

**ELITEPOS PTY LTD**  
**LICENSE AGREEMENT**

Contents

- 1. **Definitions** ..... 3
- 1.1 Application Software..... 3
- 2. **General Terms and Conditions** ..... 3
- 2.1 Licence to Use ..... 3
- 2.2 License Fee..... 3
- 2.2 Proprietary Information..... 3
- 2.3 Usage..... 3
- 2.4 Alterations ..... 3
- 3. **Copyrights, Trademark Notices and Logos**..... 3
- 3.1 Uses not Permitted..... 3
- 3.2 Software Enhancements and Modifications ..... 4
- 3.3 Application Software Updates ..... 4
- 3.4 Application Software Backups ..... 4
- 3.5 Limited Warranty ..... 4
- 3.6 Limitation of Liability ..... 4
- 4. **Termination of this Agreement**..... 5
- 5. **Law** ..... 5
- 6. **This Agreement** ..... 5
- The Schedule – Licence Fees ..... **Error! Bookmark not defined.**

# **ELITEPOS PTY LICENSE AGREEMENT**

ElitePOS Pty LTD ABN 67 643 017 314 ("ElitePOS")

## **1. Definitions**

### **1.1 Application Software**

The Application Software is defined as the latest published version of ElitePOS.

## **2. General Terms and Conditions**

### **2.1 Licence to Use**

ElitePOS hereby grants to the customer a non-exclusive licence to use the Application Software on the computer or device in which it is installed. This licence may not be transferred/sold or signed or otherwise dealt with by the customer.

### **2.2 License Fee**

The Customer shall upon the execution of this Licence Agreement, pay to ElitePOS the license fee set forth in the invoice provided.

### **2.2 Proprietary Information**

The Customer must exercise reasonable efforts to prevent the unauthorised use, reproduction, dissemination, or disclosure of the Application Software.

### **2.3 Usage**

The Customer acknowledges that use of the Application Software is subject to the Customer having entered into a current Maintenance and Support Agreement with ElitePOS.

### **2.4 Alterations**

ElitePOS Pty Ltd reserves the right, at any time, to alter the terms and conditions of this Licence Agreement by notice to the Customer.

## **3. Copyrights, Trademark Notices and Logos**

The Application Software, logos, product names, proprietary to ElitePOS are protected by Copyright and other law. The Customer agrees not to remove or alter any such notices and product identification.

### **3.1 Uses not Permitted**

The Customer may not use, copy, modify, distribute, translate, de-compile, reverse engineer, disassemble, or create derivative works based upon the Application Software or any portion of the Application Software or its associated documentation.

### **3.2 Software Enhancements and Modifications**

The Customer acknowledges for itself and on behalf of its personnel authorised to access the Application Software that the entire right, title and interest in any programming concepts developed and any improvements or amendments undertaken to the design, structure and sequence of the software owned by ElitePOS. The Customer undertakes not to make any modifications to the software other than as expressly permitted by the Copyright Act.

### **3.3 Application Software Updates**

An Application Software Version Update replaces part or all of the Application Software previously licensed. Use of the Version Update terminates the License Agreement to use the Application Software or that part of the Application Software or that part of the Application Software which the Version Update replaces.

### **3.4 Application Software Backups**

The Customer may make backup copies of the machine-readable code of the Application Software. The Customer acknowledges that such copies are the property of ElitePOS. The Customer is responsible for the correct operation, performance, scheduling and safe storage of Application Software and Data backups. The Customer is also responsible for verifying that the data is correctly recorded on the backup medium.

### **3.5 Limited Warranty**

ElitePOS does not warrant that the Application Software and any related updates will be free of defects, that it will satisfy all of the Customer's requirements, or that the use of the Application Software will be uninterrupted or error-free. ElitePOS does not warrant that there are no discrepancies between the Application Software and the documentation, nor that errors cannot arise during the use of the Application Software. ElitePOS gives no warranty to the Customer in relation to the Application Software licensed under this Agreement, except those warranties which cannot be specifically excluded under Australian Law. To the extent that the warranties implied under the Australian Law apply to the licensing of the Application Software liability of ElitePOS for any loss arising as a result of the use of the Application Software, including any economic or consequential loss which may be sustained or incurred, shall be limited to, at ElitePOS' option:

- (a) the Supply of the application software again or;
- (b) the amount of the licence fee paid or payable by the Customer for the grant of licensed to use the application software.

### **3.6 Limitation of Liability**

In no event will ElitePOS or any other person involved in the creation, production, distribution or licencing of the Application Software be liable to the Customer on account of any claim for any damages, including lost profits, lost savings, or other special, incidental, consequential, or exemplary damages including but not limited to damages assessed against the Customer by any third party arising out of the use, inability to use, quality or performance of the Application Software, except as expressly provided in Clause 3.5 hereof.

#### **4. Termination of this Agreement**

ElitePOS may terminate this Agreement immediately by notice in writing if the Customer breaches any provision of this Licence and such breach is not remedied within fourteen (14) days of written notice by ElitePOS. ElitePOS may, in addition to exercising a right to terminate this Agreement enter upon the Customer's premises and repossess any copies of the Application Software in the possession, custody or control of the Customer, and pursue any additional or alternative remedies provided by law. Upon termination of this Agreement, the Customer shall immediately return to ElitePOS, or dispose of, or destroy, the Application Software and all copies thereof in the Customer's possession for control and, on request, furnish ElitePOS with written notification that the Application Software and all associated documentation have been returned to ElitePOS or otherwise disposed of.

#### **5. Law**

The Agreement shall be governed by the Laws of the State of New South Wales.

#### **6. This Agreement**

This Agreement supersedes all prior oral agreements, proposals or undertakings, and any other communication between ElitePOS and the Customer relating to the subject matter of this Agreement.