

# General Terms of Business and Licensing: POS Solutions GmbH

## Recitals

The purchase and use of signPOS Software is governed by the following terms. The direct contractual relationship between the end user and POS Solutions GmbH is based on these terms. Any claims between the end user and POS Solutions GmbH that arise, or that can be directly derived based on statutory provisions, are governed by these terms. By using the signPOS Software, the end user expressly agrees to these terms, provided they have not already agreed to them under a contract entered into with the distribution partner.

### 1. Granting of rights

The license granted to the end user under a written contract entitles them to use for their own business activity the signPOS Software and any service they have ordered in writing; that right of use is nonexclusive, nonassignable, and is restricted in particular (but not exclusively) by these terms of licensing and by other contractual provisions. The end user may not change the acquired license or have it changed by any person or entity not a party to this agreement (a “nonparty”). Neither may the end user surrender the license to, or use it for, a nonparty.

### 2. Ownership and restrictions

All rights of ownership, copyright, and other protective rights to the programs will remain with POS Solutions GmbH and their licensors. The same applies to everything that POS Solutions GmbH has developed as a result of services and that is provided to the end user under the contract entered into with the respective distribution partner. The end user may not remove or change any markings or comments the programs contain regarding the protective rights of POS Solutions GmbH or any nonparty. Nor may the end user provide the programs, or the results obtained from the services, to any nonparty for use in that nonparty’s business activity.

### 3. Warranty

POS Solutions GmbH warrants in accordance with statutory provisions (unless those have been permissibly and contractually amended) that the programs will function in all material respects as described in the corresponding program documentation. The

warranty period is twenty-four months. The end user shall inform POS of any program defect without undue delay. POS Solutions GmbH does not guarantee that the products are compatible with any hardware not released by POS Solutions GmbH, or with other software. No warranty obligation will exist if the programs and services become unavailable or unusable due to force majeure, operating system crashes, technically induced software errors, faults in the telecommunication infrastructure, virus attacks, denial-of-service attacks, and nonparty actions or other causes lying outside POS Solutions GmbH's sphere of influence. The warranty will expire in any case if the products are handled improperly, or if additional software is impermissibly installed on servers on which POS Solutions GmbH runs, or if the configuration is impermissibly changed.

#### **4. Liability**

POS Solutions GmbH will not be liable for any impermissible use of the software by the end user. The end user shall indemnify and hold harmless POS Solutions GmbH against any nonparty claims asserted in this regard. The end user may not assert any claims against POS Solutions GmbH except those based on intent or gross negligence (which the claimant must prove) on the part of POS Solutions GmbH or its vicarious agents. POS Solutions GmbH's liability for any single incident of damage is limited to the amount for which the end user purchased the license.

A "single incident of damage" means the total claims for damages asserted by all entitled claimants based on a single act, or the total claims asserted by one entitled claimant based on various acts having the same legal or economic context, or the total claims arising from uniform damage resulting from multiple acts. This distinction does not apply to personal injury or to damage caused by intent or gross negligence, whereby the claimant must prove that the degree of culpability was higher.

#### **5. Export restrictions**

The end user is advised that the products might be subject to national import or export restrictions in various countries. The end user acknowledges that it alone is responsible for complying with all applicable import and export restrictions and associated legal provisions, and that POS Solutions GmbH has no responsibility in that regard. The end user shall

indemnify and hold harmless POS Solutions GmbH regarding any claims arising from infringements. The end user shall obtain any permits that are necessary in this regard.

## **6. Customer data and data privacy**

The end user acknowledges that POS Solutions GmbH processes customer data and nonparty data, including names, email addresses, and credit card information, in accordance with the provisions of the Swiss Data Protection Act as amended. Whenever POS Solutions GmbH employs suitable nonparties as vicarious agents to render services, the statutory restrictions also apply to those nonparties. The end user hereby permits employees or delegates of POS Solutions GmbH to gain access to the end user's systems on which the signPOS Software is installed, and to make evaluations directly on those systems regarding that software's use, within 24 hours of giving adequate notice. POS Solutions GmbH shall keep such collected data a secret and use it only for settlement purposes.

## **7. Maintenance**

The maintenance agreement that the end user enters with the distribution partner, or with POS Solutions GmbH directly, obligates the end user to grant POS Solutions GmbH remote maintenance access to its systems for third-level support.

## **8. Nondisclosure**

The end user is subject to a nondisclosure obligation to the extent set forth in the contract the end user has entered with the distribution partner of POS Solutions GmbH.

## **9. Contract period; Termination**

The end user may use the program and any services during the period set forth in the licensing acquisition contract. However, the end user acknowledges that, if that contract is breached, it can be terminated with immediate effect without entitling the end user to any financial compensation. As soon as the end user receives the declaration of contract termination it shall cease using the program and may not use it further. Even if the end user's distribution partner loses its certification as a distribution partner for POS Solutions GmbH, the user will remain authorized to use the program and any services in accordance with the contract into which it has entered.

However, if this occurs, the end user acknowledges that only POS Solutions may specify another distribution partner to service the end user.

## **10. Other provisions**

Unless the choice of law is revealed anyway under statutory provisions or the contract entered into with the distribution partner, the end user acknowledges that all claims related to the use of the program and services are governed by the formal and material law of Switzerland, without giving effect to the conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG). Unless otherwise required by law, claims against POS Solutions GmbH may be asserted only in the courts responsible for the district in which POS Solutions GmbH has its registered office.

The end user further acknowledges that claims must be based on written agreements. POS Solutions GmbH, its distribution partner, and the end user expressly agree that any agreement to abandon the requirement for written form must be in writing.

Finding any of the preceding provisions, or any provisions of the contract that the end user entered with the distribution partner of POS Solutions GmbH, to be invalid will not invalidate the remaining regulations. If any provision is held to be invalid, it must be replaced with a provision that comes closest to the legal and economic purpose of the invalid provision. The same applies if any loopholes are revealed when the program and services are used.