



Phone Swipe Free Tablet Placement Agreement

This Agreement is a contract between the Merchant and Phone Swipe and its parent company North American Bancard, LLC

(together, "PS"). NOW THEREFORE, PS and Merchant agree as follows:

Upon the approval of Merchant's card processing application, PS shall ship each piece of equipment described below (the "Equipment") to Merchant. Merchant agrees (i) to use the Equipment only to process transactions permitted under its card processing agreement and PS User Agreement with PS (together the "Processing Agreement"), (ii) to be responsible for any damage to the Equipment as a result of its misuse or negligence, and (iii) not to reverse engineer, jailbreak, disassemble or modify the Equipment in any way. Any wiping, deleting or altering in any way of the Equipment's operating system or preset configurations, including but not limited to the Phone Swipe Application, shall be a material breach of this Agreement. The Equipment is to be used exclusively for PS solutions. The Equipment is configured to communicate directly with PS on a regular basis, and PS may contact Merchant to investigate any issues associated with the Equipment as a result of such information. Merchant is expressly forbidden from using the Equipment for any other reason other than as provided above, and any use to the contrary is a material breach of the this Agreement and shall automatically render this Agreement null and void.

Merchant agrees that the Equipment is the property of PS, is being licensed to Merchant, and must be returned in good and working condition within ten (10) days of the termination or expiration of the Processing Agreement. If the Equipment is not returned within ten (10) days, Merchant agrees to pay to PS the equipment value as set forth below. Merchant authorizes PS or its agents to ACH its bank account for said fees according to the Processing Agreement. In addition, Merchant agrees to be responsible for any damage to the Equipment as a result of misuse or negligence. PS reserves the right to replace the Equipment with comparable models and to add or discontinue models.

If the Equipment is defective for any reason other than Merchant's misuse or negligence, PS shall replace the defective Equipment with comparable Equipment, which may be new or refurbished. However, Merchant shall first return the defective Equipment to PS, and shall be responsible for all shipping and processing fees for the replacement Equipment. Notwithstanding this, PS shall have no obligation to replace Equipment free of charge more than one time within the first twelve (12) month period. PS shall have no other responsibility, obligation or liability with regard to the Equipment.

PS is not the manufacturer of the Equipment. Accordingly, PS makes no warranties, expressed or implied, and disclaims any warranties as to the suitability or merchantability or fitness of the Equipment for any particular purpose, for any negligent design or manufacture of the Equipment, or any software or other computer program provided with or to be used in conjunction with the Equipment. In addition, PS is not responsible for any liabilities, losses, claims, or damages of any kind in any way related to the use of the Equipment and/or Phone Swipe Application, including but not limited to any damage to the device(s) on which the Equipment is used, or to the software, applications or data downloaded or maintained on such device(s). Merchant may not nor may Merchant permit any third party to resell, lease or distribute in any way the Equipment.

Merchant agrees to indemnify and hold Phone Swipe LLC, North American Bancard and its subsidiaries harmless from and against any and all liabilities, losses, claims, damages, disputes, offsets, claims or counterclaims of any kind in any way related to the use (or misuse) of the Equipment. The costs of processing transactions using the Equipment, including any data transmission and/or mobile telephone use charges, shall be governed by Merchant's card processing agreement and are not governed by this Agreement.

Merchant has accepted the following equipment (the "Equipment") by checking one box below:

- ☐ Tablet + Stand (Equipment value of \$895.00)
- ☐ Tablet + Stand + Thermal Printer (Equipment value of \$1195.00) - **REQUIRES PAYMENT OF \$14.95 PER MONTH EQUIPMENT CHARGE**
- ☐ Tablet + Stand + Thermal Printer + Cash Drawer (Equipment value of \$1295.00) - **REQUIRES PAYMENT OF \$19.95 PER MONTH EQUIPMENT CHARGE**

MERCHANT FEES

MONTHLY MINIMUM PROCESSING: *By signing up for the Tablet Placement Program, Merchant represents and warrants that it processes at least \$10,000 per month in Visa/MasterCard/Discover/American Express transactions (the "Monthly Target Amount"). Merchant agrees to pay The following fee for each and every complete calendar month that Merchant's monthly processing with the Equipment does not meet or exceed the Monthly Target Amount: (i) Processing \$3,000 or less in any given month shall incur a \$99.00 monthly fee, (ii) Processing between \$3,001 and \$6,000 in any given month shall incur a \$59.00 fee, OR (iii) processing between \$6,001 and \$9,500 in any given month shall incur a \$19.00 fee.*

ANNUAL LICENSE FEE: *Merchant agrees to pay an annual Software License Fee of \$79.00 for the use the PhoneSwipe App. Furthermore, if Merchant elects to receive the Thermal Printer and/or Cash Drawer, Merchant agrees to pay the monthly fee set forth above next to the applicable Equipment grouping.*



The terms of the Processing Agreement are incorporated herein by reference, and the Monthly Minimum Processing Fee (if any), Annual License Fee and the Monthly Equipment Fee (together, the "Fees"), if any, will be charged and collected in accordance with the Processing Agreements. Subject to the terms of this Agreement and the Processing Agreement, PS reserves the right to change the Fees upon thirty days' advance notice. Merchant must agree to any such Fee changes to continue to use the Equipment.

IMPORTANT: WiFi connectivity is required for transactions to be completed on the Equipment with the Phone Swipe application. Merchant is responsible for all fees, costs and equipment necessary for providing internet connectivity for the proper functioning of the Equipment, as well as knowing the Network SSID and Password.

By signing below, Merchant understands that this Agreement constitutes a legal contract which binds Merchant.

Merchant's Authorized Signer:

Phone Swipe LLC:

Owners or Officer's Signature and Date

Account Executive Signature and Date

The undersigned, who will derive a benefit from the above Agreement between Merchant and Phone Swipe LLC, hereby guarantees to Phone Swipe LLC, and to its successors and assigns, the full, prompt and complete performance of Merchant and all of Merchant's obligations under such Agreement. The undersigned, by signing below, agrees to be bound by such Agreement and this Guaranty.

Personal Guarantor Printed Name

Personal Guarantor Signature and Date