

## SCHEDULE E

### STORENEXT SOFTWARE SUBLICENSE AGREEMENT

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("Licensor") and the undersigned ("User") agree:

1. **License:** Licensor grants to User a perpetual, nonexclusive license in the United States to use one object code copy of the software listed below ("Software") with each item of equipment listed below ("Equipment").

Software:  
(Release No. and description)

Equipment:  
(Model No. and description)

The "Software" shall include enhancements or updates provided by Licensor, if any. While the Software has been procured by Licensor through STORENEXT RETAIL TECHNOLOGIES LLC ("STORENEXT"), STORENEXT shall have no obligation to modify or update the Software. The Software is licensed only, not sold.

2. **Use:** User will ensure that the Software is used only as licensed. To ensure optimal performance of the Software, User shall use each item of Software only as provided in STORENEXT's published documentation and specifications. User may not make copies of the Software except such copies as are necessary for licensed use and operational security. Documentation may not be copied without STORENEXT's prior written consent.
3. **Ownership:** The Software and all parts and copies thereof and all copyright and other intellectual property rights therein remain the property of STORENEXT or its licensor and User has no rights therein except as expressly licensed. The Software shall be deemed a trade secret for all purposes, and each copy shall conspicuously bear all applicable ownership marks to the same extent that the original bore such marks.
4. **Confidentiality:** User will not disclose or make the Software available to any person except in confidence and to facilitate use with the equipment for use with which they are licensed. User acknowledges that the Software has not been published and that the owner(s) deem such Software to be valuable, confidential and proprietary property, and a trade secret, and User agrees to treat it as such. User agrees to take or cause to be taken all reasonable precautions to hold in confidence, and to prevent the disclosure or communication to third parties of, all information, data and know-how pertaining to the design and operation of the Software. User shall not itself, or permit any third party to, modify, reverse engineer, reverse compile, or disassemble the Software or any STORENEXT Equipment in whole or in part. The obligations of User under this paragraph 4 shall survive any termination of the license granted in this Agreement.
5. **Assignment:** In the event User sells or otherwise disposes of the Equipment, a license to use the Software in object code form may be transferred to the new owner, subject to STORENEXT'S standard license fee in effect at the time of transfer, and subject to the condition that the new owner must execute a software license agreement with Licensor equivalent in all material respects to this Agreement. In the event of any such transfer, User must transfer all object code copies of the Software, whether imprinted or in machine-readable form (including all portions of the Software contained or merged into other software) to the same party or destroy any copies not transferred.
6. **WARRANTY AND LIABILITY EXCLUSIONS:** USER SHALL CONTACT LICENSOR EXCLUSIVELY IN THE EVENT USER HAS ANY QUESTIONS OR PROBLEMS RELATING TO THE SOFTWARE, EQUIPMENT, OR THIS AGREEMENT. AS BETWEEN STORENEXT AND USER, STORENEXT SPECIFICALLY EXCLUDES AND DISCLAIMS, AND USER HEREBY WAIVES, ALL GUARANTIES, WARRANTIES, AND LIABILITIES OF ANY KIND IN CONNECTION WITH ALL ITEMS OF STORENEXT EQUIPMENT AND SOFTWARE, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ALL ITEMS PROVIDED BY STORENEXT ARE PROVIDED ON AN "AS IS" BASIS. IN NO EVENT WILL STORENEXT BE LIABLE FOR ANY EXEMPLARY, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LOSS OF BUSINESS, PROFITS, USE, DATA, OR GOODWILL, OR CLAIMS OF THIRD PARTIES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, HOWEVER CAUSED, WHETHER BY THE NEGLIGENCE OF STORENEXT OR OTHERWISE, EVEN IF STORENEXT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. USER IS RESPONSIBLE IN ALL RESPECTS FOR SELECTION AND USE OF THE SOFTWARE, AND THE RESULTS OBTAINED THEREFROM.
7. **Termination; Remedies:** The license granted by this Agreement shall be terminated if User discontinues use of the Software, if the Software is removed from the Equipment, if the Software is transferred without execution of the required software license agreement, if the Software is used other than as authorized in paragraph 2, or if User violates any other material provision of this Agreement. User acknowledges the highly confidential and proprietary nature of the items described herein, and agrees that STORENEXT, as third party beneficiary under this Agreement, may take any legal or equitable action it deems appropriate, directly against User, to enforce the provisions of this Agreement and/or to terminate this Agreement. Upon termination, User will either deliver to Licensor all the Software, documentation, and copies thereof, or at STORENEXT'S election, destroy such items and certify that they have been destroyed. In the event of breach or threatened breach of this Agreement, Licensor and STORENEXT shall have the right to injunctive relief, in addition to any other legal and equitable remedies available.

**8. Other Provisions:**

- a. Amendment: No modification, amendment or waiver of any provision of this Agreement shall be effective unless in writing signed by the parties. Writings signed on behalf of Licensor must be signed by an officer of Licensor.
- b. Waiver: Failure by Licensor or STORENEXT at any time to enforce any provision of this Agreement or to require performance by User of any provision shall not be construed to be a waiver of said provision or to affect either the validity of this Agreement, or any part hereof, or the right thereafter to enforce each and every such provision in accordance with the terms of this Agreement.
- c. Controlling Law: All questions concerning the validity, operation, interpretation and construction of this Agreement will be governed by and determined in accordance with the laws of the State of California.
- d. Severability: In the event any provision of this Agreement is held to be invalid, void or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect, impair or invalidate any other provision, and any such unenforceable provision shall be deemed replaced by a provision which comes closest in language and intent without being invalid, void or illegal.
- e. Attorneys' Fees: In the event that litigation is instituted between the parties in connection with this Agreement, the judgment therein shall include a reasonable sum to be paid to the prevailing party for attorneys' fees and costs incurred in such litigation, including those incurred on appeal.
- f. Compliance with Laws: STORENEXT'S products are subject to regulations of agencies of the United States government, including the United States Department of Commerce, which prohibit export or diversion of STORENEXT'S products to certain countries. User warrants that it will not transfer or knowingly assist or participate in the transfer of any Software to countries or users not approved to receive technical information under applicable United States laws and regulations. User will hold harmless and indemnify Licensor and STORENEXT for any damages resulting to either such party from a breach of this paragraph f by User.
- g. Entire Agreement: This Agreement sets forth the entire agreement between the parties with regard to the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements and representations, covenants, and warranties with respect to the subject matter hereof, express or implied, oral or written, are waived, merged herein and superseded by this Agreement.

**THE PARTIES AGREE AND ACKNOWLEDGE  
THAT THEY HAVE READ THIS AGREEMENT,  
UNDERSTAND IT, AND AGREE TO BE BOUND  
BY ITS TERMS AND CONDITIONS.**

\_\_\_\_\_  
(User)

\_\_\_\_\_  
(Licensor)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(City, State, Zip)

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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