclusive, however, of taxes based on our net income. An annual tax handling charge of

\$50 will be assessed to cover administrative costs. (c) Your lease payments will be due despite dissatisfaction with the Equipment for any reason. (d) Whenever any payment is not made by you in full when due, you shall pay us as a late charge, an amount equal to ten percent of the amount due but no less than \$10.00, but in no event more than the maximum amount permitted by law. You shall also pay to us an administrative charge of \$10.00 for any debit we attempt to make against your bank account that is rejected, but in no event more than the maximum amount permitted by law. (e) In the event your account is placed into collections for past due amounts due under this Agreement, you agree to pay us a collection expense charge of \$25.00 for each payment requiring a collection effort, but in no event more than the maximum amount permitted by law. Whenever Lessor must generate an invoice on a past due account a charge of \$15.00 for each monthly invoice shall be added to the balance.

5. Use and Return of Equipment; Insurance. (a) You shall cause the Equipment to be operated by competent and qualified personnel in accordance with any operating instructions furnished by the manufacturer. You shall maintain the Equipment in good operating condition and protect it from deterioration, normal wear and tear excepted. (b) You shall not permit any physical alteration or modification of the Equipment, or change the installation site of the Equipment, without our prior written consent. (c) You shall not create, incur, assume or allow to exist any liens or encumbrances on, or part with possession of, or sublease, the Equipment without our prior written consent. (d) You shall comply

with all governmental laws, rules and regulations relating to the use of the Equipment. You are also responsible for obtaining all permits required to operate the Equipment at your facility. (e) We or our representatives may, at any time, enter your premises for purposes of inspecting, examining or repairing the Equipment. (f) The Equipment shall remain our personal property and shall not under any circumstances be considered as a fixture affixed to your real estate. You shall permit us to affix suitable labels or stencils to the Equipment evidencing our ownership. (g) You are responsible for any loss damage or destruction of the Equipment. During the Term, you will, at your expense, procure and maintain comprehensive general liability and casualty insurance acceptable to us on the Equipment. Each insurance policy will name us as additional insured and loss payee. A property damage surcharge of \$4.95 per terminal or \$6.95 per tablet per month will be charged until such time you provide to us a certificate of insurance evidencing that such coverage is in effect. Our imposition of a property damage surcharge shall not relieve you of your obligations under this Section 5. The loss, destruction, theft or damage of or to the Equipment shall not relieve you from your obligation to pay the full purchase price or total monthly lease charges hereunder.

6. Title to Equipment. We at all times during the Term shall retain title to the Equipment. You agree to execute and deliver to us any statement or instrument that we may request to confirm or evidence our ownership of the Equipment, and you irrevocably appoint to us as your attorney-in-fact to execute and file the same in your name and on your behalf. You hereby grant us a first priority security interest on the Equipment as of the date of this Agreement to secure your obligations to us under this Agreement, and you authorize us to file on your behalf such documentation as we may feel advisable to evidence or perfect such security interest.

7. Return or Purchase of Equipment at End of Term. Upon the completion of the Lease Term or any extension thereof and provided no default has occurred and is continuing you will have the option to (a) return the Equipment to us; (b) purchase the Equipment from us for its then fair market value, calculated as a percentage of the aggregate monthly lease payments in accordance with the following: If the Lease Term is forty-eight (48) months or more, the purchase option as a percentage of the aggregate monthly lease charges shall be ten percent (10%). If the Lease Term is thirty-six (36) to forty-seven (47) months, the purchase option as a percentage of the aggregate monthly lease payments shall be fifteen percent (15%). If the Lease Term is twenty-four (24) to thirty-five (35) months, the purchase option as a percentage of the aggregate monthly lease payments shall be twenty percent (20%); or (c) after the final monthly lease payment has been received by us, the Agreement will revert to a month by month rental at the existing monthly lease charge. If you do not want to continue to lease the Equipment, then you will be obligated to provide us with 60 -day written notice prior to the conclusion of the then current Term to terminate and return the Equipment to us. An upgrade of the leased equipment shall generate a \$50 administrative charge. You agree that all equipment returns shall be returned to such locations as Lessor shall specify and be done in a manner that can be tracked and shall have the Lease Number referenced on the return packaging. You understand and agree that equipment returned with excessive wear and tear will possibly result in you being charged the then fair market value of the equipment, or a fee to cover the excess wear and tear. When returning your equipment make sure activation lock is disabled, and all password removed and reset to original factoring setting. Failure to do so would result in you being charged the then fair market value of the equipment.

8. Limitation on Liability. We are not liable for any loss, damage or expense of any kind or nature caused directly or indirectly by the Equipment, including any damage or injury to persons or property caused by

the Equipment. We are not liable for the use or maintenance of the Equipment, its failure to operate, any repairs or service to it, or by any interruption of service or loss of use of the Equipment or resulting loss of business. Our liability arising out of or in any way connected with this Agreement shall not exceed the aggregate lease amount paid to us for the particular Equipment involved. In no event shall we be liable for any indirect, incidental, special or consequential damages. The remedies available to you under this Agreement are your sole and exclusive remedies.

9. Non-Consumer Finance Lease. (a) You agree that it is the intent of both parties that this lease qualify as a statutory finance lease under Article 2A of the Uniform Commercial Code (“UCC”) and, to the extent permitted by applicable law, you waive any right you may have under Sections 2A-303 and 2A-508 through 2A-522 of the UCC. (b) You agree that you will only use the Equipment for commercial purposes and will not use the Equipment for any personal, family or household purposes. As such, you agree that neither you nor any guarantor is a “consumer” with respect to this Agreement, and that this Agreement shall not be construed as a consumer transaction or as a “consumer lease”.

10. Indemnification. You shall indemnify and hold us and our affiliates, and our and their respective managers, employees and agents harmless from and against any and all losses, liabilities, damages and expenses, (including attorneys’ fees) resulting from (a) the selection, delivery, operation, use, condition, maintenance liens against, or return of the Equipment or (b) any breach by you of any of your obligations under this Agreement.

11. Default; Remedies. (a) If any debit of your bank account initiated by us is rejected when due, or if you otherwise fail to pay us any amounts due hereunder when due, or if you default in any respect in the performance or observance of any obligation or provision of this Agreement any such event shall be a default hereunder. (b) Upon the occurrence of any default, we may at our option, without notice, (i) terminate this Agreement, repossess the Equipment and proceed in any lawful manner against you for collection of all charges that have accrued and are due and payable; accelerate and declare immediately due and payable all monthly lease charges for the remainder of the Term together with the fair market value of the Equipment (as determined by us), not as a penalty but as liquidated damages for our loss of the bargain. Upon any such termination for default, we may proceed in any lawful manner to obtain satisfaction of the amounts owed to us and, if applicable, our recovery of the Equipment, including entering onto your premises to recover the Equipment. In any case, you shall also pay us our costs of collection, court costs and reasonable attorneys’ fees, as well as applicable shipping, repair and refurbishing costs of recovered Equipment. You agree that we shall be entitled to recover any amounts due to us under this Agreement by charging your bank account or any other funds of yours that come into our possession or control, or within the possession or control of our affiliates, alliances or joint ventures, or by setting off amounts that you owe to us against any amounts we may owe to you, in any case without notifying you prior to doing so. Without limiting the foregoing, you agree that we are entitled to recover amounts owed to us under this Agreement by obtaining directly from any third- party service provider with which you have entered into a Merchant Agreement any funds held or available as settlement or security for payment under the terms of the Merchant Agreement, including funds available under the “Reserve Account; Security Interest” section of the Merchant Agreement, if applicable.

12. Assignment. You may not assign or transfer this Agreement or any of your obligations under this Agreement, by operation of law or otherwise, without our prior written consent. For purposes of this Agreement, any transfer of voting control of you or your parent shall be considered an assignment or

transfer hereof. We may assign or transfer this Agreement and our rights and obligations hereunder, in whole or in part, to any third party without your consent. If we agree, in our sole discretion, to allow an assignment or transfer of this Agreement by you, you will be assessed a transfer and assumption fee of \$150. This Agreement shall be binding upon, an inure to the benefit of, successors and permitted assigns of the parties hereto.

13. Lease Guaranty. All indebtedness that exists now or arises after the execution of this Agreement between you and any guarantor is hereby subordinated to all of your present and future obligations, and those of your guarantor, to us, and no payment shall be made or accepted on such indebtedness due to you from a guarantor until the obligations due to us are paid and satisfied in full.

14. Governing Law; Venue; Miscellaneous. THIS AGREEMENT SHALL BE GOVERNED BY AND WILL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW JERSEY (WITHOUT APPLYING ITS CONFLICTS OF LAWS PRINCIPLES). YOU CONSENT TO THE NON-EXCLUSIVE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED IN NEW JERSEY IN ACTION OR PROCEEDING RELATING TO THIS AGREEMENT. YOU WAIVE ANY OBJECTION BASED UPON IMPROPER VENUE AND/OR FORUM NON CONVENIENS WITH RESPECT TO ANY SUCH ACTION OR PROCEEDING. THE PARTIES WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL IN ANY SUCH ACTION OR PROCEEDING. If any part of this Agreement is not enforceable, the remaining provisions will remain valid and enforceable.

15. Notices. All notices other than routine administrative communications must be in writing, and sent to you at your address set forth above or to us at 365 West Passaic Street Suite 490 Rochelle Park, NJ 07662 (or such other address as a party may by written notice designate to the other) and shall be deemed to have been given if sent by mail or courier, upon the earlier of two business days after mailing or when actually received or, in the case of courier, when delivered. The customer service toll free number is 551-228-2100. You agree that by providing us with an email address or a telephone number for a cellular or wireless device, you expressly consent to receiving communications including voice and text messages from us at that number or email address, and this express consent applies to each such email address or telephone number that you provide to us now or in the future.

16. Entire Agreement. This Agreement constitutes the entire Agreement between the parties with respect to its subject matter, supersedes any previous agreements and understandings and can be changed only by a written agreement signed by all parties. This Agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement. A facsimile or other copy of this Agreement shall be the equivalent of an original for all purposes. You agree this document may be signed electronically pursuant to the Electronic Signatures in Global and National Commerce Act and other applicable law.