

FE PROGRAM TERMS & CONDITIONS

By participating in the Free Equipment ("FE") Program and receiving a point of sale payment terminal ("Terminal"), electronic cash register and PIN pad ("ECR") and/or wireless point of sale payment terminal ("Wireless Terminal") (each individually referred to herein as "Equipment") from Shift4 Payments, LLC, or any of its affiliates and subsidiaries including FuturePOS Payments, Restaurant Manager Payments, POSitouch Payments, and Harbortouch Payments ("Company"), Merchant agrees to the following:

1. As a condition to entering into the FE Program Merchant agrees to enter into a Merchant Processing Agreement with Company. Merchant shall exclusively process credit, debit, gift card and other electronic payment transactions through Company during the term of this FE Program Agreement. Merchant will use Equipment in accordance with all applicable laws, regulations, and Card Association rules. Merchant shall purchase all paper and supply products for the Equipment through Company. Merchant authorizes Company to debit Merchant's designated account for any amount owed to Company under this FE Agreement.
2. Merchant authorizes Company to debit annually from Merchant's designated account a \$79.00 Annual Fee per MID (if applicable) for each set of Equipment received by Merchant.
3. Equipment will remain the exclusive property of Company or its assigns, and Merchant's use of Equipment confers no ownership rights of any kind on Merchant. Merchant will not sell or lease Equipment, and will not allow any other person or entity to use Equipment for any reason. Merchant acknowledges that Merchant was trained on the proper use and care of Equipment. Merchant will maintain Equipment in good working order and repair. Merchant will keep Equipment at Merchant's place of business, and will not remove Equipment without Company's prior written consent. Merchant will not make and will not allow others to make any changes or alterations to Equipment. Merchant is responsible for maintaining security over the Equipment.
4. If Equipment does not work properly due to normal wear and tear as determined in Company's sole discretion, Merchant may be eligible to receive comparable replacement Equipment. Merchant must have processed a credit, debit, gift card or other electronic payment transaction through Company within fifteen (15) calendar days of the date Merchant reported the damaged Equipment to Company. Merchant must return damaged Equipment to Company. If Merchant does not return Equipment to Company within thirty (30) calendar days of Merchant's receipt of comparable replacement Equipment, Company may charge Merchant an amount equal to the value of the Equipment. Merchant shall be responsible for the cost of shipping comparable replacement Equipment to Merchant.
5. Merchant shall be responsible for all other loss, theft, destruction, and/or damage to Equipment ("Equipment Loss"). Merchant shall report all Equipment Loss to Company immediately. Merchant shall agree to pay Company the amount set forth in Section 6 for Merchant's failure to return Equipment to Company as a result of Equipment Loss.
6. **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. The type of terminal and total fee due as a result of non-return shall be set forth on the cancellation form.
7. Company may terminate the FE Program Agreement at any time, with or without cause. The FE Program Agreement will automatically terminate upon the expiration or termination of the Merchant Processing Agreement. Company may amend the terms of conditions of this FE Program Agreement at any time, with or without notice to Merchant.
8. Merchant agrees to indemnify, defend, and hold harmless Company, its subsidiaries, affiliates, employees, subcontractors, successors, assigns and agents from and against any and all costs, damages, penalties, claims, actions, suits of whatsoever kind and nature arising out of, related to, arising from, or in connection with Merchant's unauthorized modification and/or misuse of the Equipment, Merchant's breach of this FE Program Agreement, or from Merchant's negligent acts or omissions. Merchant's indemnification obligation includes but is not limited to the payment of all reasonable attorneys' fees, costs and expenses.
9. EXCEPT AS SPECIFICALLY SET FORTH IN THIS FE PROGRAM AGREEMENT, COMPANY DOES NOT MAKE (AND EXPRESSLY DISCLAIMS) ANY REPRESENTATIONS AND WARRANTIES IN RESPECT OF THE EQUIPMENT AND ANY SOFTWARE CONTAINED THEREIN WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO 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 AND/OR THE EQUIPMENT'S SOFTWARE WILL SATISFY MERCHANT'S REQUIREMENTS, OR THAT THE OPERATIONS OF SUCH WILL BE UNINTERRUPTED OR ERROR FREE. THE EQUIPMENT AND THE EQUIPMENT'S SOFTWARE ARE PROVIDED WITH ALL FAULTS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT WILL BE WITH THE MERCHANT. 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 AND COMPLY WITH STANDARD OPERATING PROCEDURES. COMPANY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE EQUIPMENT, THE EQUIPMENT'S SOFTWARE, AND/OR CUSTOMER'S DATA WILL REMAIN VIRUS-FREE AND/OR FREE FROM THEFT. MERCHANT WAIVES ANY CLAIMS HEREUNDER AGAINST COMPANY TO THE EXTENT ARISING FROM MERCHANT'S FAILURE TO HAVE OR MAINTAIN CURRENT VIRUS PROTECTION, OR TO THE EXTENT ARISING AS A RESULT OF ANY UNAUTHORIZED ACCESS TO THE EQUIPMENT OR MERCHANT'S SYSTEMS. COMPANY FURTHER DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR PROBLEMS RESULTING IN OR RELATED TO MERCHANT'S DECISION TO USE A PARTICULAR INTERNET SERVICE OR TELECOMMUNICATIONS PROVIDER AND/OR RELATED TO MERCHANT'S ABILITY TO CONNECT TO THE INTERNET.
10. COMPANY AND ITS AFFILIATES, PARENTS, SUBSIDIARIES, SUCCESSORS, AND ASSIGNS SHALL NOT BE LIABLE TO THE MERCHANT OR ITS AFFILIATES, SUBSIDIARIES, 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 LEGAL THEORY ARISING OUT OF THIS FE PROGRAM AGREEMENT, MERCHANT'S USE (OR INABILITY TO USE) EQUIPMENT, 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 THE AGGREGATE IN EXCESS OF AN AMOUNT EQUAL TO THE FEES PAID UNDER THIS FE PROGRAM AGREEMENT DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE MERCHANT'S FIRST CLAIM OF ALLEGED DAMAGES.
11. Company and Merchant agree to arbitrate all disputes and claims between each other or its affiliates, subsidiaries, successors, or assigns, including but not limited to (i) claims arising out of or relating to any aspect of the relationship between the parties, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory; (ii) claims that arose before this or any prior; (iii) claims that are currently the subject of purported class action litigation in which Merchant is not a member of a certified class; and (iv) claims that may arise after the termination of this FE Program Agreement. Notwithstanding the foregoing, either party may bring an individual action in small claims court. Company and Merchant agree to waive the right to a trial by jury or to participate in a class action. This arbitration provision shall survive termination or expiration of the FE Program Agreement. A party that intends to seek arbitration must first send to the other, by certified mail or courier service a written Notice of Dispute ("Notice"). The Notice to Company should be addressed to: Shift4 Payments, LLC, attn.: General Counsel, LLC, 2202 N. Irving Street, Allentown, PA 18109 ("Notice Address"). The Notice must (i) describe the nature and basis of the claim or dispute; and (ii) set forth the specific relief sought ("Demand"). If Company and Merchant do not reach an agreement to resolve the claim within 30 days after the Notice is received, either party may commence an arbitration proceeding. The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"). The parties specifically consent to and accept the jurisdiction of the courts of the State of Pennsylvania and the United States District Court located in Philadelphia, Pennsylvania for the purposes of such enforcement. Unless Company and Merchant agree otherwise, any arbitration hearings will take place in Allentown, PA. MERCHANT AND COMPANY AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Unless Company and Merchant agree otherwise, the arbitrator may not consolidate more than one merchant's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void. The laws of the Commonwealth of Pennsylvania, shall govern all matters (whether in contract, statute, tort or however characterized) arising out of or relating to this FE Program Agreement, without regard to its conflicts of laws rules. ANY CAUSE OF ACTION OR CLAIM MERCHANT MAY HAVE ARISING OUT OF OR RELATING TO THIS FE PROGRAM AGREEMENT MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM SHALL BE PERMANENTLY BARRED.