



## RESELLER AGREEMENT

### BETWEEN:

POS ONE A/S

CVR-no. 26005140

Thriges Plads 8,

5000 Odense C,

Denmark ("POSONE");

**and**

("Reseller").

(Individually also referred to as "Party" and collectively as "Parties")

As of

(the "Effective Date"), the Parties have entered into this Reseller Agreement for distribution of the Offerings.

### 1 APPOINTMENT

1.1 With this Reseller Agreement, POS ONE appoints and grants Reseller a non-exclusive, limited right in scope and duration to market, promote and sell Subscriptions to the Offerings to End-Users and the right to use defined Intellectual Property Rights in this connection.

1.2 The appointment is provided under the terms and conditions of this Reseller Agreement and its Schedules which shall form an integrated part hereof.

### 2 DEFINITIONS

2.1 In this Agreement, unless the context clearly indicates otherwise, the following definitions shall apply:

Affiliate shall mean any person or entity that directly or indirectly controls or is controlled by or is under common control with one of the Parties. For purposes of this definition "control" shall mean to have, directly or indirectly, the ownership of voting securities (or other ownership interest, if not a corporation) entitling to the right to elect or appoint, directly or indirectly, the majority of the board of directors, or a similar managing authority.

Agreement shall mean the Reseller Agreement and all Schedules hereto.

Business shall mean the activities subject to the Agreement for marketing and sales of Subscriptions to the Offerings.

Confidential Information shall mean any information and data received by either of the Parties (“Receiving Party”) from the other Party (“Disclosing Party”), that is indicated to be confidential or which the Receiving Party in all reasonable cases knows or ought to know is of a confidential nature, whether technical, commercial or financial, details in respect of actual or potential customers or resellers or intended business transactions, reports, plans, computer programs, computer files, drawings, models, know-how and other information irrespective of the medium in which such data or information is embedded, and whether it is disclosed orally, visually or in tangible form or via electronic communication to the extent that the information relates to the Disclosing Party and/or its Affiliates.

Data Processing Agreement or DPA shall mean the data processing agreement provided by POS ONE for Subscriptions.

Day shall mean a calendar day.

Effective Date shall mean the date stated in the preamble to the Agreement.

End-User(s) shall mean the customers for Subscriptions to the Offerings.

Intellectual Property Rights shall mean all current and future patents, designs, copyrights, trademarks, trade secrets, source codes, know-how, goodwill, and all other categories of industrial and intellectual property rights, whether registered or not, throughout the world covering or associated with POS ONE or the Offerings.

Offerings shall mean any or all POS ONE’s SaaS point of sale system software or other software, services, add-ons and solutions offered as a software as a service under Subscriptions and other additional POS ONE software and services offerings and its documentation, to include both the Offerings and Add-on Services as defined in the SaaS Agreement.

Price List shall mean POS ONE’s price list of indicative prices to the Offerings as amended from time to time, cf. Schedule 2.

SaaS Agreement shall mean POS ONE’s End-User standard agreement, its schedules and supplementary terms for Subscriptions to the Offerings in a form provided by POS ONE from time to time.

Subscription shall mean a purchase of End-User rights to one or several Offerings for a defined subscription period against payment of a subscription fee.

### 3 SCOPE OF THE AUTHORIZATION

3.1 The Reseller’s authorization covers Subscriptions to the Offerings and the rights to provide integration and support services related hereto, cf. Schedule 1.

3.2 Reseller acknowledges and accepts that POS ONE has the right to market, promote and sell the Offerings and to appoint distributors and other resellers.

3.3 Reseller is an independent undertaking of POS ONE, and Reseller shall act in its own name and on its own account. Nothing in this Agreement shall authorize the Reseller to act as an agent of POS ONE, and Reseller is obligated to ensure that Reseller does not directly or indirectly appear as such in relation to any third parties.

3.4 It is the Reseller’s responsibility to be informed of the current Offerings and the Price List and frequently access POS ONE’s reseller website at [www.posone365.com](http://www.posone365.com).

3.5 The rights granted to Reseller under the Agreement are granted without any warranties or indemnifications. Reseller is not entitled to offer or make any warranties or indemnifications to End-Users in the name of POS ONE nor committing POS ONE beyond the terms of the SaaS Agreement.

3.6 Reseller’s rights under this Agreement are non-transferable and non-sublicensable. Reseller may not resell the Offerings to End-Users or third parties for further resale, redistribution, sharing or transfer.

3.7 In order to resell any Offerings and prior to committing to provide an Offering to any End-User, Reseller must place an Order with POS ONE specifying (i) the applicable Offerings, (ii) the Customer (iii) relevant contact information, (iv), and the End-Users intended use of the Offerings. No Order will be binding until accepted by POS ONE in its sole discretion. Any Order placed by Reseller must correspond to an applicable order form by the relevant End-User. Any additional or different terms in Reseller’s order form with the End-User will not be binding upon POS ONE and Reseller will be solely liable for any claims arising from such terms. Accepted Orders are non-cancellable by Reseller, except to the extent otherwise set forth herein or in an Quote.

### 4 PRICES AND PAYMENT

4.1 Reseller is free to determine its own prices towards End-Users.

4.2 Reseller is offered the Prices stated in Schedule 2 which are based on POS ONE current Price List of indicative prices with a discount offered the Reseller. The Price List may be amended from time to time at the discretion of POS ONE. The discount offered shall be evaluated based on the Reseller’s sales volumes.

4.3 POS ONE will on a yearly, quarterly or monthly basis issue an invoice to Reseller based on the number of active Subscriptions registered as Reseller’s customers and the agreement with the end customer. Payment terms are net 30 days from invoice date.

4.4 Reseller will be solely responsible for collecting all fees from Customers. Non-payment by Customers will not relieve Reseller of its obligation to pay fees to POS ONE. POS ONE reserves the right to cancel or suspend provision of the Offerings with respect to any Customer if it fails to receive payment from Reseller with respect to such Customer and the payment default is not remedied within 10 days after POS ONE have provided Reseller with written notice to remedy.

## 5 THE OFFERINGS

5.1 The Offerings have been developed by POS ONE, and any and all rights to the Offerings and the Intellectual Property Rights, except for third party components, including but not limited to the source codes and any and all amendments, improvements, upgrades and configurations, belong solely and exclusively to POS ONE.

5.2 Subscriptions to the Offerings are delivered under the terms of the POS ONE SaaS Agreement.

5.3 The Offerings may be amended, updated, improved and modified from time to time at POS ONE's sole discretion.

## 6 RESELLER DISTRIBUTION AND MARKETING

6.1 Reseller is the primary contact to End-Users and performs integration services and support services. It is the responsibility of Reseller to advise the End-User on the solutions and features offered with the Offerings and to evaluate whether it will perform according to the specifications and requirements defined by End-User.

6.2 All Reseller marketing activities shall be made in accordance with the applicable laws for distributing and selling the Offerings in Reseller's territories of Business, including applicable marketing legislation, good business conduct and good business ethics, and in a manner, which favourable preserves the goodwill and market position of the Offerings and POS ONE and its trademarks.

6.3 Reseller and its Affiliates, including officers, directors, managers and employees shall at all times comply with all applicable laws, statutes and regulations relating to anti-bribery, anti-corruption and anti-money laundering.

## 7 RESELLER'S OTHER OBLIGATIONS

7.1 Reseller is obligated to perform its duties under the Agreement and warrants to:

(i) Sell Subscriptions to the Offerings under commercial terms that coincide, without being in conflict with the SaaS Agreement or additional or supplementary terms for specific the Offerings services;

(ii) Commit End-Users to the SaaS Agreement and its schedules, including the DPA, for Subscriptions to the Offerings, which End-User acceptance must be collected prior to installing or making the Offerings available to the End-User;

(iii) Submit End-User data to POS ONE for delivery of Subscriptions and notices relating hereto cf. the SaaS Agreement;

(iv) Perform support services as defined in Schedule 1.

## 8 INTELLECTUAL PROPERTY RIGHTS

8.1 All Intellectual Property Rights to the Offerings shall remain the exclusive and proprietary property of POS ONE. For the avoidance of doubt, it is specified that any contents of POS ONE's website, domains and social media profile, shall be defined as Intellectual Property Rights owned exclusively by POS ONE.

8.2 The Reseller is granted the rights to use the POS ONE trademarks and brand names in connection with Reseller identifying as an authorized Reseller of POS ONE, subject to the instructions of POS ONE, including design rules for trademarks, and usage in compliance with good business ethics, and solely for the purpose of the Business. Except for this marketing license, nothing in this Agreement shall be construed as to grant the Reseller any rights to the Intellectual Property Rights.

8.3 Reseller will promptly cease any use of POS ONE Intellectual Property Rights upon request. Reseller acknowledges that any unauthorized use of POS ONE Intellectual Property Rights will constitute a material breach of this Agreement.

8.4 Reseller shall perform its integration and support services in such manner not to conflict with or infringe POS ONE's Intellectual Property Rights and shall refrain from registering or applying for registration of any name, brand or derivative thereof regarding the Intellectual Property Rights or confusingly similar hereto. Reseller's right to use POS ONE's Intellectual Property Rights shall cease automatically upon the termination of this Agreement.

8.5 If Reseller provides POS ONE with feedback regarding the Offerings ("Feedback"), POS ONE may use the feedback without restriction. All Feedback is provided "AS IS".

## 9 TERM AND TERMINATION

9.1 The Agreement shall enter into force as of the Effective Date and may be terminated by Reseller with a written notice of three (3) months to the end of a calendar month and by POS ONE with a written notice of twelve (12) months to the end of a calendar month.

9.2 Notwithstanding clause 9.1, each Party may terminate, suspend or modify the Agreement with immediate effect in case of the other Party's material breach, unless such breach, if capable of remedy, has not been remedied within a period of 10 calendar days after the breaching Party's receipt of a written notice hereof. Equally, a Party may terminate with immediate effect if the other Party enters into bankruptcy, suspends its payments or opens negotiations for a composition with its creditors or similar.

## 10 CONSEQUENCES UPON TERMINATION

10.1 Upon expiration of the termination notice of this Agreement, Reseller shall

- i) cease to sell, market and promote the Offerings, cease any use of the Intellectual Property Rights and delete and cease use of POS ONE's Confidential Information;
- ii) immediately pay any amount owed to POS ONE and its Affiliates as per the date of expiration of the Agreement;
- iii) return or delete information and material reasonably requested by POS ONE in order to protect the Offerings, and the Intellectual Property Rights;

10.2 All Reseller's rights under this Agreement shall automatically revert to POS ONE upon expiration or termination of this Agreement.

10.3 Following termination of the Agreement, POS ONE shall continue to deliver the Offerings to End-Users who maintain their Subscriptions, and POS ONE shall provide for support services being available to End-Users.

10.4 For purpose of termination and accrued rights of the Reseller, nothing in this Agreement shall be construed so as to grant Reseller any rights of ownership or rights in the goodwill, know-how and other Intellectual Property Rights relating to the Offerings. Reseller shall under no circumstances be entitled to any payment, compensation or damage whatsoever for any increase in the goodwill, know-how or other Intellectual Property Rights, or value of POS ONE or for handover of any information.

10.5 Upon expiration of the termination notice of this Agreement, POS ONE shall delete and cease use of Resellers Confidential Information

## 11 NO ASSIGNMENT AND CHANGE OF CONTROL

11.1 Reseller acknowledges that all rights and licences granted to the Reseller hereunder are strictly personal to the Reseller and the Reseller shall under no circumstances be entitled to assign, subcontract or otherwise alienate such rights and licences. The restriction include assignment of rights or obligations fully or in part by way of transfer of assets, and Affiliates' change of control in the Reseller by transfer of shares, a merger, or similar event without the prior written consent of POS ONE.

## 12 DATA PROTECTION AND SECURITY

12.1 Each Party shall, at all times, comply with its respective obligations under all applicable data protection laws and legislation in relation to all personal data that is processed by it in the course of performing its obligations under this Agreement. The Parties will cooperate for compliance with the GDPR and any privacy regulation applicable.

12.2 POS ONE and Reseller may exchange information including personal data for performance of the Agreement. Personal data shall be defined in accordance with applicable privacy laws for personal data protection. For their performance under this Agreement, each Party shall be deemed a "data controller" as defined in Article 4 of the EU regulation 2016/679 on General Data Protection Regulation ("GDPR") and as such each Party will determine the purpose of which, and the way in which, personal data is processed by the Party, and each Party accepts

1) to offer and secure data subject rights as required under the GDPR;

2) to maintain appropriate technical and organizational measures for the protection of the security, confidentiality, and integrity of personal data,

3) to implement a basis of transfer and safeguards before transferring personal data from data controllers in the EU/EEA to data controllers established outside the EU/EEA in countries not deemed by the European Commission as providing an adequate level of protection for personal data, and to enter into a data transfer agreement applying EU's standard contractual clauses for transfer of personal data from the EU to third countries, and

4) to conclude with the other Party for any further terms required, a controller-to-controller agreement or any other data transfer agreement for the transfer of personal data between the Parties.

## 13 LIMITATIONS ON LIABILITY

13.1 The liability of POS ONE towards Resellers shall in respect to the Offerings be subject to the same exclusions and limitations as stated in the SaaS Agreement and additional terms for the Offerings.

13.2 Except for infringement of either Party's intellectual property rights (including the Intellectual Property Rights), breach of confidentiality obligations, and Reseller exceeding its authorization, in no event shall a Party be liable to the other Party for any indirect, special, incidental, consequential, or punitive damage or loss, including but not limited to loss of profits and loss of time arising out of or in connection with this Agreement, or arising out of or in connection with its failure to perform pursuant to this Agreement, including liability arising by way of indemnity, in contract or in tort, product liability or otherwise, and whether or not the Party has been advised of the possibility of such loss or damage.

13.3 Except for infringement of either Party's intellectual property rights (including the Intellectual Property Rights), breach of confidentiality obligations, and Reseller exceeding its authorization, and default in payment obligations cf. clause 4.3, the maximum aggregated liability of a Party towards the other Party, upon any claims whatsoever, arising out of the Agreement shall in all events, under any theory of recovery, whether in contract or in tort, be limited for each occurrence or in the aggregate within a period of 12 month to the lessor of i) Subscription revenue generated by the Reseller during a period of 12 month preceding the event giving rise to the claim or ii) a maximum of EUR 10,000.00 (EUR tenthousand 00/100).

#### 14 EXPORT RESTRICTIONS

14.1 Reseller agrees to comply with all relevant U.S. and foreign export and import laws in using the Offerings. Without limiting the foregoing, (a) Reseller represents and warrants that it is not, and that it will not market or resell the Offerings to any party that is, listed on any U.S. government or EU's list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government or EU embargo or that has been designated by the U.S. government or EU as a "terrorist supporting" country and (b) Reseller will not (and will not permit any of its users to) access or use the Offerings in violation of any U.S., or EU export embargo, prohibition or restriction..

#### 15 CONFIDENTIALITY

15.1 Each Party shall be obligated to keep strictly confidential any and all Confidential Information received by or from the other Party and the receiving Party shall use the Confidential Information only for purpose of fulfilling its rights and obligation under this Agreement. This duty of confidentiality shall apply also after the termination or expiry of this Agreement.

15.2 Neither Party shall divulge a Party's Confidential Information to any person or entity without the disclosing Party's prior express written consent, except that the Parties may afford their employees, who are bound by similar confidentiality provisions, access to the Confidential Information to the extent required by them for the proper performance under this Agreement.

15.3 The Confidential Information shall not include any information which (a) is in or enters the public domain other than by a breach of a Party's duty of confidentiality under this Agreement; (b) was known to the receiving Party prior to the disclosure; (c) is legally transmitted or disclosed by a third party which owes no obligation of confidentiality to either party; or (d) was disclosed by operation of law or court order, subject to (i) the receiving Party providing written notice to the disclosing party as to allow sufficient opportunity to seek protective or other court orders, and (ii) the receiving Party cooperating with the disclosing Party to prevent or limit the disclosure.

#### 16 FORCE MAJEURE

16.1 POS ONE shall not be liable to the Reseller for delay or non-performance of its obligation or loss or damages if caused by an event which is unforeseeable, beyond the control of POS ONE, and cannot be remedied by the exercise of commercially reasonable efforts in connection with this Agreement or the delivery of Offerings to Customers ("Force Majeure"). Force Majeure shall include, without limitations acts of God, perils of the sea or air, fire, flood, drought, explosion, terror, sabotage, and shall for this Agreement and the Offerings be deemed to include cybersecurity attacks, events of computer, tele-communications, internet service provider or hosting facility failures or delays involving hardware, software, or power systems not within POS ONE's possession or reasonable control. POS ONE shall be relieved from its obligations (or part thereof) as long as performance is hindered due to Force Majeure.

#### 17 NOTICES

17.1 All notices or other communications that are required to be given under this Agreement, shall be in writing and shall be sent by e-mail to the address or the recipient set forth below:

In case of Reseller:

In case of POS ONE: [info@posone365.com](mailto:info@posone365.com)

#### 18 SEVERABILITY

18.1 If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

#### 19 ENTIRE AGREEMENT

19.1 This Agreement, including all schedules attached hereto, constitutes the entire agreement between the Parties and supersedes all previous agreements and representations, written or oral, express or implied, concerning the subject matter of this Agreement. This

Agreement may not be modified or amended except in writing and signed by an au-thorized representative of both Parties. No other act, document, usage or custom shall be deemed to amend or modify this Agreement.

## 20 GOVERNING LAW, ARBITRATION AND VENUE

20.1 This Agreement shall, in all respects, including all matters of construction, validity and performance, be governed by the laws of

Denmark, without regard to any conflicts of law principles, which may result in the application of the law of another jurisdiction.

20.2 Any dispute arising out of or in connection with this Agreement shall – where such dispute cannot be settled ami-cably – be decided with final and binding effect by the Danish courts, with the venue at POS Ones place of Busi-ness, which shall have the exclusive jurisdiction regarding any dispute or claim arising hereunder. Notwithstanding the aforementioned, POS ONE shall be entitled to instigate proceedings against the Reseller at its place of Business, and at the place of alleged infringement of Intellectual Property Rights under this Agreement.

## 21 SIGNATURES

Date:

Date:

For: POS ONE A/S

For:

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Mathias Iversen, CEO

## SCHEDULES

Schedule 1 – Support Services

Schedule 2 – Price List and Reseller Discount

## **Schedule 1 – Support Services**

Reseller delivers 1st level support or use 3rd party supplier.

The following list contains examples of 1st level support:

- Receiving and answering questions from clients.
- On-site service and maintenance of the installation (hardware and software).
- Regular (ordinary) end-user questions.
- Other third-party hardware and software questions.

POSONE delivers 2nd level support.

Assistance reasonably required by Reseller to remedy a problem with the End-User.

The following list contains examples of 2nd level support:

- Receiving and answering questions from Reseller.
- Assistance to Reseller for Reseller to handle local client issues.
- Assistance to Reseller for escalation of issues to 3rd level support.

POSONE delivers 3rd level support.

The following list contains examples of 3rd level support:

- Receiving, answering, and solving questions and issues from 2nd level support.
- Solving relevant technical issues with the Offerings software and services (e.g., bug fixes).

## **Schedule 2 – Price List and Reseller Discount**

POS ONE's Price List is available at [www.the Offerings.com/prices](http://www.the Offerings.com/prices)

The Price List states the current indicative prices for offerings of POS ONE services.

All prices in the Price List are exclusive of any applicable customs duties or value added tax, sales tax or similar taxes or duties, which, if applicable, shall be payable by or charged to Reseller in addition to the prices.

Please note, that the Price List will be as amended from time to time with changes such as new (additional) products and services as well as removal or end of life of products and services as well as changes in prices (increases or de-creases).

The Reseller Discount is 20% (twenty-percent) of each of the prices per sold unit of the Offerings as stated in the Price List.

Reseller is free to determine its own prices towards End-Users; In the internal relationship between POS ONE and Re-seller, the then current indicative prices set out in the Price List prevails, and the Reseller Discount shall be calculated based on the then current indicative prices set out in the Price List.