



## Mynt General Terms and Conditions

By using a Mynt POS System and entering into a POS Agreement (defined below) with us, you agree to the following terms and conditions (“Mynt Terms”). These terms and conditions are a legal agreement between you and POS-X, LLC, dba Mynt (“we” “us” “our”) and govern your use of the Mynt System (defined below) . We may amend the Mynt Terms at any time with notice that we deem to be reasonable under the circumstances, by posting the revised version on our website or otherwise communicating it to you (each a “Revised Version”). The Revised Version will be effective as of the time it is posted, but will not apply retroactively. Your continued use of the goods and services provided to you by us after the posting of a Revised Version constitutes your acceptance of such Revised Version. Any Dispute (as defined in Section 19) that arose before the changes will be governed by the Mynt Terms in place when the Dispute arose.

**1. Hardware Lifetime Warranty:** We agree that you have a limited lifetime warranty on the Hardware (defined below) that is included in your Mynt System (defined below) whether you purchased the Hardware directly from us or from one of our authorized partners. This means that as long as your POS Agreement (defined below) is active, we will fix or replace your Hardware in accordance with the Hardware Warranty Details section within these Mynt Terms if it breaks.

**2. Hardware Refresh:** We offer a five (5) year refresh for most Mynt Systems. This means that if you have maintained an active POS Agreement for five consecutive years or more, you may be eligible to receive new Hardware from Mynt (“Hardware Refresh”). The Hardware Refresh will consist of only the Hardware components within your specific Mynt System per your original POS Agreement. To receive a Hardware Refresh, you must request a Hardware Refresh in writing as well as sign an updated POS Agreement. You agree that the updated POS Agreement may contain updated pricing and additional terms and conditions beyond those that you have already agreed upon and we agree that the updated pricing and additional terms and conditions will reasonably resemble the pricing of your original POS Agreement, taking into account inflation, market changes, and other factors we deem relevant in our sole discretion.

**3. Setup Process:** For every location you own or operate that utilizes one or more Mynt Systems, we will help you with the setup process. The help we provide includes the following:

- Standard Support (defined below) on the physical setup of the Mynt System ~ which primarily consists of unpackaging and plugging in the appropriate cables.
- Menu creation or product load based on information you provide. We will, at your request, enter your menu into the Mynt System, or if you have a retail store, upload your products into the Mynt System.
- Up to two (2) hours of setup and training, specifically dedicated to get you up and running. These two hours include approximately 30 minutes to remotely configure the Mynt System, and up to 90 minutes of training.



The information you provide for your menu or product loads needs to be in a format that we accept. In addition, prior to scheduling the two hour configuration and training, you need to have the Mynt System setup in the appropriate location, with power and Internet already hooked up. Failure to do so may result in a reschedule and/or reduced training time. In all cases, our combined configuration and training time for the setup process will not exceed two hours unless you choose to purchase additional training.

**4. Support:** We love to support you! To offer the best support we know how, to those of you who have an active POS Agreement, we have technicians standing by Monday through Friday (excluding holidays) from 6am – 4pm PST to answer any of your technical questions (“Standard Support”). In addition, we are available 24 hours a day, 7 days per week, 365 days per year (except leap year, when we’re here 366 days) to answer any questions that are directly related to your Mynt System being non-functional (“Mission Critical”). Mission Critical questions include anything that is keeping you from running your Mynt System and processing transactions. Support calls received outside of the Standard Support hours which are not Mission Critical, as determined by us, may incur additional fees and you authorize us to debit your account for those additional fees using our existing ACH agreement with you or other reasonable payment method as determined by us.

Not everything that you might consider a “technical question” is included in our Standard Support. For example, system training and changes to your menu or products are your responsibility. We offer extended training beyond the initial setup process, as well as menu update services, however those cost money, and will incur additional charges. Also, all of our support is limited to the Hardware and POS Software (defined below) and does not extend to any of the following, even if they were recommended by us; any bundled or third party operating systems, firmware, software, 3rd party websites, as well as any networking, electrical, or additional computer equipment that is used in conjunction with the Mynt System, even if the hardware is required for the Mynt System to function.

In addition, our Standard Support and Mission Critical availability may vary from time to time due to downtime for systems maintenance, company events, and circumstances beyond our control.

**6. Software:** We provide point of sale software on each Mynt System for you to use, and we grant you a non-exclusive license (the “License”) to use this software, and any associated documentation (“POS Software”). The POS Software can only be installed for internal use on Hardware provided by us as part of the Mynt System, unless we give you our express written consent. We may make software updates to the POS Software available to you, which you must install to continue using the Mynt System. Any such software updates may be subject to additional terms made known to you at that time.

You MAY NOT: (a) copy and distribute the POS Software or any portion of it; (b) sublicense, lease, rent, or transfer this POS Software to another; (c) cause or permit reverse engineering, disassembly, decompilation or alteration of this POS Software; (d) remove any product identification, copyright notices, or other notices or proprietary restrictions from this POS Software; or (e) copy the documentation accompanying this POS Software.

This License is effective until terminated per your POS Agreement and these Mynt Terms. The POS Software and its source code are our proprietary products and are protected by copyright and other intellectual property laws. The POS Software is licensed and not sold. You acquire only the right to



use the POS Software and do not acquire any rights, expressed or implied, in the POS Software other than those specified in this License.

THE POS SOFTWARE IS SUPPLIED "AS IS". WE DISCLAIM ALL WARRANTIES, EXPRESSED OR IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PURPOSE AND NON-INFRINGEMENT. YOU ASSUME THE ENTIRE RISK OF USING THE POS SOFTWARE. WE ASSUME NO LIABILITY FOR DAMAGES, DIRECT OR CONSEQUENTIAL, WHICH MAY RESULT FROM THE USE OF THE POS SOFTWARE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**7. POS Software Features and Indemnification:** You acknowledge that the POS Software may contain features and functionality that may be used in ways that are contrary to certain state or federal laws. This could include, but is not limited to, functionality relating to "surcharging" or "cash-discounting". You agree to take full responsibility for use of these software features and take full responsibility for your compliance with state and federal laws, and agree to indemnify and hold us harmless for any action taken against you or us relating to your use of the Mynt System, including but not limited to legal action by a third party.

**8. Hardware:** We reserve the right to use open box and/or factory refurbished Hardware at any time for any Mynt System or replacement part of a Mynt System. In all cases, whether new, refurbished, or other, the Hardware is covered by these Mynt Terms.

**9. Returns:** A Mynt System purchased directly from us may be returned within 45 days of purchase with certain restrictions. The Mynt System must be in new condition with original packaging, and you are responsible for shipping the Mynt System back to us. The Mynt System is subject to a 10% restocking fee for any returns, with a minimum restocking fee of \$75. The cost of the return shipment will be the responsibility of the customer. All fees designated by us as setup or monthly fees are non-refundable. If you purchased your Mynt System through an authorized reseller, other restrictions may apply. This applies to all hardware sales.

**10. Hardware Warranty Details:** Should all or part of your Hardware ("Mynt Part") be found to have a manufacturing defect you can send the defective part back to us, and we will repair or replace it at our discretion. Shipping to us is your responsibility, however we will cover the cost of ground shipping back to you. Additional expedited options may be available for a fee.

Our warranty only covers manufacture defect, and does not extend to any Mynt Part which, in our sole judgment, has been subjected to abuse, misuse, neglect, improper hardware or software installation or configuration, improper handling or storage, damage caused by natural or manmade disasters, or any damage due to but not limited to 1) any catastrophic event independent of the normal functioning of the hardware such as flooding or other water damage, fire, transient power surges or insufficient line voltage (brown-out) or any event characterized as an "Act of God" causing damage to the Mynt Part; 2) a software virus obtained from 3rd party software; or 3) a failure to follow instructions contained in the Mynt Part manual or other documentation provided with the Mynt Part.

Our warranty becomes void if a) the housing of the Mynt Part has been opened by anyone other than our repair department or authorized repair center, 2) the Mynt Part has been modified or disassembled by anyone other than our repair department or under supervision by us, 3) the serial



number of the Mynt Part has been removed or unable to be deciphered, or 4) the Mynt Part was damaged in shipping due to poor packaging.

In all cases, we have the right to test and inspect the Mynt Part and if in the sole judgment of us the Mynt Part is found not to be covered under any warranty or not faulty, we may charge a fee that includes, but is not limited to, shipping and/or service fee(s), or full value of the replacement. You authorize us to charge your account via our existing ACH agreement we have with you or other reasonable payment method as determined by us. Any outstanding invoices will result in the ineligibility for future repair or replacement until outstanding invoices are paid. Our hardware warranty becomes effective on the date you purchased the Mynt System from us or one of our authorized distributors and terminates when your POS Agreement is terminated. If in our sole discretion, your Mynt Part is found to not be covered by our warranty policy, we may offer to repair or replace your unit for a fee which will be determined by us.

Subsequent owners of the Hardware are not entitled to claim under this warranty unless we have agreed in writing to extend the warranty in relation to such owners prior to transfer. We expressly disclaim responsibility for any third party vendors equipment quality, equipment compatibility, or failure to integrate. The warranties stated herein specifically and solely cover our products.

**11. Term & Termination.** The term of any POS Agreement is perpetual unless terminated per the terms of these Mynt Terms. We may terminate a POS Agreement at any time without further obligation. You may terminate a POS Agreement at any time subject to a fee of 30% of your remaining obligation as related to your Subscription Total as defined in the POS Agreement ("Termination Fee"). Specifically, the Termination Fee is calculated as 30% of your current Subscription Total multiplied by the number of months remaining on your Term Length for which we have not received a payment. If multiple products or services have differing remaining Term Lengths, then the Termination Fee for each product or service will be calculated separately. Upon termination, we may use any reasonable means to collect the Termination Fee as well as collect any other outstanding payments subject to these Mynt Terms. For purposes of these Mynt Terms, failure by you to make a payment on or before a due date may be considered, at our sole discretion, an election by you to terminate your POS Agreement. Upon termination, we reserve the right to disable the POS Software or any aspect of the Mynt System as we see fit. In addition to any payment obligations you may have to us, the following sections of these Mynt Terms survive and remain in effect in accordance with their terms upon termination: 7 (POS Features and Indemnification), 11 (Term & Termination), 14 (Ownership), 16 (Limitation of Warranties), 18 (Limitation of Liability ), 19 (Governing Law and Disputes), 20 (Legal Stuff).

**12. Subscription Payments.** Failure by us to properly initiate a payment you owe us does not preclude us from charging such accumulated fees at a later date and time of our choosing. You agree that the Subscription Total may change from time to time due to service upgrades or downgrades if such service changes are agreed upon by both you and us, or for factors outside of our control such as changes in tax rates or tax requirements.

**13. Miscellaneous Payments.** Throughout the term of your POS Agreement, you acknowledge that we may perform additional services, which are not included on the POS Agreement, which will incur a fee ("Miscellaneous Fees"). This typically includes, but is not limited to, services we provide which are not included in our Standard Support section of the Mynt Terms. You authorize us to charge your



account via our existing ACH agreement with you or other reasonable payment method as determined by us. The validity of such fees will be solely determined by us.

**14. Ownership.** Ownership of the Hardware passes to you upon our delivery of the Hardware to you. Ownership of the POS Software at no time transfers to you. Instead, you are given a license to use the POS Software throughout the term of your POS Agreement in accordance with these Mynt Terms.

**16. Limitation of Warranties:** NOTWITHSTANDING ANY OTHER PROVISIONS TO THE CONTRARY CONTAINED IN THESE MYNT TERMS THE EXPRESS WARRANTIES SPECIFICALLY SET FORTH OR INCORPORATED BY REFERENCE IN THESE MYNT TERMS ARE THE ONLY WARRANTIES WHICH APPLY TO THE GOODS AND/OR SERVICES FURNISHED UNDER THE AGREEMENT, AND NO OTHER WARRANTIES WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS, IMPLIED (INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE AND TITLE OR NONINFRINGEMENT) OR OTHERWISE, SHALL APPLY. UNLESS OTHERWISE PROVIDED IN THESE MYNT TERMS, ANY SPECIFICATIONS ATTACHED TO OR FURNISHED WITH GOODS SOLD UNDER THESE MYNT TERMS ARE DESCRIPTIVE AND ARE NOT INTENDED AS WARRANTIES.

**17. Shipping Liability:** We will use commercially reasonable efforts to meet any delivery date requested by you or promised by us, but in no event will we will be liable for, nor may you cancel any agreement with us, including the POS Agreement, as a result of late delivery of the Mynt System or any other items shipped to you from us.

**18. Limitation of Liability:** IN NO EVENT AND TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW SHALL WE, OUR SHAREHOLDERS, AFFILIATES, CONTRACTORS, SUPPLIERS AND AGENTS AND THEIR RESPECTIVE DIRECTORS, OFFICERS AND EMPLOYEES (COLLECTIVELY THE "MYNT PARTIES") BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT DAMAGES OR ANY OTHER COMMERCIAL OR ECONOMIC LOSS OR DAMAGES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, IN RESPECT OF LOSS OF PROFIT OR REVENUE, COSTS OF DELAY, LOSS OF TIME OR INCONVENIENCE OR COSTS OF PROCURING SUBSTITUTE PRODUCTS) EVEN IF SUCH DAMAGES ARE FORESEEABLE OR THE MYNT PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MYNT PARTIES' TOTAL LIABILITY AND OBLIGATION IN THE AGGREGATE FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN ANY CONNECTION WITH THESE MYNT TERMS, WITH RESPECT TO ANY EXPENSE, DAMAGE, LOSS, INJURY, OR LIABILITY OF ANY KIND, REGARDLESS OF THE CAUSE OR FORM OF ACTION OR THEORY OF LIABILITY (INCLUDING FOR BREACH OF CONTRACT, TORT, NEGLIGENCE, BY STATUTE OR OTHERWISE) SHALL BE LIMITED TO THE ACTUAL DIRECT DAMAGES SUFFERED AND SHALL NOT EXCEED THE ACTUAL AMOUNTS PAID BY YOU TO US UNDER THE APPLICABLE ORDER IN RESPECT OF THE PRODUCTS SUBJECT TO THE CLAIM. All disclaimers and limitations set forth herein shall apply regardless of the nature of any cause of action or demand (including, but not limited to, breach of contract, breach of warranty, negligence, strict liability, tort or any other cause of action) and shall survive a fundamental breach or breaches and/or failure of the essential purpose of these Mynt Terms or any remedy contained herein.



**19. Governing Law & Disputes.** These Mynt Terms as well as any and all POS Agreements shall be governed by the laws of the State of Washington with jurisdiction in the appropriate state or federal court located in Whatcom County, Washington. We both agree to waive all objections and defenses of jurisdiction, improper venue, or inconvenient forum. We both agree to attempt to first resolve all disputes in an informal manner. In the event a solution via informal negotiation does not resolve the dispute, such dispute shall be submitted to a mediator located in Bellingham, Washington to whom is acceptable to the both of us. Neither party will unreasonably deny working with a mediator of good standing. We both agree to participate fully and in good faith in the mediation process, and agree not to delay any proceedings without reasonable cause. If after good faith efforts, the dispute cannot be resolved through mediation, it shall be submitted for binding arbitration in Bellingham, Washington under the rules of the Whatcom County Superior Court. Notwithstanding the foregoing, for any suit, action or arbitration proceeding commenced under these Mynt Terms, the prevailing party shall be entitled to reasonable attorneys' fees and costs to be fixed by the court or arbitrator, including such fees and costs as may be incurred in any appellate or bankruptcy proceedings.

**20. Legal Stuff:** Any provision of these Mynt Terms or any POS Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision, and the remaining provisions shall nevertheless remain in full force and effect. Any POS Agreement may not be assigned or transferred to any party, whether by operation of law or otherwise, without the prior consent of the other party; provided, that we may assign its rights to any affiliated company of ours, to a successor by merger, and to any purchaser of substantially all of the assets, and may collaterally assign its rights hereunder to any lender.

## **21. Definitions**

"Mynt System" means a combination of both Hardware and Mynt branded point of sale software provided by us.

"Hardware" means just the hardware provided by us in your Mynt System. Hardware might include a point of sale register, receipt printer, cash drawer, and/or barcode scanner, but it specifically excludes a payment terminal device, even if such device was provided by us.

"POS Agreement" means the agreement signed by you during the purchase process of your Mynt System. POS Agreements are subject to acceptance and approval by us and no POS Agreement is final and binding unless accepted by us. An active POS Agreement is an agreement with no fees considered by us to be past due.

"You" and "your" in uppercase or lowercase means the entity (e.g., company, corporation, partnership, sole proprietor, etc.) or government agency entering into a POS Agreement with us.

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_