

KMDS License Terms & Conditions

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1. Scope of the Contract

This is a service contract between you and KMDS listed for use of the products, software, services, and/or websites (individually “Service” or collectively “Services”) that KMDS supplies. This document supersedes any prior documents and we reserve the right to change the terms and conditions from time to time. This document forms a legally binding contract between you and KMDS with regards to your use of the Services. The software license is purchased at time of sale of POS to Agent, or transferred from Agent to new Agent by going through the process controlled by the State of Oregon and/or OLCC and by using the software and/or signature of this agreement, you agree to the terms.

KMDS license number is the OLCC agent number.

2. Contract Acceptance

In order to use the Services, you must first agree to the Contract. You can accept the Contract by signing and sending the contract to KMDS office, in person with a KMDS rep; or by actually using the Services. In this case, you understand and agree that KMDS will treat your use of the Services as acceptance of the Contract from that point onwards. You may not use the Services and may not accept the Contract if you are not of legal age to form a binding agreement with KMDS or if you are a person barred from receiving the Services under the laws of the United States or other countries including the country in which you are resident or from which you use the Services.

3. Term

The Terms of this Contract will begin on the date indicated by either the point of first day of software usage or signature at the end of this contract. Both the user and KMDS are “at will” and may end the relationship and hold each other harmless for any reason or no reason at all.

4. Your content

You understand that KMDS may need, and you hereby grant us the right, to use, modify, adapt, reproduce, distribute, and display content posted on the Services solely to the extent necessary to provide the Services.

5. Use of the Services by you

You agree to use the Services only for purposes that are permitted by the Contract and any applicable law, regulation or generally accepted practices or guidelines. Unless you have been specifically permitted to do so in a separate agreement with KMDS you agree that you will not reproduce, duplicate, copy, sell, trade or resell the Services for any purpose. You agree that you are solely responsible for and that KMDS has no responsibility to you or to any third party for any breach of your obligations under the

Contract and for the consequences (including any loss or damage which KMDS may suffer) of any such breach. Under no circumstances can you allow a third party to work on your system, extract data, extract IP either by showing the software to any competitor or verbally pass KMDS IP to a competitor without the written agreement of KMDS.

6. Your passwords and account security

You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Services. Accordingly, you agree that you will be solely responsible to KMDS for all activities that occur under your account.

7. KMDS Software

Any software we provide is licensed and leased, not sold. Unless we notify you otherwise, the software license ends when your service ends, which is when you have terminated the lease, we have terminated the lease or you have failed to pay the lease where you are 60 days or more behind in payments. We may disable the Services provided to you and you must not work around any technical limitations in the software. You must not disassemble, decompile, or reverse engineer any software that's included in the service, except and only to the extent that the applicable copyright law expressly permits doing so. You agree that we reserve all other rights to the software.

8. Software updates

The software, which you use, KMDS may download and install updates from time to time. These updates are designed to improve, enhance and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules and completely new versions. You agree to receive such updates (and permit KMDS to deliver these to you) as part of your use of the Services.

9. Changes to the software and cancellation

A particular service may be a prerelease version, a beta, for example, and may not work correctly or in the way a final version might work. We may significantly change the final version or decide not to release a final version. You acknowledge and agree that KMDS may create and use network, data, and resources with your domain for administrative, testing, and network infrastructure enhancement purposes.

10. Service Modifications & Stoppage

You acknowledge and agree that the form and nature of the services, which KMDS provides, may change from time to time without prior notice to you. Additionally, you acknowledge and agree that KMDS may stop (permanently or temporarily) providing the Services (or any features within the Services) to you or to users generally at KMDS sole discretion, without prior notice to you.

11. Proprietary rights

You acknowledge and agree that KMDS owns all legal right, title and interest in and to the Services, including any intellectual property rights which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by KMDS and that you shall not disclose such information without KMDS prior written consent. Unless you have agreed otherwise in writing with KMDS, nothing in the Contract gives you a right to use any of KMDS trade names, trademarks, service marks, logos, domain names, and other distinctive brand features.

12. Liability Limitations

You can recover from KMDS and our affiliates, resellers, distributors, and vendors only direct damages up to an amount equal to your service fee for one month. You cannot recover any other damages, including consequential, lost profits, special, indirect, incidental, or punitive damages. The limitations and exclusions apply to anything related to this contract, including the Services; loss of data; content (including code) incompatibility between the Service and other services, software, and hardware; delays or failures you may have in starting or completing transmissions or transactions in connection with the Service in an accurate or timely manner; claims for breach of contract; breach of

warranty, guarantee or condition; strict liability; tort (including negligence or breach of statutory duty); or misrepresentation. The limitations and exclusions also apply if this remedy does not fully compensate you for any losses or fails of its essential purpose or if we knew or should have known about the possibility of the damages.

13. Third Party Indemnification

You agree to defend, indemnify, save, and hold KMDS harmless from any and all demands, liabilities, losses, costs, and claims, including all attorneys' fees asserted against us, our agents, customers, servants, officers, and employees, that may arise or result from any service provided, performed or agreed to be performed or any product sold by you, your agents, employees or assigns. You agree to defend, indemnify and hold harmless KMDS against Liabilities arising out of any of the following: Any injury to person or property caused by any products sold or otherwise distributed in connection with our Services; Any material supplied by you infringing or allegedly infringing on the proprietary rights of a third party; Copyright infringement; and defective product which you sold with our Services offered by KMDS.

14. Payments

The yearly software lease, often referred as service contract, is to be quoted monthly and paid yearly in the Month of January under Net 30 Terms. If for whatever reason we don't receive payment for 60 days past Net 30 and where KMDS can show reasonable proof of trying to get payment from you, KMDS has the right AND responsibility to disable your software. We may disable your system remotely or in person and you will agree to not try to stop us from doing so. You agree to hold KMDS harmless if this occurs. To become a KMDS customer again one must by a LICENSE, not simply pay the money in arrears. Where

KMDS has contacted the Agent more than 2 times and the Agent has not paid, the use of our server will be terminated and as such sending and receiving of data to OLCC will be impacted.

14a. Where the Agent has ordered a new KMDS system and agreed to pay the invoice at the time of installation AND fails to pay no later than the day of opening, KMDS will charge the customer an additional fee of \$500.00 dollars per week until invoice is paid in full AND disable all but one register OR remove all but one register upon our sole discretion. The agent cannot change their order after the signing of this agreement. The agent hereby agrees to these terms even if some business losses occur and agrees to hold KMDS completely harmless.

15. Hardware Compliance

You agree that hardware ages and must be replaced at reasonable intervals and at times hardware may be showing failures and will need to be replaced before end of life. KMDS computers must be replaced no later than 60 month intervals to remain compliant with KMDS. If your system needs replaced and you have not done so after a reasonable time, which will be defined by KMDS, KMDS reserves the right to disable your system and cancel our agreement. All computers and hardware must be purchased from KMDS. Computers are to be replaced as “sets” EXCEPT when a computer fails AND the other computers are less than 60 months old.

16. Software Compliance

You may add software to a computer purchased from us, but you do it at your own risk and you agree to never ask KMDS to fix your software if does not work on a KMDS machine, instead you will remove it or have us remove it immediately. If KMDS finds the software to interfere with KMDS, we may delete it without asking and you agree not to reload the software and hold KMDS harmless.

17. Hardware Replacement

KMDS will make every effort when changing out hardware to copy any files from old drives that you may need. We cannot copy software with copy rights. We can try but can't guarantee passwords and usernames will be preserved. The old hardware is often seemed of value to some owners and as such we will NOT remove ANY old hardware from a store.

18. Disclaimer of Warranties and Limitation of Liability

KMDS disclaims all warranties, express or implied, including but not limited to, warranties of merchantability, fitness for a particular purpose, and non-infringement, to the fullest extent permitted by law. KMDS shall not be liable for any damages whatsoever arising out of or related to the use or inability to use the Software, including but not limited to, damages caused by operating system updates or modifications.

19. Force Majeure Clause

KMDS shall not be liable for any delay or failure in performance hereunder due to causes beyond its reasonable control, including, without limitation, acts of God, war, terrorism, riots, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, or **unforeseen and material changes to third-party operating systems that render the Software inoperable or significantly impaired.**

20. Governing Law and Dispute Resolution

Governing Law: This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be settled without litigation of any kind.

Disclaimer Regarding Operating System Updates: KMDS provides its software "as is" and "as available." **KMDS shall not be liable for any interruption, malfunction, or degradation of the Software's performance, or any damages, losses, or liabilities incurred by Customer, directly or indirectly, resulting from or attributable to automatic updates, patches, modifications, or changes to the underlying operating system (e.g., Microsoft Windows) or any other third-party software or hardware.** Customer acknowledges and agrees that maintaining compatibility with evolving operating systems is a dynamic process, and KMDS makes no warranty or representation regarding the continuous compatibility of the Software with future operating system updates.

Limitation of Liability: In no event shall KMDS, its affiliates, directors, employees, or agents be liable for any indirect, incidental, special, consequential, or punitive damages, including but not limited to loss of profits, data, use, goodwill, or other intangible losses, resulting from (i) your access to or use of or inability to access or use the Software; (ii) any conduct or content of any third party on the Software; (iii) any content obtained from the Software; and (iv) unauthorized access, use or alteration of your transmissions or content, whether based on warranty, contract, tort (including negligence) or any other legal theory, whether or not we have been informed of the possibility of such damage, and even if a remedy set forth herein is found to have failed of its essential purpose. KMDS's total aggregate liability for any and all claims arising out of or in connection with this Agreement or the Software shall not exceed one month of fees paid by Customer to KMDS.

21. At will

Our agreement is a business agreement where you can leave for any or no reason or we can leave you for any or no reason. We reserve the right to refuse business to anyone at anytime.