

## **AGREEMENT OF POS EQUIPMENT LEASING FROM KOAM MERCHANT SERVICE CORP.**

Dated:

**Lessor:** Koam Merchant Service Corp. ("KMS")

Address: 4507 162 street 2<sup>nd</sup> fl, Flushing, NY 11358

Tel: 718-308-6400

Fax: 718-305-4583

Email: pauly@koamcard.com

Account Representative:

**Lessee/Store:**

Address:

Tel:

Fax:

Email:

Representative:

Nature of Business:

Customer ID Number:

### **SCOPE OF SERVICE, TERMS AND FEES**

1. Lessor is in the business of processing credit card/bank card through multiple credit card/bank card processing service companies for Lessee in accordance with Merchant Processing Application and Agreement between the parties. Lessor is currently using First Date Service ("FD") and Elavon as its credit card/bank card data processing companies. Each credit card/bank card processing companies render different services. Lessee may choose either FD or Elavon at time of signing this Agreement. Lessor may change credit card/bank data card service company and/or scope of service in its sole discretion.
2. Lessee requests and agrees to accept the exclusive service of Lessor for the entire credit card/bank card processing used by Lessee for a period of 3 years from the date of this Agreement with monthly balance above the monthly minimum balance as indicated in the Fee Schedule. Lessee agrees to use only KMS's service exclusively for its entire credit card/bank card processing service for the duration of term of this Agreement. Lessee shall supply Lessor all accurate information and documentation to set up, maintain or modify an account with Lessor to enable Lessor to perform the agreed upon service as described herein in timely manner.
3. This Agreement shall be renewed automatically for another year thereafter every year unless Lessee notifies Lessor of termination of this Agreement at Agreement 6 month prior to expiration of this Agreement but no earlier than 9 month prior to expiration of this Agreement.
4. Lessee agrees to pay fees to Lessor in accordance with the fee schedule ("Fee Schedule") attached hereto as Exhibit "A".

### **EQUIPMENT**

5. Lessor supplies Lessee various equipment needed for card processing and POS to facilitate Lessee's business related to POS and credit card/bank card processing. List of Equipment and its rent price is attached hereto as Exhibit "B".#

6. Disclaimer of Warranties. LESSEE ACKNOWLEDGES THAT: (I) THE EQUIPMENT IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY LESSEE; (II) LESSOR IS NOT A MANUFACTURER THEREOF NOR A DEALER IN PROPERTY OF SUCH KIND; (III) NEITHER THE SUPPLIER(S) NAMED ON ANY SCHEDULE NOR ANY REPRESENTATIVE OF ANY SUCH SUPPLIER OR ANY MANUFACTURER OF THE EQUIPMENT IS AN AGENT OF LESSOR OR AUTHORIZED TO WAIVE OR ALTER ANY TERM OR CONDITION OF THIS AGREEMENT; AND (IV) LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE EQUIPMENT. No defect in, unfitness of or an inability of Lessee to use any Equipment, howsoever caused, shall relieve Lessee from its obligation to pay rentals hereunder or from any other obligations of Lessee hereunder. Lessor shall not in any event be responsible to Lessee or anyone claiming through Lessee for any damages, direct, consequential, or otherwise, resulting from the delivery, installation, use, operation, performance or condition of any Equipment, or any delay or failure by any Lessor in delivering and/or installing any Equipment or performing any service for Lessee. Nothing herein shall be construed as depriving Lessee of whatever rights Lessee may have against any Lessor or any manufacturer of the Equipment, and Lessor hereby authorizes Lessee, at Lessee's expense, to assert for Lessor's account during the term of this Agreement, all of Lessor's rights under any warranty given by a Lessor or any such manufacturer.
7. Lessee agrees and acknowledges that the Equipment is, and shall at all times be and remain (a) the sole and exclusive property of Lessor, and Lessee shall have no right, title or interest therein or thereto except as expressly set forth in this Agreement, and (b) personal property notwithstanding that the Equipment or any part thereof may now be or hereafter become, in any manner, affixed or attached to any real property or any building thereon. Lessee shall execute and/or furnish to Lessor any further instruments and assurances reasonably requested from time to time by Lessor to protect its interest, and shall otherwise cooperate to defend the title of Lessor and to maintain the status of the Equipment as personal property, including, without limitation, the execution of financing statements and the furnishing of waivers with respect to rights in the Equipment from the owners and mortgagees of the real estate on which the Equipment is or will be located. Lessor may file or record any such financing statements, waivers or other instruments in order to protect Its interest. If Lessor supplies Lessee with labels stating that the Equipment is owned by Lessor, Lessee shall affix and maintain same upon a prominent place of each item of Equipment. Affixed to the Equipment are name plates and decals indicating Lessor's ownership thereof. Lessee will not remove, deface or impair the visibility of these; and Lessee will permit Lessor to add additional nameplates or decals indicating Lessor's ownership of the Equipment.
8. Lessee shall keep and maintain the equipment free and clear of any levies, liens or encumbrances at all times and shall pay all license and registration fees, assessments, filing or recording fees, documentary stamp taxes, sales taxes, use taxes, personal property taxes, excise taxes, including value added taxes, and all other federal, state or local taxes (apart from any taxes on the overall net income or the overall net capital gains of the Lessor) which may now or hereafter be imposed on or with respect to the Equipment or the leasing, rental, possession, use or operation of the Equipment.#

9. Lessee shall, at its expense, keep the Equipment in good repair, condition and working order and furnish, at its expense, all labor, parts, materials and supplies required therefor. Lessee will maintain accurate and complete records of all repairs to and maintenance of the Equipment; Lessee will furnish copies thereof to Lessor and will allow Lessor to inspect such records at any time during normal business hours. The Equipment shall at all times be used solely for commercial or business purposes as described herein, and operated in a careful, safe and proper manner and in compliance with all applicable laws, rules, regulations, ordinances and insurance requirements. Any modifications or additions to the Equipment required by any governmental entity shall be promptly made by Lessee at its own expense.
10. Without the prior written consent of Lessor, Lessee shall not make any modifications or additions to or changes in the Equipment. All modifications or additions to or changes in the Equipment shall belong to and immediately become the property of Lessor, without charge, and shall be returned to Lessor with the Equipment upon the expiration or earlier termination of this Agreement unless Lessor notifies Lessee to remove any of the same, in which case Lessee shall promptly do so at its expense without damaging the Equipment or impairing its operation.
11. Lessee will not sell, assign, transfer, Agreement, pledge or otherwise encumber the Equipment or any of Lessee's rights under this Agreement or in or to the Equipment, or permit any of its rights under this Agreement to be subject to any lien, charge or encumbrance of any nature. Lessor may, subject to the terms of this Agreement, sell, transfer or assign any of its rights in or to the Equipment or under this Agreement.
12. In the event that Lessee changes its address of business premises, then Lessee shall notify and obtain consent from Lessor of such change of address at least 30 days prior to change of address. In the event that the equipment is damaged or lost for no fault of Lessor or the Lessee's business is sold, assigned, transferred, closed or disposed of, resulting in cessation of credit card/bank card servicing to Lessee, then Lessee shall be responsible for the full value of the equipment to Lessor.
13. LESSEE agrees to provide a valid insurance coverage covering the full value of the equipment with Lessor named as an additional insured.
14. Lessee shall furnish to Lessor such financial and other information about the condition and affairs of Lessee and any Guarantor and about the Equipment as Lessor may from time to time reasonably request.
15. Lessee requests and agrees to accept the exclusive service of repair/maintenance of the equipment supplied by Lessor to Lessee at the aforesaid business address at the service fee schedule attached hereto as Exhibit "C".
16. Lessee will indemnify Lessor against any liability and hold Lessor harmless from and pay any loss, damage, cost, expense, fine or penalty (including, without limitation, legal fees and disbursements, court costs and the cost of appellate proceedings), regardless of whether the same is also indemnified against by any other person, which the Lessor in any way incurs arising out of or in connection with (i) this Agreement, or (ii) the delivery, possession, use, operation or return of the Equipment, or (iii) any condition of or other matter relating to the Equipment during the term of this Agreement REGARDLESS OF HOW OR WHEN THE CONDITION AROSE AND REGARDLESS OF WHETHER IT AROSE OUT OF ANY ACT, OMISSION OR NEGLIGENCE OF LESSOR, or (iv) any other matter relating to the Equipment after the term of this Agreement to the extent such matter arises from a condition that arose or a

modification, addition or change that was made during the term of this Agreement or at any other time when the Equipment was in the possession or under the control of Lessee, or (v) the failure by Lessee to perform any of its obligations under this Agreement.

17. Lessee will pay any expenses and costs (including, without limitation, legal fees and disbursements, court costs and the cost of appellate proceedings) which Lessor incurs in enforcing or defending (i) any of its rights or remedies under this Agreement or otherwise granted to it by law or in equity, or (ii) any provision of this Agreement, or (iii) any of Lessee's obligations under this Agreement. The provisions of this Section 12 and 13 will survive termination of this Agreement.
18. At the expiration of this Agreement, Lessee shall, at its expense, return the Equipment to and into the custody of Lessor at the above referred Lessor's address or at such other place as Lessor specifies in writing, in the same repair, condition and working order as at the commencement of this Agreement, reasonable wear and tear resulting from proper use excepted.
19. **Provided and on the condition that Lessor maintains its credit card/bank card processing service with Lessee exclusively at or above the minimum amount as indicated in the Fee Schedule and Lessee complies with all the terms and conditions of this Agreement in good faith and in timely manner, the rent for equipment supplied to Lessee by Lessor will be waived for the duration of this Agreement.**

#### **DEFAULT AND REMEDIES**

20. Any of the following events or conditions shall constitute an event of default: (a) Lessee's failure to pay when due any rent or other amount payable hereunder within five (5) days after the due date; (b) Lessee's failure to perform or Lessee's violation of any other term, covenant or condition of this Agreement and the failure to cure the same within ten (10) days after the occurrence; (c) seizure of the Equipment under legal process.
21. While an event of default exists, Lessor shall have the right to exercise any one or more of the following remedies: (a) terminate this Agreement; (b) sue for any damages incurred by Lessor because of the event of default and/or termination of this Agreement by reason of such default; (c) require Lessee to redeliver the Equipment immediately to Lessor as provided in Section 10; or (d) repossess the Equipment without notice, legal process, prior judicial hearing, or liability for trespass or other damage, Lessee voluntarily and knowingly agreeing to and waiving the same. If Lessor attempts but is unable to repossess the Equipment for any reason whatsoever, Lessor may, at its option, declare the Equipment to be a total loss, in which case Lessee shall pay to Lessor the Termination Payment and the provisions of Section 6.1 will apply. All of the foregoing remedies are cumulative and are in addition to any other rights or remedies available to Lessor at law or in equity. Lessor may enforce any of its rights separately or concurrently and in such order as Lessor determines. In addition, #n the event of default, then Vendor may reinstate the waived rent nun pro tonic which shall be due and payable on the first day of the month following the lapse of cure of such violation.#
22. If Lessee shall fail to make any payment or perform any act or obligation required of Lessee hereunder, Lessor may (but need not) at any time thereafter make such payment or perform such

act or obligation at the expense of Lessee. Any expense so incurred by Lessor shall constitute additional rental hereunder payable by Lessee to Lessor upon demand.#

23. Lessor's failure at any time to require strict performance by Lessee of any provision hereof shall not waive or diminish Lessors rights thereafter to. demand strict performance thereof or of any other provision. None of the provisions of this Agreement shall be held to have been waived by any act or knowledge of Lessor, but only by a written instrument executed by Lessor and delivered to Lessee. Waiver of any default shall not be a waiver of any other or subsequent default.
24. In any proceeding by Lessor to recover possession of the Equipment, Lessor shall not be required to post a bond or other security or undertaking, and Lessee hereby waives any right to require, and any requirement for, any such bond or other security or undertaking.

### **MISCELLENEOUS**

25. Lessee's Warranties. Lessee warrants to Lessor that (a) if Lessee is a corporation or partnership, it is duly organized, validly existing and in good standing under the laws of the state indicated above, has the power to own its property and to carry on its business and is duly qualified and in good standing and registered as a foreign entity authorized to do business in all jurisdictions where the character of the properties owned or the nature of the activities conducted make such qualification necessary; (b) this Agreement has been duly and validly executed and delivered by Lessee and constitutes the valid and binding obligation of Lessee enforceable in accordance with its terms; (c) the execution and performance of this Agreement by Lessee will not violate any law or regulation or, if Lessee is a corporation, Lessee's corporate charter or by-laws; nor will it constitute a default under any agreement to which Lessee is now a party; (d) all financial statements and information which have been or may hereafter be submitted to Lessor relating to Lessee or any Guarantor have been and will be complete, true and correct and have been and will be prepared in accordance with generally accepted accounting principles; (e) there has been no material adverse change in the financial condition of Lessee or any Guarantor since the last submission of such financial information to Lessor; and (f) Lessee, to the best of its knowledge, is not in violation of any existing laws, ordinances, decrees, orders, governmental rules or regulations to which it is subject and has, or when required by applicable law, will secure all the licenses, zoning variances, environmental authorizations and other permits and regulatory approvals necessary for the operation of its business. Lessee agrees to delivery to Lessor at any time or times hereafter such documents, including, without limitation, certified resolutions and legal opinions, as Lessor may reasonably request to show Lessee's compliance with the foregoing. Each of the above warranties shall be continuing and shall be deemed remade concurrently with the execution by Lessee of each Schedule.
26. LESSEE holds harmless, defend and indemnify the Lessor from and against any claims, loss or damage including attorneys' fees, costs and disbursements incurred by the Lessor arising out of this Agreement.#
27. Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of New York.

28. In the event of dispute, parties agree to submit the dispute to an arbitration within the jurisdiction of Queens County, New York before any legal action in the court. In the event of legal action arising out of this Agreement, the prevailing party shall be entitled to attorneys' fees, costs and disbursements from the other party.
29. In order to induce Lessor to execute this Agreement, Lessee hereby agrees that all actions or proceedings arising directly or indirectly from this Agreement shall be litigated only in courts (state or federal) having situs in the State of New York and the County of Queens unless Lessor, in its sole discretion, waives this provision. Lessee hereby expressly submits and consents in advance to such jurisdiction in any action or proceeding commenced by Lessor in any state or federal court located within the State of Illinois, hereby waives personal service of the summons and complaint or other process or papers issued therein, and agrees that service may be made by registered or certified mail addressed to Lessee as provided for in paragraph 25 hereof, and that service so made shall be deemed to be completed ten (10) days after the same shall have been mailed in this manner. Lessee waives any claim that any action instituted by Lessor hereunder is in an inconvenient forum or an improper forum based on lack of venue.
30. Entire Agreement. This Agreement contains the entire agreement and understanding between Lessor and Lessee relating to the Equipment and the subject matter hereof, and supersedes any other agreement or understanding, whether written or oral, relating thereto.
31. Severability of Provisions. If any provision of this Agreement or the application of any such provision to any person or circumstance is held invalid, the remainder of this Agreement, and the application of such provision other than to the extent it is held invalid, will not be invalidated or affected thereby.
32. Notice. Notices under this Agreement shall be in writing and shall be sent to each party at its address or fax number set forth above or, in the event of a change in any address or fax number, then to such other address or fax number as to which notice of the change is given. Notices to Lessor shall be sent to the attention of \_\_\_\_\_ or to such other person as to whom notice is given. Notices to Lessee shall be sent to the attention of \_\_\_\_\_ or to such other person as to whom notice is given. Notice shall be deemed given on receipt.
33. Amendment and Waiver. This Agreement may be amended only by an instrument in writing signed by Lessor and Lessee, and no provision of this Agreement and no right or obligation of either party under this Agreement may be waived except by an instrument in writing signed by the party waiving the provision, right or obligation.

34. Section Headings. Section headings are for convenient reference only and shall not affect the meaning or have any bearing on the interpretation of any provision of this Agreement.

Dated:  
Lessor:  
Koam Merchant Service Corp.

Dated:  
Lessee:  
\_\_\_\_\_

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

**EXHIBIT "A"**

**SERVICE FEE SCHEDULE**

The following service fee will be charged and withdrawn from the Lessee's account automatically on monthly basis.

The fee is charged to and paid by Lessee in accordance with the Fee Schedule attached to the Merchant Processing Application and Agreement for the Lessee.

Lessee agrees to maintain business with Lessor at or above the minimum amount of \$ \_\_\_\_\_ per month.

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**Lessee Sign**



**EXHIBIT "B"**

**LIST OF EQUIPMENT AND VALUE AND RENT PRICE**

<b>Selection</b>	<b>Item</b>	<b>Monthly Rental</b>	<b>Replacement Value</b>
	<b>P.O.S (I3, 8g memory, 128g SSD, Touch Screen)</b>	<b>\$50.00</b>	<b>\$1600.00</b>
	<b>J K program</b>	<b>\$22.00</b>	<b>\$500.00</b>
	<b>Customer Display VFD 2lines</b>	<b>\$18.00</b>	<b>\$220.00</b>
	<b>Customer Display 9.7 inches</b>	<b>\$15.00</b>	<b>\$380.00</b>
	<b>Server Computer ((I7, 8g memory, 128g SSD)</b>	<b>\$50.00</b>	<b>\$1600.00</b>
	<b>Monitor 22" or higher</b>	<b>\$10.00</b>	<b>\$180.00</b>
	<b>Printer Epson</b>	<b>\$20.00</b>	<b>\$400.00</b>
	<b>Printer Sam4S</b>	<b>\$15.00</b>	<b>\$250.00</b>
	<b>Scanner Zebra or similar</b>	<b>\$20.00</b>	<b>\$350.00</b>
	<b>Cash Draw</b>	<b>\$5.00</b>	<b>\$150.00</b>
	<b>Pin Pad Stand</b>	<b>\$3.00</b>	<b>\$85.00</b>
	<b>Cash Register, HK or Sharp</b>	<b>\$25.00</b>	<b>\$650.00</b>
<b>Total</b>			

**This price list is subject to change in sole discretion of Lessor on 10 day notice to Lessee.**

**RENT PRICE:** \$\_\_\_\_\_ per month

**TOTAL REPLACEMENT VALUE:** \$\_\_\_\_\_

In the event that Lessee fails to return the equipment at the expiration of this Agreement or at the termination of this Agreement, then Lessee shall be responsible and liable for the total replacement value of the equipment without any depreciation or the aggregate monthly rent for the remaining period out of 5 years from the date of execution of this Agreement, whichever is lesser.

Lessee shall be entitled to keep the equipment free of charge if Lessee maintains the card/bank processing account with Lessor above the minimum balance in accordance with this Agreement in good faith for more than 5 years continuously.

Lessee hereby agrees and promises that it maintains its credit card/bank card processing service with Lessee exclusively with monthly balance above the minimum monthly balance as indicated in the Fee Schedule and Lessee complies with all the terms and conditions of this Agreement in good faith and in timely manner.

**Provided and on the condition that Lessor maintains its credit card/bank card processing service with Lessee exclusively with minimum monthly balance or more as indicated in the Fee Schedule and Lessee complies with all the terms and conditions of this Agreement in good faith and in timely manner, the monthly rent for equipment supplied to Lessee by Lessor as indicated above will be waived for the duration of this Agreement.**

In the event that Lessee fails to abide by this Agreement by either failing to maintain its credit card/bank card processing service with Lessee exclusively with minimum monthly balance or more as indicated in the Fee Schedule or by failing to comply with all the terms and conditions of this Agreement in good faith and in timely manner, the waived monthly rent may be reinstated at Lessor's option and this rent waiver shall be nullified and null and void.

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**Lessee Sign**

**EXHIBIT "C"**

**REPAIR/MAINTENANCE SERVICE FEE SCHEDULE**

Lessee agrees to retain KOAM as its exclusive repair/maintenance service provider. The monthly service fee is \$30.00 per pos set/month.

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**Lessee Sign**

## GUARANTY

WHEREAS, \_\_\_\_\_ (hereinafter referred to as “Lessor”), and \_\_\_\_\_ (hereinafter referred to as “Lessee”) have entered into Agreement of POS Equipment Leasing from Koam Merchant Service Corp. dated as of the date hereof (hereinafter referred to as the “Agreement of POS Equipment Leasing from Koam Merchant Service Corp.”), in connection with credit card/bank card processing (“Premises”); and

WHEREAS, Lessor, as a condition to its executing the Agreement of POS Equipment Leasing from Koam Merchant Service Corp., has requested the undersigned, \_\_\_\_\_ and \_\_\_\_\_ (hereinafter referred to as “Guarantors”) to guaranty the Lessee’s duty under the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. pursuant to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of Lessor’s execution of the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. and other good and valuable consideration, receipt of which is hereby acknowledged, Guarantors hereby covenants and agrees and represents and warrants the following:

1. Guarantors hereby irrevocably, unconditionally and absolutely and jointly and severally guarantees to Lessor, and the successors and assigns of Lessor the full and punctual payment, by Lessee of all of the amounts on Lessee’s part to be paid under the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. and all damages and other amounts payable by the Lessee pursuant to the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. (collectively the “Obligations”).

2. This Guaranty is an absolute, present, primary, continuing, unlimited and unconditional guaranty and undertaking of payment, performance and observance of all the Obligations, and not of collection merely, and without limitation, is in no way conditioned or contingent upon any effort or attempt by the Lessor to seek performance or payment from the Lessee or any other person or upon any other condition or contingency. Irrespective of whether or the extent to which the Lessee or any other person may have undertaken to the Lessor to pay or perform any of the Obligations, the Lessor is not and shall not be required first to pursue any right or remedy against or seek any redress from the Lessee or any other person. The obligation and liabilities of Guarantors hereunder shall be primary and not secondary. The liability of the Guarantors hereunder shall be direct and primary and the Lessor shall not be obligated to enforce and/or exhaust remedies against another party having such liabilities before proceeding against the Guarantors.

3. The Guarantors hereby waives diligence, presentment, protest, notice of dishonor, notice of acceptance of this Guaranty and notice of default by the Lessee under the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. The Guarantors expressly waives and relinquishes all rights and remedies accorded by applicable law to Guarantors.

4. This Guaranty shall continue to be effective or be reinstated, as the case may be, as provided in paragraph 1 herein, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the Lessor upon the insolvency, bankruptcy or reorganization of the Lessee or otherwise, all as though such payment had not been made.

5. Any act of Lessor, or the successors or assigns of Lessor, consisting of a waiver of any of the terms or conditions of the Agreement of POS Equipment Leasing from Koam Merchant Service Corp., or the giving of any consent to any matter or thing relating to the Agreement of POS Equipment Leasing from Koam Merchant Service Corp., or the granting of any indulgences or extensions of time to Lessee, may be done without notice to or consent from Guarantors, and without releasing any obligations of Guarantors hereunder.

6. The liability hereunder of Guarantors shall in no way be affected by (a) the release Agreement or discharge of Lessee in any creditors' receivership, bankruptcy or other proceedings; (b) the impairment, limitation or modification of the liability of Lessee or its estate in bankruptcy, or of any remedy for the enforcement of Lessee's said liability under the Agreement of POS Equipment Leasing from Koam Merchant Service Corp., resulting from the operation of any present or future provision of the Bankruptcy Code or other statute or from the decision of any court; (c) the rejection or disaffirmance of the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. in any such proceedings; (d) the assignment or transfer of the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. by Lessee; (e) any disability or other defense of Lessee; (f) any sublease Agreement of all or any part of the Premises demised under the Agreement of POS Equipment Leasing from Koam Merchant Service Corp.; or (g) the sale or conveyance by Lessor of its interest in the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. or of said Premises. Lessor agrees that if the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. is assigned by Lessee with the consent of Lessor, Lessor will give copies of all written notices of default given by Lessor to Lessee under the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. to Guarantors at Guarantors' address set forth below. The obligations hereunder of Guarantors shall not be released by Lessor's receipt, application or release Agreement of any security given for the payment, performance and observance of covenants and conditions in the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. contained on Lessee's part to be paid, performed and/or observed; nor by any modification of the Agreement of POS Equipment Leasing from Koam Merchant Service Corp., but in the case of any such modification the liability of Guarantors shall be deemed modified in accordance with the terms of any such modification of the Agreement of POS Equipment Leasing from Koam Merchant Service Corp..

7. Until all the covenants and conditions in the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. on Lessee's part to be paid, performed and/or observed are fully paid, performed and/or observed, Guarantors: (a) shall have no right of subrogation against Lessee by reason of any payments or acts of performance by Guarantors in compliance with the obligation of Guarantors hereunder; (b) waives any right to enforce any remedy which Guarantors now has or hereafter may have against Lessee by reason of any one or more payments or acts of performance in compliance with the obligations of Guarantors hereunder; and (c) subordinates any liability or indebtedness of Lessee now or hereafter held by Guarantors to the obligations of Lessee to Lessor under the Agreement of POS Equipment Leasing from Koam Merchant Service Corp..

8. Lessor may, at its option, join Guarantors as a party in any action, suit or proceeding commenced against Lessee arising out of or in connection with the Agreement of POS Equipment Leasing from Koam Merchant Service Corp., and recovery may be had against Guarantors, whether or not judgment is also taken or had against Lessee. Further, this Guaranty may be enforced against Guarantors without first proceeding against Lessee. In addition, if Lessor shall obtain a judgment against Lessee in any jurisdiction, Guarantors agrees that it shall be bound thereby, as if Guarantors were a party to the action, suit or proceeding in which the judgment was obtained (even though Guarantors was not a party thereto).

9. Guarantors agrees that if this Guaranty is or shall be enforced by any action, suit or proceeding it will reimburse Lessor for all reasonable costs and expenses incurred by Lessor in connection therewith, including, without limitation, reasonable counsel fees.

10. Guarantors waives trial by jury of any and all issues arising in any action, suit, or proceeding to which Lessor and Guarantors may be parties upon, under or connected with this Guaranty or any of its provisions, directly or indirectly. This Guaranty shall apply to the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. and to any renewal or extension thereof, it being intended that this Guaranty shall include and apply to any such extension or renewal of the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. as well as to the original term thereof. This Guaranty shall inure to the benefit of and may be enforced by Lessor, its successors and assigns, and shall be binding upon and be enforceable against Guarantors and its successors and assigns.

11. Guarantors hereby (a) irrevocably consents and submits to the jurisdiction of any Federal, State, County or Municipal Court sitting in the State of New York in respect to any action or proceeding brought therein by Lessor against Guarantors concerning any matters arising out of or in any way relating to the Agreement of POS Equipment Leasing from Koam Merchant Service Corp. and/or this Guaranty; (b) expressly waives any right of Guarantors pursuant to the laws of any other jurisdiction by virtue of which exclusive jurisdiction of the courts of any other jurisdiction might be claimed; (c) irrevocably waives personal service of any summons and complaint and consents to the service upon it of process in any such action or proceeding by the mailing of such process to Guarantors by certified mail, return receipt requested at the address set forth below and hereby agrees that such service shall be deemed sufficient; (d) irrevocably waives all objections as to venue and any and all rights it may have to seek a change of venue with respect to any such action or proceeding; (e) agrees that the laws of the State of New York shall govern in any such action or proceeding and waives any defense to any action or proceeding granted by the laws of any other country or jurisdiction unless such defense is also allowed by the laws of the State of New York; and (f) agrees that any final judgment rendered against it in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

12. This Guaranty may not be changed, modified, discharged or terminated orally or in any manner other than by a Agreement of POS Equipment Leasing from Koam Merchant Service Corp. in writing signed by Guarantors and Lessor.

IN WITNESS WHEREOF, Guarantors has duly executed this Guaranty as of the \_\_\_ *th day of* \_\_\_  
\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Name:

Address:

SS#:

\_\_\_\_\_  
Name:

Address:

SS#: