



**SAFE-T SERVICES ADDENDUM**  
*(for Hosted Gateway Services)*

THIS SAFE-T SERVICES ADDENDUM is entered into and effective as of the Effective Date indicated on the Enrollment Form between Elavon, Inc. (“Elavon”) and the party identified as “Customer” on the Enrollment Form. This SAFE-T Services Addendum is an addendum to and supplements the Agreement (as defined on the Enrollment Form). In the event of a conflict between the terms and conditions of this SAFE-T Services Addendum and any other terms and conditions of the Agreement, the terms and conditions of this SAFE-T Services Addendum shall control with respect to the subject-matter herein. Capitalized terms used and not otherwise defined in this SAFE-T Services Addendum shall have the meanings ascribed to them elsewhere in the Agreement.

FOR THE PURPOSES OF THIS SAFE-T SERVICES ADDENDUM, THE TERM “POS DEVICE(S)” REFERS ONLY TO PAYMENT TERMINALS AND DOES NOT REFER TO ANY OTHER POINT-OF-SALE DEVICES OR SOFTWARE.

THIS SAFE-T SERVICES ADDENDUM, INCLUDING THE TERMS AND CONDITIONS AND EXHIBITS, IS THE COMPLETE AND ENTIRE UNDERSTANDING OF THE PARTIES REGARDING THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR WRITTEN OR ORAL AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, ANY PURCHASE ORDER OR PROPOSAL.

**TERMS AND CONDITIONS**

- 1) **FEES.** Customer shall pay Elavon the SAFE-T Services fees and all other fees set forth on the Enrollment Form.
- 2) **DESCRIPTION OF SAFE-T SERVICES.** Subject to the terms and conditions of this SAFE-T Services Addendum and the Agreement, Elavon shall provide Customer the following services (the “SAFE-T Services”):
  - a) **ENCRYPTION SERVICES**, which shall consist of decryption of Transaction Receipts properly encrypted by Customer using Elavon-approved software, encryption keys and Hardware (as defined below), all in accordance with the terms and conditions of this SAFE-T Services Addendum and the Agreement (such services, the “Encryption Services”); and
  - b) **TOKENIZATION SERVICES**, which shall consist of a tokenization feature pursuant to which Elavon will provide Customer with randomized numerical tokens (each, a “Token”) in substitution for Credit Card and Debit Card account numbers (each such number, a “Card Account Number”; such services, the “Tokenization Services”). More specifically, when a Card Account Number associated with a Transaction is transmitted from Customer to Elavon, Elavon will:
    - i) generate a Token;
    - ii) associate the Token with the Card Account Number; and
    - iii) send the Token, instead of the Card Account Number, back to Customer in the Transaction authorization response message.For so long as this SAFE-T Services Addendum remains in effect, the Token, rather than the associated Card Account Number, may be submitted by Customer to Elavon to process additional Transactions to the Credit Card or Debit Card associated with such Token across all Customer Locations. The Card Account Number associated with each Token generated by Elavon can be retrieved by Elavon, on Customer’s written request, until the date that is three (3) years after the expiration or termination of this SAFE-T Services Addendum (the “Token Validity Period”), provided that the retrieval of Card Account Numbers after the expiration or termination of this SAFE-T Services Addendum will be subject to additional terms and conditions and at an additional cost to Customer. Customer acknowledges that the Tokens will be formatted in Elavon’s reasonable discretion and may not be compatible with other Customer Resources.
- 3) **CUSTOMER RESPONSIBILITIES.**
  - a) Customer shall cause the appropriate hardware, including POS Devices and any hardware provided by or on behalf of Elavon from time to time, to be readily available for use at all Customer locations that are the recipients or users of the SAFE-T Services (the “Hardware”).
  - b) Customer acknowledges that Elavon does not store Credit Card or Debit Card expiration dates. In order to use a Token to process a Transaction, Customer must provide the Token (in lieu of a Card Account Number) together with the expiration date for the original Credit Card or Debit Card.
- 4) **DE-TOKENIZATION.**



Customer may request a reversal of the Tokenization process as follows:

- a) To reverse the Tokenization process on an individual Token basis, Customer may access an Elavon web portal and, with appropriate authentication credentials, retrieve the Card Account Number associated with any Token.
- b) To reverse the Tokenization process on a bulk basis (i.e., in excess of 100 Tokens at a time), an officer of Customer must make a request in writing to Elavon and provide Elavon with the Tokens for which Customer wishes to reverse the Tokenization process. Elavon will use commercially reasonable efforts to provide Customer's requesting officer with an encrypted file containing the Card Account Numbers associated with such Tokens within thirty (30) days of receiving the request; provided, however, that Customer acknowledges and agrees that additional terms and conditions may apply to reversal of Tokenization on a bulk basis.

5) **LIABILITY; DISCLAIMER OF WARRANTIES.**

- a) CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE DISCLAIMER OF WARRANTIES CONTAINED IN SECTION A(11) OF SCHEDULE A (TERMS AND CONDITIONS) OF THE AGREEMENT SHALL APPLY WITH RESPECT TO THE SAFE-T SERVICES, THE HARDWARE AND ANY LICENSED PRODUCTS (INCLUDING ANY SOFTWARE), IF ANY, PROVIDED UNDER THIS SAFE-T SERVICES ADDENDUM AND THAT THE SAFE-T SERVICES, HARDWARE AND LICENSED PRODUCTS (INCLUDING ANY SOFTWARE), IF ANY, PROVIDED UNDER THIS SAFE-T SERVICES ADDENDUM ARE PROVIDED "AS IS".
- b) CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE LIABILITY OF ELAVON PURSUANT TO THIS SAFE-T SERVICES ADDENDUM AND WITH RESPECT TO THE SAFE-T SERVICES, THE HARDWARE, AND ANY LICENSED PRODUCTS (INCLUDING ANY SOFTWARE), IF ANY, PROVIDED PURSUANT HERETO SHALL BE SUBJECT TO THE TERMS OF SECTION A(12) OF SCHEDULE A (TERMS AND CONDITIONS) OF THE AGREEMENT. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT THE TERMS OF ANY EXPRESS LIMITATION OF LIABILITY OR DISCLAIMER OF WARRANTIES CONTAINED IN ANY SCHEDULE, EXHIBIT, OR ADDENDUM HERETO SHALL CONTROL WITH RESPECT TO THE SERVICES AND PRODUCTS (INCLUDING HARDWARE AND SOFTWARE), IF ANY, PROVIDED PURSUANT TO SUCH SCHEDULE, EXHIBIT, OR ADDENDUM.

6) **TERM.**

This SAFE-T Services Addendum shall commence as of the Effective Date and continue until the expiration or termination of the Agreement.

7) **TERRITORY.**

Except as specifically set forth in this SAFE-T Services Addendum, Customer may use the SAFE-T Services indicated on the Enrollment Form in the Territory.

## **EXHIBIT A TO SAFE-T SERVICES ADDENDUM**

### **Encryption Services License Terms and Conditions**

Customer shall receive encryption keys and an encryption terminal application for encryption of card data (the “Application”) from Elavon. The specific Application to be received by Customer will be as set forth on the Enrollment Form. This Exhibit A shall be a part of the SAFE-T Services Addendum.

#### **General Terms and Conditions**

- Sublicense.** Subject to the terms and conditions of the Agreement and the SAFE-T Services Addendum (including, without limitation, this Exhibit A), and the payment of all applicable fees, Elavon hereby grants to Customer a limited, personal, non-exclusive, revocable, non-sublicensable (except as provided herein), and non-transferable sublicense for the term of the SAFE-T Services Addendum to use the Application as installed on Customer’s POS Devices solely to encrypt Transaction Receipts processed using such POS Devices.
- Restrictions.** Except as set forth above, Customer shall have no right to copy, market, distribute (electronically or otherwise), sell, assign, pledge, lease, deliver, license, sublicense (except as provided herein), outsource, rent or otherwise transfer the Application to any third party or use the Application for service bureau, time-sharing, or other third-party use or to provide hosting or to market by interactive cable or remote processing services to a third party. Customer shall not make or permit the making of any modifications, additions or enhancements to the Application. Customer shall not reverse engineer, decompile, disassemble, translate, modify, alter or create any derivative works based upon, or change, the Application, or any part thereof, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Application, or part thereof, without the prior written consent of Elavon and its licensor. Customer agrees not to use the Application except as expressly licensed hereunder. Customer may not sell or transfer any POS Devices on which any Application or encryption keys are installed to any party unless Customer has first provided Elavon with prior written notice and (i) removed the Application and encryption keys from the POS Devices and (ii) destroyed the encryption keys in a manner compliant with then-current Payment Card Industry Data Security Standard (PCI-DSS) requirements. Elavon and/or its designated agent may monitor and audit Customer’s use of the Application for purposes of verifying compliance with the Agreement and the SAFE-T Services Addendum, including this Exhibit A.
- New Releases.** From time to time, Elavon may provide updates, modifications, or new versions of the Application (each, an “Application Release”), provided that Customer complies with the terms set forth in the Agreement and this SAFE-T Services Addendum, including this Exhibit A. For Customers utilizing an Application licensed from Voltage Security, Inc., Elavon shall automatically provision each such Application Release to the Customer’s POS Devices (an “Automatic Release”). For Customers utilizing an Application licensed from Verifone, Inc., Elavon shall provide such Application Releases to Customer for installation by Customer, in which case Customer must ensure that Application Releases are installed and implemented within fourteen (14) days of becoming available to Customer (a “Manual Release”), provided, however, that Elavon reserves the right to implement Automatic Releases for such Customers upon notice to Customer. Elavon shall not be responsible for any updates, upgrades or changes to Customer’s computer systems that may be necessary in conjunction with delivery, installation or use of any new Application Release.
- Reservation of Rights.** Customer acknowledges and accepts that, as between the parties: (i) all right, title and interest in and to the Application and all Intellectual Property Rights associated with and in the Application shall at all times remain vested in Elavon and its supplier/licensors; and (ii) Customer shall acquire no rights, express or implied, in the Application, other than the limited sublicense granted herein. Customer shall not remove from the Application, or alter, any trademarks, trade names, logos, patent or copyright notices, proprietary notices, titles, legends or other notices or markings contained therein, or add any notices or markings to the Application, without the express written consent of Elavon and its licensor. The confidentiality obligations of Customer under the Agreement apply to the Application licensed hereunder and Customer shall limit access to the Application to only those employees and contractors of Customer with a need to access the Application to perform its services.
- Termination.** The license rights granted herein to the Application shall cease in the event (i) Customer sells or otherwise transfers a POS Device containing the Application to any party (other than to an assignee as permitted by Section A(19) of Schedule A (Terms and Conditions) of the Agreement); (ii) Customer is no longer deemed an active customer using the Application to encrypt Transaction Receipts processed by Elavon; or (iii) Elavon is no longer authorized by its licensor to

continue to use and/or sublicense the Application. Upon termination, all license rights granted to Customer herein to the Application shall immediately cease, and Customer shall discontinue any and all use of the Application and delete all copies of the Application on the POS Devices or otherwise within the control of Customer.

6. **Export and Import Regulations.** Customer acknowledges that the Application contains cryptographic features and is subject to United States and local country laws governing import, export, distribution and use. Customer is responsible for compliance by Customer with United States and local country laws and regulations and shall not export or transmit the Application (i) in violation of any export control laws of the United States or any other country, or (ii) to anyone on the United States Treasury Department’s list of Specially Designated Nationals or the U.S. Commerce Department’s Table of Deny Orders.
7. **U.S. Government Restricted Rights.** If the Application is accessed or used by any agency or other part of the U.S. Government, the U.S. Government acknowledges that (i) the Application and accompanying materials constitute “commercial computer software” and “commercial computer software documentation” under paragraphs 252.227.14 and 252.227.7202 of the DoD Supplement to the Federal Acquisition Regulations (“DFARS”) or any successor regulations, and the Government is acquiring only the usage rights specifically granted in the Agreement; (ii) the Application constitutes “restricted computer software” under paragraph 52.227 19 of the Federal Acquisition Regulations (“FAR”) or any successor regulations and the government’s usage rights are defined in the Agreement and the FAR.
8. **NO WARRANTIES; DISCLAIMERS.** THE APPLICATION IS PROVIDED ON AN “AS IS” BASIS IN ITS PRESENT STATE AND CONDITION. WITHOUT LIMITING ANY TERMS UNDER THE AGREEMENT OR THE SAFE-T SERVICES ADDENDUM, NEITHER ELAVON NOR ITS LICENSORS OR SUPPLIERS MAKES ANY WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO THE APPLICATION, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, IMPLIED CONDITION OF SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. THE APPLICATION WILL BE CONSIDERED “ELAVON MATERIALS” FOR THE PURPOSES OF THE AGREEMENT.
9. **Fees and Payment.** Customer shall pay Elavon the fees set forth on the Enrollment Form for the sublicense to the Application granted to Customer hereunder (the “Encryption Terminal Application License Fees”) and for the services provided by Elavon with respect to encryption key injection (the “Encryption Terminal Application Load and Key Injection Fees”). The Encryption Terminal Application License Fees and Encryption Terminal Application Load and Key Injection Fees will each be assessed per POS Device and will be due and payable upon the date of execution of this SAFE-T Services Addendum.

**Special Terms Applicable to Applications Sublicensed from Verifone, Inc.**

In the event that Customer has received a sublicense to an Application provided by Verifone, Inc., the following additional terms and conditions shall apply:

- A. **Territory.** Notwithstanding anything in the SAFE-T Services Addendum or elsewhere in the Agreement to the contrary, Customer may use the Application solely as installed on Customer’s POS Devices located in the United States.
- B. **Limitation of Liability.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT, INCLUDING THE SAFE-T SERVICES ADDENDUM, TO THE CONTRARY, IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR DATA, LOST PROFITS OR BUSINESS INTERRUPTION) BY OR ON BEHALF OF CUSTOMER OR ANY CLAIMS BY ANY THIRD PARTIES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS HAVE ANY OBLIGATION TO DEFEND OR



INDEMNIFY CUSTOMER FOR ANY CLAIMS ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**Special Terms Applicable to Applications Sublicensed from Voltage Security, Inc.**

In the event that Customer has received a sublicense to an Application provided by Voltage Security, Inc., the following additional terms and conditions shall apply:

- A. **Territory.** Customer may use the Application solely as installed on Customer’s POS Devices located in the Territory.
- B. **Limitation of Liability.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT, INCLUDING THIS SAFE-T SERVICES ADDENDUM, TO THE CONTRARY, IN NO EVENT SHALL ELAVON’S LICENSORS BE LIABLE FOR ANY DIRECT DAMAGES, NOR SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES (IN EACH CASE, INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR DATA, LOST PROFITS OR BUSINESS INTERRUPTION) BY OR ON BEHALF OF CUSTOMER OR ANY CLAIMS BY ANY THIRD PARTIES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS HAVE ANY OBLIGATION TO DEFEND OR INDEMNIFY CUSTOMER FOR ANY CLAIMS ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- C. **Third Party Beneficiary.** Voltage Security, Inc. is a designated third party beneficiary under this Exhibit A with the right to enforce all terms related to the Application under this Exhibit A directly against Customer. Governing law for any claim brought by the designated third party beneficiary shall be the law of the jurisdiction within the United States in which the claim is brought; provided, that if Customer is a government entity or institution, governing law for any such claim shall be that set forth in the Agreement.



## **EXHIBIT B TO SAFE-T SERVICES ADDENDUM**

### **Equipment Schedule**

This Exhibit B shall be a part of the SAFE-T Services Addendum.

#### **1. Equipment and Pricing.**

- a) **Purchased Equipment.** Customer has elected to purchase the equipment set forth on the Enrollment Form (the “Purchased Equipment”) from Elavon pursuant to this SAFE-T Services Addendum. The fees payable by Customer for the Purchased Equipment are set forth on the Enrollment Form.
- b) **Shipping.** The fees payable by Customer for shipment of the Purchased Equipment to the location or locations designated by Customer are set forth on the Enrollment Form; provided, however, if the shipping fees are not set forth on the Enrollment Form, then all actual costs and expenses of shipping shall be paid by Customer. Provided that the Purchased Equipment is shipped using Elavon’s freight account, Elavon shall bear the risk of loss of such Purchased Equipment until the time of delivery to Customer; if the Customer directs Elavon to utilize any other shipping method, Customer expressly acknowledges and agrees that all risk of loss for the Purchased Equipment shall pass to Customer when the Purchased Equipment is tendered by Elavon or on Elavon’s behalf to the carrier for shipment to Customer.

2. **Terminal Software and Encryption Keys.** The encryption keys and licensed software will be loaded onto Customer’s POS Devices specified on the Enrollment Form, and Customer shall pay the applicable fees set forth on the Enrollment Form for any encryption keys or licensed software that Customer receives.

#### **3. Warranty Terms.**

**OEM Warranty:** Any standard warranties provided by the original equipment manufacturer (“OEM”) of the Purchased Equipment are, to the fullest extent permitted by the OEM, passed through to Customer at no additional cost to Customer; and the OEM (and not Elavon) shall be responsible for honoring any such OEM warranty. With respect to any POS Device purchased from Elavon, Elavon and/or its equipment vendor will facilitate the OEM warranty service as follows:

Prior to returning any POS Device under an OEM warranty, Customer must first obtain a return merchandise authorization number (“RMA Number”) from Elavon. Customer must then ship such POS Device to Elavon’s equipment vendor at the address provided by Elavon, with reference to the RMA Number. Elavon’s equipment vendor will either handle the OEM warranty issue itself or ship the POS Device to the OEM for further handling. Upon Elavon’s equipment vendor either handling the warranty issue itself or receiving a repaired or replacement POS Device from the OEM, Elavon’s equipment vendor will ship the repaired or replacement POS Device to Customer.

Customer will bear the risk of loss of any returned POS Device until the time of delivery to Elavon’s equipment vendor with proper reference to the RMA Number. For any repaired or replacement POS Device shipped to Customer, the risk of loss will transfer to Customer at the time of delivery to Customer. In all cases, Customer shall be responsible for all shipping and handling costs associated with such OEM warranty service, including reimbursing Elavon for any shipping and handling costs paid by Elavon on Customer’s behalf.

If Customer has selected additional warranty options for POS Devices purchased from Elavon, as indicated on the Enrollment Form, the following terms shall apply, as applicable, limited only to such POS Devices purchased from Elavon (and specifically excluding any other peripheral equipment purchased from Elavon and all equipment purchased from a third party):

#### **Premium Advanced Exchange Program:**

The Premium Advanced Exchange Program provides the following services during the applicable warranty period as specified on the Enrollment Form, which shall commence on the date of shipment of the POS Device to Customer:

- i. In the event that a POS Device requires service, on Customer’s request, Elavon will ship a like-model, refurbished POS Device to Customer for delivery the next business day (provided Customer’s request is received prior to 6 p.m. Eastern time) at no additional cost to Customer. The refurbished POS Device will be configured and tested prior to shipment to Customer.



- ii. Customer will be provided with a call tag to enable Elavon to retrieve or cause the retrieval of Customer's POS Device requiring service. Customer must use the call tag promptly upon receipt. If Elavon does not receive the POS Device requiring service within thirty (30) days of the issuance of the call tag, Customer may be charged the cost of a new replacement POS Device.
- iii. Elavon will retrieve or cause the retrieval of the POS Device requiring service at no additional cost to Customer.
- iv. Elavon will bill Customer, and Customer will be responsible for paying Elavon, for the costs of repairing POS Devices retrieved by Elavon unless such repairs are covered by the OEM warranty.

With regard to the Premium Advanced Exchange Program: (a) Customer must initiate the exchange process with Elavon, and (b) Elavon will bear the risk of loss of the refurbished POS Device sent to Customer and the POS Device requiring service while such POS Devices are in the possession of Elavon or its freight carrier, and Customer shall bear the risk of loss at all other times.

Premium Repair Warranty Program:

The Premium Repair Warranty Program provides the following services during the applicable warranty period as specified on the Enrollment Form, which shall commence on the date of shipment of the POS Device to Customer:

- i. All repair fees, service, and parts related to any repair of the POS Device, other than with respect to repairs attributable to misuse or abuse of the POS Device or cosmetic damage not affecting the performance of the POS Device.
- ii. Cleaning and testing of repaired POS Devices.

With regard to the Premium Repair Warranty Program: (a) Customer must obtain an RMA Number from Elavon in order to initiate the warranty process, and (b) Elavon will bear the risk of loss of the repaired POS Device while such POS Device is in the possession of Elavon or its freight carrier, and Customer shall bear the risk of loss at all other times.

For the avoidance of doubt, any and all warranties provided under this SAFE-T Services Addendum, including this Exhibit B, shall not extend to any equipment, software or hardware purchased from any third party.

- 4. Miscellaneous Terms/Disclaimer. IN THE EVENT OF ANY DEFECT, MALFUNCTION, ERROR, OR DAMAGE TO ANY PURCHASED EQUIPMENT PROVIDED HEREUNDER, ELAVON'S SOLE OBLIGATION SHALL BE THE PROVISION OF WARRANTY SERVICE PURSUANT TO THE WARRANTY OPTION (IF ANY) SELECTED BY CUSTOMER ON THE ENROLLMENT FORM, AND CUSTOMER'S SOLE REMEDIES WITH RESPECT TO ELAVON SHALL BE THE RECEIPT OF WARRANTY SERVICE FROM ELAVON OR ITS DESIGNEE PURSUANT TO SUCH WARRANTY OPTION OR UNDER THE MANUFACTURER'S WARRANTY. ELAVON SHALL HAVE NO LIABILITY TO CUSTOMER FOR COSTS, LOSSES, OR DAMAGES OF ANY KIND OR NATURE, WHETHER DIRECT, INDIRECT, CONSEQUENTIAL OR OTHERWISE, WITH RESPECT TO ANY SUCH DEFECT, MALFUNCTION, ERROR, OR DAMAGE.**

**EXHIBIT C TO SAFE-T SERVICES ADDENDUM****Simplify Software License**

This Exhibit C shall be a part of the SAFE-T Services Addendum.

**Section A – Terms and Conditions**

1. **Definitions.** Capitalized terms used in this Exhibit C (the “Simplify License”) and not otherwise defined herein shall have the meanings ascribed to them in the glossary set forth in Section B of this Simplify License or, if not defined in such glossary, as defined in the Agreement.
2. **License Grant and Permitted Use.**
  - a) Elavon hereby grants to Customer a non-exclusive, non-sublicensable (except as specifically set forth herein), non-assignable, limited license in the Territory to use and allow Authorized Users to use the Simplify Software as installed on terminals owned or otherwise controlled by Customer and to install, use, and allow Authorized Users to use any subsequent Releases of such Simplify Software provided to Customer from time to time, solely for Customer’s internal business purposes to process data in accordance with the Documentation. This Simplify License permits Customer to use the Simplify Software only on the total number of POS Devices set forth on the Enrollment Form. Customer is not permitted to use the Simplify Software to service any other POS Devices unless permitted by Elavon in writing. Customer is not authorized to make copies of the Simplify Software.
  - b) Elavon hereby grants to Customer a non-exclusive, non-sublicensable (except as specifically set forth herein), non-assignable, limited license to use and to allow Authorized Users to use the Documentation solely in connection with access to and use of the Simplify Software pursuant to this Simplify License. Customer shall have the right to make a reasonable number of copies of the Documentation, at no additional charge, solely for Customer’s own internal business purposes in connection with access to and use of the Simplify Software under this Simplify License; provided, however, that all proprietary markings of Elavon must be affixed and retained by Customer on any such copies.
  - c) Except as provided in this Simplify License, Customer shall not: (i) copy, re-sell, reproduce, transfer, rent, lease, pledge, sublicense, distribute or republish in any form or by any means or allow another to use or access the Licensed Materials, or any portion thereof, including, without limitation, to provide outsourcing, service bureau, hosting services or training to third parties; (ii) alter, modify or otherwise prepare derivative works of the Licensed Materials; (iii) reverse engineer, disassemble or decompile the Simplify Software, or any part thereof; (iv) remove, change or obliterate the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Licensed Materials; or (v) combine any Licensed Materials with any unauthorized third party software. Customer will not access or use, and it will not permit any Authorized Users to access or use, the Licensed Materials or proprietary materials disclosed to Customer for the purpose of creating, in whole or in part, a system that is functionally competitive with the Simplify Software. Customer shall promptly notify Elavon of and shall otherwise cooperate with Elavon in preventing any unauthorized access to, or use or copying of, the Licensed Materials by Authorized Users or any other third party.
  - d) All rights not expressly granted to Customer under this Simplify License are reserved by Elavon.
3. **Delivery and Installation.**
  - a) All installation of the Simplify Software, other than installation of Releases (as described below) must be conducted by or at the direction of Elavon. All POS Devices purchased by Customer under the Agreement will be purchased from Elavon via the Enrollment Form or subsequent to the Effective Date, and the Simplify Software will be installed on such POS Devices prior to shipment to Customer.
  - b) Delivery of the Simplify Software by Elavon shall be deemed to have occurred when a POS Device with the Simplify Software installed is tendered by Elavon or on Elavon’s behalf to a carrier for shipment to the Customer. Elavon will deliver one (1) copy of the Documentation to Customer in a format determined by Elavon.
4. **Limited Warranties; Disclaimers.**
  - a) Elavon warrants as follows:
    - i) During the Warranty Period, the Simplify Software will include the functionality described in and will perform substantially in accordance with the Documentation in all material respects, provided that the Simplify Software is used in accordance with the terms of this Simplify License and the Documentation. In the event the Simplify Software does not perform as warranted during the Warranty Period and Elavon is unable to remedy such



nonconformity within a reasonable time after receiving written notice thereof, Elavon shall, as Customer's sole and exclusive remedy, refund to Customer the fees paid hereunder for the Licensed Materials, upon the return of the Licensed Materials by Customer.

- ii) Elavon shall use commercially reasonable measures to screen the Simplify Software to avoid introducing any computer virus that is designed (A) to permit unauthorized access or use by third parties to the Simplify Software, (B) to damage, erase or delay access to the Simplify Software, or (C) to perform any other similar actions. Elavon shall not insert any code or other device into any Simplify Software that would have the effect of disabling, damaging, erasing, delaying or otherwise shutting down all or any portion of the Simplify Software.
  - iii) The Simplify Software Support Services (as defined below) will be performed in a professional and workmanlike manner. Elavon shall have and maintain sufficient resources to perform the Simplify Software Support Services in accordance with this Simplify License.
- b) Limitations. Elavon's obligations under Section 4(a) of this Simplify License shall not apply: (i) to any modifications, alterations or customizations developed by or on behalf of Customer; (ii) if the Licensed Materials are not used on the equipment specified or in accordance with the Documentation; (iii) if the Licensed Materials have been installed, implemented, customized, modified, enhanced or altered by any third party (except any third party utilized by Elavon to provide services under this Simplify License); (iv) if Customer is not using the most recent Release of the Licensed Materials; or (v) to any error or defect caused by Customer, an Authorized User or any third party (except any third party utilized by Elavon to provide services under this Simplify License) or third party software.

**5. Simplify Software Support Services; Releases.**

- a) Simplify Software Support Services. During the term of this Simplify License, Elavon shall provide Customer with the following support services (the "Simplify Software Support Services"):
  - i) Providing Customer with solutions to any known material problem relating to each installation of the Simplify Software in a timely manner as such solutions become known to Elavon;
  - ii) Using commercially reasonable efforts to supply timely corrections for problems reported to Elavon by Customer that Elavon can reproduce in a currently supported version of the Simplify Software;
  - iii) Furnishing a reasonable level of telephone support, as determined by Elavon, in the form of counsel and advice on use and maintenance of the Simplify Software; and
  - iv) Providing Customer with new Releases of the Simplify Software as provided herein.
- b) Simplify Software Support Services Fees. For so long as this Simplify License remains in effect, Customer shall pay the fees for the Simplify Software Support Services set forth on the Enrollment Form (the "Simplify Software Support Services Fees"). Customer understands and agrees that Simplify Software Support Services Fees shall not include fees for professional services, if any, associated with delivery and installation of any new Release of Simplify Software or modification of the then-current Major Release of Simplify Software then in use by Customer, which shall be set forth in a Professional Services Addendum or otherwise agreed in writing by Customer and Elavon.
- c) New Releases. Customer shall be entitled to receive all new Releases of the Simplify Software, including Major Releases, provided that Customer complies with the terms set forth in this Simplify License, including, without limitation, the payment of all Simplify Software Support Services Fees in full when due. Elavon shall provide new Releases of the Simplify Software to Customer in a manner consistent with the provision of new Application Releases. Elavon shall not be responsible for any updates, upgrades or changes to Customer's computer systems that may be necessary in conjunction with delivery, installation or use of any new Release of the Simplify Software.
- d) Supported Releases. During the term of this Simplify License, Elavon will provide Simplify Software Support Services to Customer only for (i) the then-current Release of the Simplify Software, if Customer licenses an Application from Voltage Security, Inc., or (ii) the then-current Release and, for no more than fourteen (14) days following the delivery of the then-current Release, the immediately prior Release of the Simplify Software, if Customer licenses an Application from Verifone, Inc. (collectively, a "Supported Release"); provided that Customer complies with the terms and conditions of this Simplify License and the Documentation, including, without limitation, payment obligations.
- e) Unsupported Releases. If Customer uses any Release other than a Supported Release (an "Unsupported Release"), Elavon will have no obligation to provide Simplify Software Support Services for such Unsupported Release; provided, that Customer shall not thereby be relieved of its obligation to pay the Simplify Software Support Services Fees. Elavon, in its sole discretion, may elect to provide Simplify Software Support Services for Unsupported Releases at an additional charge to be mutually determined by the parties in writing, but Elavon shall have no obligation to do so. Whether or not Elavon elects to provide Simplify Software Support Services for an Unsupported Release, Elavon shall have no responsibility or liability for the compliance or non-compliance of any such Unsupported Release with industry standards, Laws or Payment Network Regulations.

**6. Responsibilities of Customer.**

- a) Customer Data. Customer acknowledges the Simplify Software does not verify accuracy of information or format of any data or information input by Customer.
- b) Customer Telecommunications. Customer shall be responsible for ensuring that its telecommunications connectivity, and any such connectivity provided by any third party on behalf of Customer, is properly certified and maintained and complies with applicable industry rules and regulations, including Payment Network Regulations.
- c) Customer Systems and Equipment. Customer shall be responsible for ensuring that the systems and equipment, including, without limitation, any POS Devices and any systems or equipment of third-party vendors used by Customer, remain certified and compatible with the most recent Release of the Simplify Software. Elavon shall not be responsible for any updates, upgrades, or changes to Customer's systems or equipment, including, without limitation, the POS Device or any third-party systems or equipment, that may be necessary in conjunction with delivery, installation or use of the Simplify Software. Failure of the Customer's systems or equipment, including, without limitation, the POS Device, or any third-party systems, to remain certified or to be compatible and function with a Supported Release of the Simplify Software as regulated and/or required shall excuse Elavon from any and all liability under this Simplify License and in connection with any other services that Elavon may be providing to Customer for the failure of the Simplify Software to perform in accordance with the Documentation. If Customer has obtained Purchased Equipment from Elavon, Elavon shall ensure that each new Release of the Simplify Software is compatible with the Purchased Equipment until the end-of-life date established by the terminal manufacturer for such Purchased Equipment. In the event that any Purchased Equipment reaches its end-of-life date and Customer has obtained replacement POS Devices that are compatible with the Simplify Software, Customer and Elavon may enter into a Professional Services Addendum providing for the installation of the Simplify Software on such replacement terminals. Customer will not be obligated to pay a new license fee in conjunction with such installation, although Customer may be obligated to pay fees for professional services in conjunction with such installation, as agreed by the parties.
- d) ELAVON DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS OR ADEQUACY OF ANY DATA OR OTHER INFORMATION PROVIDED OR MADE AVAILABLE BY CUSTOMER OR ITS AUTHORIZED USERS, AND ELAVON WILL NOT BE LIABLE FOR ANY ERROR, OMISSION, DEFECT, DEFICIENCY, OR NONCONFORMITY IN THE DATA OR RESULTS FROM USING THE LICENSED MATERIALS, EXCEPT TO THE EXTENT DIRECTLY CAUSED BY A FAILURE OF THE LICENSED MATERIALS TO PERFORM IN ACCORDANCE WITH THE DOCUMENTATION.
- e) Compliance by Customer's Authorized Users. Customer is responsible for compliance by each of its Authorized Users with the terms and conditions of this Simplify License and is responsible and liable for all access and use by Authorized Users and acts or omissions of Authorized Users under this Simplify License.

**7. Fees and Payment.** Customer shall pay Elavon the Simplify Software Support Services Fees and such other fees for the Simplify Software (collectively, the "Simplify Software Fees") set forth on the Enrollment Form or otherwise agreed by the parties in writing. All Simplify Software Fees will be assessed per POS Device and are non-refundable, except as otherwise provided in this Simplify License or SAFE-T Services Addendum, and are subject to the following terms:

- (a) Simplify License Fees: The Simplify License Fees shall be due and payable upon the date of execution of this SAFE-T Services Addendum.
- (b) Simplify Software Support Services Fees: The Simplify Software Support Services Fees shall be due and payable upon the date of Customer's first use of the Simplify Software in a production environment and annually thereafter upon the anniversary of the date of first production use of the Simplify Software. Elavon may increase the Simplify Software Support Services Fees annually upon at least sixty (60) days written notice to Customer.

**8. Ownership and Reservation of Rights.** Elavon retains all right, title and interest, including, without limitation, all Intellectual Property Rights, in and to the Licensed Materials, Elavon Confidential Information and all Customizations. No rights in the Licensed Materials, Elavon Confidential Information or Customizations are granted to Customer other than those limited license rights expressly set forth in this Simplify License. In the event any right, title or interest in and to any Licensed Materials or to any Customizations developed by Customer or Elavon is deemed to vest in Customer, Customer hereby assigns and agrees to assign to Elavon all worldwide right, title, and interest in and to such Licensed Materials and to any Customizations, including all Intellectual Property Rights therein.**9. Disclaimer.** THE SIMPLIFY SOFTWARE AND ALL LICENSED MATERIALS AND CUSTOMIZATIONS ARE PROVIDED ON AN "AS IS" BASIS IN THEIR PRESENT STATE AND CONDITION. WITHOUT LIMITING ANY TERMS UNDER THE AGREEMENT, NEITHER ELAVON NOR SUPPLIERS MAKES ANY WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND, TO THE EXTENT PERMITTED BY

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10. **Export Control Notice.** Customer acknowledges that the Licensed Materials are being delivered to Customer in the United States and are, therefore, subject to United States export control laws. Customer shall not export, re-export, directly or indirectly, the Licensed Materials from the United States without Elavon's prior written authorization and agrees to comply with applicable United States and foreign export control laws, including, by way of example, the United States Commerce Department's Export Administration Regulations, the International Traffic in Arms regulations and any regulations or licenses administered by the Department of the Treasury's Office of Foreign Assets Control.

## Section B – Glossary

**Authorized User** means any individual that Customer permits to access and use the Simplify Software for Customer's ordinary business purposes.

**Customizations** means any works of authorship, work product, and any invention, process, method, development, design, schematic, or technical information, whether patentable or not, including, without limitation, documentation, software or enhancement, improvements, alterations, or derivatives of the Simplify Software or the Licensed Materials developed by Elavon, either alone or jointly with others, in connection with the provision of Simplify Software Support Services.

**Documentation** means the specifications and written services description for the Simplify Software that are delivered to Customer under this Simplify License, including user manuals, all as may be amended by Elavon from time to time. Documentation shall not include marketing materials, proposals, demonstrations and other promotional information.

**Licensed Materials** means one installed copy of the executable code (i.e. object code) of the Simplify Software per authorized Customer POS Device and a copy of the Documentation reasonably necessary for a user to operate the Simplify Software and any permitted copies of the foregoing.

**Major Release** means any additional or replacement code or Documentation provided by Elavon that adds major new capabilities or functionality to the Licensed Materials, as designated by a change in the number to the left of the decimal point in the version number (e.g., from version 1.0 to 2.0). Major Release does not include new or additional modules of Licensed Materials, which must be licensed separately from Elavon.

**Minor Release** means any additional or replacement code or Documentation provided by Elavon that does not add major new capabilities or functionality and that is made generally available by Elavon to its customers using the applicable Major Release of the Licensed Materials, as designated by a change in the number to the right of the decimal point in the version number (e.g., from version 1.1 to version 1.2).

**Release** means Major Releases, Minor Releases and Revisions, collectively.

**Revision** means any product temporary fix, error corrections, work-around, or other maintenance correction made available by Elavon to its customers, as designated by a change in the number to the right of the second decimal point in the version number (e.g., from 1.1.1 to 1.1.2).

**Simplify Software** means the installed version of the software application referred to and marketed as the Simplify software, including any Releases made available by Elavon to Customer under this Simplify License.

**Simplify Software Fees** means the applicable fees for the Licensed Materials, Simplify Software, Simplify Software Support Services, and any other services or products, as set forth on the Enrollment Form.

**Simplify Software Support Services** means the support services provided by Elavon to Customer, as set forth in Section 5 of this Simplify License.

**Supported Release** has the meaning given to it in Section 5(d) of this Simplify License.

**Unsupported Release** has the meaning given to it in Section 5(e) of this Simplify License.

**Warranty Period** means the period beginning on the Effective Date and ending on the earlier of ninety (90) days from the Effective Date or the date of Customer's first use in a production environment of a POS Device on which the Simplify Software is installed.