



Terminal Agreement

Via One Technologies, Inc.
525 Broadway, Fifth Floor
New York, NY 10012

www.prepaypoint.com
www.viaone.com

MERCHANT TERMINAL AGREEMENT

MERCHANT INFORMATION

Business Name:	
Business Owner Name:	
Business Phone Number:	
Owner Mobile Phone Number:	

TERMINAL INFORMATION

Terminal Model and Type:	Ingenico Elite 710
Terminal Cost:	\$220*
Monthly Usage Fee:	\$17.99*
Terminal Serial Number:	

This Merchant Terminal Agreement ("Terminal Agreement"), dated this ___ day of _____, 200__, by and between the party named above ("Merchant") and Via One Technologies, Inc, a New Jersey company ("VIAONE") outlines the terms and conditions by which VIAONE will provide Merchant a Terminal (as noted above) for the purpose of purchasing products and services from VIAONE.

WHEREAS Merchant and VIAONE have signed, or are signing contemporaneously herewith, a Merchant Agreement ("Merchant Agreement") that enables Merchant to purchase for the purpose of resale certain products and services provided by VIAONE,

WHEREAS Merchant desires to obtain and VIAONE desires to provide Merchant with a terminal for use in conjunction with Merchant Agreement and in accordance with the terms and conditions of this Terminal Agreement.

NOW THEREFORE for the foregoing premises and consideration, the receipt and sufficiency of which are hereby acknowledged, the parties intending to be legally bound, agree as follows:

1. After signing this Terminal Agreement, VIAONE shall provide Merchant with a Terminal of the model and make noted above ("Terminal"). Such Terminal, unless otherwise agreed in writing by VIAONE, shall only be used for the purpose of procuring products and services from VIAONE in accordance with the Merchant Agreement.
2. Merchant shall not reprogram, add, alter, in any way modify, or change the software code or hardware of the Terminal at any time.
3. The monthly cost of using the Terminal shall be the Usage Fee noted above ("Usage Fee"). Notwithstanding the foregoing, VIAONE hereby agrees to waive such Usage Fee for each month during the term of this Terminal Agreement where the Merchant's aggregate PIN purchases under the Merchant Agreement exceed \$1,000.00. In the event that Merchant's monthly purchases are below \$1,000.00 under such Merchant Agreement, Merchant hereby permits VIAONE to ACH Merchant's bank account for such Usage Fee using the ACH authorization form provided to VIAONE under the Merchant Agreement or herewith.

4. Unless the parties otherwise agree in writing, such Terminal shall at all times remain the property of VIAONE. Merchant shall be required to return the Terminal to VIAONE in Good Working Order within 10 calendar days of the termination of this Terminal Agreement, or receipt of a demand notice from VIAONE for its return. In the event that Merchant fails to return the Terminal within such 10 day period, or such Terminal is not in Good Working Order when returned, then Merchant shall be required to pay VIAONE the Terminal Cost (as noted above) for such Terminal. VIAONE shall be permitted, in such event, to ACH Merchant's account for such fee. In such event, upon receipt of funds by VIAONE, the Merchant shall then own the Terminal.

For the sake of clarity and not limitation, "Good Working Order" shall mean that such Terminal is in similar condition to its condition when Merchant initially received the Terminal with the exception of reasonable marks of wear and tear from daily use. Additionally, the Terminal shall not have any parts missing or broken and/or the Terminal shall not have been altered, defaced, reprogrammed and must be in a condition where VIAONE could reasonably present such Terminal to another Merchant for daily use upon receipt.

5. **LIMITATION OF LIABILITY AND NO WARRANTIES.** THE TERMINAL PROVIDED BY VIAONE IS PROVIDED "AS IS" WITHOUT ANY WARRANTIES OF ANY KIND WHETHER EXPRESS OR IMPLIED. VIAONE EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. MERCHANT ACKNOWLEDGES AND AGREES THAT VIAONE MAKES NO REPRESENTATIONS AS TO THE REASONABLENESS, APPROPRIATENESS, QUALITY OR FUNCTIONALITY OF PRODUCTS OF THE TERMINAL. IN NO EVENT WILL VIAONE BE LIABLE TO THE MERCHANT OR ANY OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING THOSE RESULTING FROM INTERRUPTION OF USE, LOSS OR CORRUPTION OF DATA, VIRUSES, OR LOST PROFITS, ARISING FROM OR RELATED TO THIS TERMINAL AGREEMENT, THE USE OR FAILURE OF THE TERMINAL WHETHER OR NOT THE PARTY SUFFERING LOSSES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

THE TOTAL CUMULATIVE LIABILITY FOR VIAONE IN CONNECTION WITH THIS TERMINAL AGREEMENT AND/OR THE USE OR FAILURE OF THE TERMINAL, WHETHER SUCH LIABILITY IS ASSERTED IN CONTRACT, TORT OR ANY OTHER THEORY OF LAW, SHALL BE LIMITED TO REPLACING OR REPAIRING ANY TERMINAL PROVIDED HEREUNDER.

6. This Terminal Agreement shall become effective when signed by VIAONE and Merchant. Once signed by both parties, this Terminal Agreement shall remain in effect until it is terminated by either party by providing the other with notice of its desire to terminate. Such notice shall be effective from the moment it is received by the recipient. Notwithstanding the foregoing, this Terminal Agreement shall automatically terminate upon termination of the Merchant Agreement.
7. This Terminal Agreement shall be interpreted in accordance with the laws of New York without regard to the conflict of laws principles thereof. Any action under this Terminal Agreement must be undertaken in the city of New York, NY.
8. Merchant may not assign this Terminal Agreement without the written permission of VIAONE. VIAONE may assign this Terminal Agreement by providing notice to the Merchant. The provisions of this Terminal Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective successors and permitted assigns.
9. Any notice required to be given hereunder shall be in writing and delivered by a nationally recognized courier service to the address located on the first page or in the recitals of this Terminal Agreement, unless such address is altered by notice in which case delivery shall be made to such new address.

10. The parties signing below acknowledge and agree that that they have the full right and authority to sign this Terminal Agreement on behalf of the companies below.

By Via One Technologies, Inc:

By: _____ Date _____
Name: _____
Title: _____

By Merchant:

By: _____ Date _____
Name: _____
Title: _____

MERCHANT OWNER PERMISSION AND ACKNOWLEDGEMENT

I _____ am the owner of the Merchant business identified in this Terminal Agreement. I hereby permit VIAONE, or its affiliates to conduct background and/or credit checks on me and my business to qualify my business for the Merchant Terminal Program reflected in this Terminal Agreement. I understand that VIAONE may refuse to enroll my company (the Merchant) in this program in the event that our credit rating does not meet the credit requirements of VIAONE in implementing this program. I also acknowledge and agree that in the event that VIAONE signs the Terminal Agreement and VIAONE is unable to collect any amount of money due from the Merchant under this Terminal Agreement, I will be personally liable for such obligations to VIAONE. I also acknowledge and agree that my personal guarantee is a material inducement for VIAONE to enter into this Agreement, and that as the owner of Merchant business, sufficient consideration is provided to me personally to obligate me with regard to the debt obligations of the Merchant herein.

By: _____ Address: _____
Name: _____
Social Sec. No: _____
Phone No: _____