



Dear Client:

Rapid POS believes it is our obligation to introduce important topics to our clients so that a mutual understanding is accomplished. We've endeavored to write this agreement in plain English rather than legalese, and we invite you to call us with your questions regarding it.

For convenience, we'll sometimes refer to our company as "Rapid", "Rapid POS", "we", "us" or "our" and will sometimes refer to you, our client, as "you" or "your".

We provide "unlimited", "time and materials" and "rollover hours" support plans. In the event we change our billing rates, you will receive notice at least 30 days in advance and you will be allowed to switch between support plans during that 30-day period.

We shall meet our obligations in a timely and professional manner and commit to the following service levels:

- **Customer-Facing Problems (i.e. you cannot sell):** These problems are given top priority. We will typically commence work in 0 to 15 minutes, but never more than 2 hours. We will work continuously until the problem is resolved. This phone support is available 7 days a week x 365 days a year between 5:30AM to 10PM PT.
- **Non-Customer-Facing Problems:** We will address these problems during normal business hours (5:30AM to 5PM PT Monday-Friday, excluding holidays). In many cases, we are able to address the problem immediately when we receive your call, but you should never have to wait more than 4 hours for our initial response.
- **After Hours Support:** It is extremely rare for a client to require support during the middle of the night, but we do offer such support between 10PM and 5:30AM PT. Support during these hours is not covered by "fixed-fee unlimited" support contracts. It is billed at \$250 per hour with a 1-hour minimum.

All hardware provided by us will be considered our property until the items are paid for in full. We have the right to repossess this property if payment is not received Net 10 days from Invoice date.

The software you will receive from us will fall into two categories: NCR Software and Rapid Software. Rapid Software can already exist or can be created by Rapid when providing services to you. NCR Software is the Counterpoint application and any other software owned and licensed by NCR Corporation ("NCR"). Your use of the NCR Software is governed by the Counterpoint End-User License Agreement (the "License") that you will be required to sign in order to obtain your permanent license key.

We commonly provide additional software ("Rapid Software") that adds features and functionality to the NCR Software. Rapid Software is owned by us and we license it to you under the same terms as contained in the License. Additionally, we agree that: (1) you can use Rapid Software on a perpetual, royalty-free basis as long as you are using the NCR Software (even if Rapid is no longer your Counterpoint partner) (2) you can modify and enhance the Rapid Software; and (3) you cannot transfer or sublicense the Rapid Software to any third party.

Over the course of providing you services, you may request that we enhance, add to, or extend our solution's capabilities. Anything we create for you (including any copyrights, inventions and patents) is owned by us and licensed to you as Rapid Software (as detailed in the preceding paragraph).



If you cancel an order, a 20% restocking fee is assessed for hardware. Software is non-refundable. Labor that has not yet been executed will be fully refunded.

If our agreement with you is terminated, we will deliver to you written records, data (including your POS database if you are in the Rapid Cloud), and equipment that are your property and in our possession in a timely manner. Additional billable hours, along with up-front payment, may be required to organize the requested materials.

We will use industry best practices to protect and conceal all sensitive data including, but not limited to, passwords and financial information. We may need to share passwords with industry vendors as part of troubleshooting.

You are responsible for physically installing cabling, connectors and electrical to meet your system's requirements. Contact us if you need assistance finding a contractor.

We are generally able to support you from our office via the Internet. If travel to your store is required, you will be billed for travel costs and meals. California labor law requires that we pay our technicians for travel time. We pass along a portion of that cost by billing at only ¼ our normal bill rates for travel time.

Protecting your customers' credit card information is critical. The Payment Card Industry (PCI) publishes compliance requirements. The software we sell to you is certified as PCI compliant; however, PCI compliance extends beyond the POS software. Examples of PCI requirements include:

- a firewall that will not allow Internet browsing from a computer running POS software
- an anti-virus program on all computers running POS software
- unique user names for each person with strong, rotating passwords. Generic / default accounts should not exist.
- remote access tools that meet strict security requirements (if you require remote access). We use a compliant remote access tool, and we're happy to make this same tool available to you if you request it.

Retailers must comply with federal, state, vendor, and payment card industry regulations for taxation/tax rates, weights and measures, data security (HIPAA, FACTA, PCI and others) and other concerns. You agree that Rapid POS can be held liable neither for the consequence of a security breach nor any consequences of failure to comply with any standard or regulations. There are firms that specialize in PCI, taxation, and other compliance issues. Contact us for a referral.

We welcome you to use our name on your website or promotional materials; we're proud to be part of your team. We assume that we may use your company's name on our website and in our promotional materials unless you request via email that we do not.

During the term of the agreement and for a period of one year after expiry thereof, you shall not employ nor indirectly engage any of the members of our staff nor our subcontractors/consultants without prior written approval. Failure to comply with this provision shall make you liable for legal fees and one year's estimated revenue to be attributed to the individual.



Software upgrades are made available to you by NCR for customers who maintain their Counterpoint Subscription Service. Rapid will charge our normal hourly rate to install these upgrades.

There is no guarantee that anti-virus software will stop all infections. If your system becomes infected after the initial installation, we will charge our normal hourly rates to remediate. Bad infections may require a complete system reload. Minimize the potential by strictly limiting web surfing.

We shall obtain approval from you prior to the commencement of a project not covered by your support contract, such as programming a custom report. Unless otherwise noted, verbal confirmation by a representative of the company shall constitute a Purchase Order and permission to proceed with work.

We will support your efforts to determine the suitability of our products for your store, but the responsibility for making this assessment is wholly yours—we do not warrant suitability. Most clients find that our sales process provides ample opportunity for assessment, but some wish to pay for a “conference room pilot” prior to fully committing. If you’re interested in a conference room pilot, please discuss this with your sales representative prior to signing a sales order.

We will submit a bill for services each month containing a brief description of work performed including total hours spent. Payment is due upon receipt. Interest is charged on balances not paid within 30 days at the rate of 1.5 percent per month. We reserve the right to suspend work or withdraw from the project if fees are not paid in a timely manner.

Your data is likely the most valuable component of your systems. We are committed to helping you protect your data and feel it is of sufficient importance to describe a number of points in detail:

We strongly recommend that you institute a minimum of three levels of data protection: (1) Mirrored RAID drives on the system with the database (2) nightly back-ups written to an external drive (3) data should be stored off-site nightly via encrypted, Internet-based back-up. Cost constraints may force you to choose something less than this triple protection; however, we generally believe the benefits far outweigh the costs.

These data protections must be combined with regular verifications of your back-ups. It is not reasonable to expect backups to run without fail in perpetuity.

There is no strategy that offers 100% fail proof protection. Drive manufacturers’ warranties may cover the cost to replace failed drives, but their warranties do not cover any costs associated with retrieving or recreating lost data from a failed drive. Similarly, Rapid POS cannot provide this guarantee—we shall not be liable for any damages in connection with, or arising from, loss of data.

If we supplied faulty goods or services, our liability to you shall be limited to the warranty provided by the supplier or manufacturer of the products. In no event shall our liability exceed your invoiced amount. No party to this agreement will be liable for any indirect, special, incidental, or consequential damages, whether based on contract, tort, or any other legal theory.

If any provision within this letter is held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this letter is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.



This agreement is effective upon execution by you and has no termination date. It may be terminated by either party with 30-day notice. Such notification will be made in writing either in person, mail, or fax. A final adjusted bill will be presented to you within a reasonable period of time.

This agreement incorporates by reference the latest iteration of the Proposal submitted by Rapid to you.

Agreement updates are posted online at www.rapidpos.com/agreement/rapidagreement.pdf. User Id = rapidclient and password = rapidclient. Your billing invoice will inform you if any updates are made.

Respectfully,

A handwritten signature in black ink, appearing to read "Barton H. McCleskey", with a long, sweeping underline.

Barton H. McCleskey
President
Rapid POS

Read, understood, and agree to as of this _____ day of _____, 2018.

Company: _____

By: _____

Name: _____

Title: _____