

Poynt Terminal Application Form – UK

*Mandatory fields to be completed. Please fill in this application form below ("Poynt Terminal Application Form").

Customer Information			1
*Legal Name	*VAT Registration No.	Company No.	
*Trading (DBA) Name	*Elavon Merchant ID:		
*E-mail	*Phone No.		

Details							2
Terminal Type(s)	Quantity	Fees	Printer Type	Quantity	Fees	Payment Frequency	Minimum Hire Period

Additional Terminal Terms

References to "we", "us" "our" or "Elavon" are references to Elavon Financial Services DAC, a designated activity company incorporated in Ireland (Registered No. 418442), having its registered office address at Block F1, Cherrywood Business Park, Dublin 18, D18 W2X7, Ireland, operating through its UK Branch at Level 15 Citypoint One Ropemaker Street, London, EC2Y 9AW.

References to "you" and "your" are to the Customer detailed above in this Poynt Terminal Application Form.

These Additional Terminal Terms govern your hire and use of the Terminals set out in the Details section above and as used in connection with the products and services provided under your Core Terms. In consideration of the mutual promises and obligations herein, and other good and valuable consideration, you agree to adhere to these Additional Terminal Terms.

1. DEFINITIONS AND INTERPRETATION

- 1.1 These Additional Terminal Terms supplement and form part of your Agreement with Elavon and should be read together with all other documents that form part of your Agreement.
- 1.2 Unless otherwise expressly amended in these Additional Terminal Terms, all Core Terms shall apply to your hire and use of the Terminals set out above.
- 1.3 If there is a conflict or inconsistency between any of the provisions of these Additional Terminal Terms and any of the Core Terms, the order of priority set out in your TOS will apply to the extent necessary to resolve such conflict or inconsistency.
- 1.4 Any capitalised terms not defined below shall have the meaning given to them in your TOS.
- 1.5 References to "Party" shall mean you and us and references to "Parties" shall be both you and us.
- 1.6 The words "other", "including", "for example", "in particular" and other similar words and phrases do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 1.7 The following terms have the meaning set out below where used in these Additional Terminal Terms:
 - 1.7.1 "Additional Terminal Terms" means the Poynt Terminal Application Form and these terms and conditions for your hire and use of the Terminals;
 - 1.7.2 "Affiliate" shall have the meaning given to it in your TOS. References to Affiliates shall be construed accordingly;
 - 1.7.3 "Agreement" shall have the meaning given to it in your TOS;
 - 1.7.4 "CCA Terms" means your hire agreement under the Consumer Credit Act 1974;
 - 1.7.5 "Core Terms" means, collectively, all documents which form part of your Agreement with Elavon (including, for the avoidance of doubt, the TOS and your CCA Terms, where applicable), but excluding always these Additional Terminal Terms;
 - 1.7.6 Data Protection Rules: means collectively all data protection, data security and data privacy requirements imposed by law, including, the Data Protection Act 1998 or other national legislation implementing or replacing the EU Data Protection Directive 95/46/EC, Directive 97/66/EC concerning the processing of personal data and the protection of privacy in the telecommunications sector, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector, and the Privacy and Electronic Communications (EC Directive) Regulations 2003, the General Data Protection Regulation and all legislation that implements or is enacted in connection with the General Data Protection Regulation and other data protection or privacy legislation in force from time to time in any relevant jurisdiction which is applicable to the provision of services under the Agreement, together with any similar provisions of the Card Scheme Rules, including the Data Security Standards and any regulation and regulatory guidance issued by a competent data protection authority.
 - 1.7.7 "Effective Date" means the date Elavon accepts your Poynt Terminal Application;

- 1.7.8 "Fees" means any sums payable by you for the Terminals as set out in the Details section above;
- 1.7.9 "Laws" has the meaning given to it in your TOS. References to Law shall be construed accordingly;
- 1.7.10 "Minimum Period of Hire" has the meaning given to it in the Details section above;
- 1.7.11 "Poynt" means Poynt LLC, a corporation organised and existing under the laws of the State of Delaware and located at 4151 Middlefield Road, Suite 200 Palo Alto, CA 94303;
- 1.7.12 "Poynt Gateway" means the gateway, platform or system provided and hosted by or on behalf of Poynt, through which Poynt passes through data relating to Transactions in accordance with section 4.1 of these Additional Terminal Terms;
- 1.7.13 "Poynt Software" means the software embedded in or associated with your Terminal;
- 1.7.14 "Poynt Terminal Application" means an application for the Terminals set out in this Poynt Terminal Application Form;
- 1.7.15 "Poynt Terminal Application Form" means this application form;
- 1.7.16 "Standard Contractual Clauses" means the standard contractual clauses for the transfer of personal data to processors established in third countries as approved in a decision of EU Commission;
- 1.7.17 "Terminals" has the meaning given to it in your TOS;
- 1.7.18 "TOS" has the meaning given to it in your Terms of Service with Elavon;
- 1.7.19 "Value Added Services" has the meaning given to it in your TOS.
- 1.7.20 "Data Breach" shall mean a personal data breach occurs when the data is accessed, disclosed, altered, lost or destroyed in contravention of an organisation's obligation to keep personal data in its possession safe and secure".

2. TERMINAL HIRE

- 2.1 We will hire out to you the Terminals set out in your Poynt Terminal Application Form, subject to the provisions of these Additional Terminal Terms and your Core Terms.

3. VALUE ADDED SERVICES

- 3.1 You understand that Poynt will be providing you with Value Added Services and that the provision of these Value Added Services shall be governed by the terms of your separate agreement with Poynt ("Poynt Agreement"). The Value Added Services for the purpose of these Additional Terminal Terms shall include the provision to you by Poynt of the Poynt Software and Poynt Gateway.
- 3.2 Elavon shall have no responsibility or liability for the Value Added Services, including any losses or expenses incurred by you as a result of the failure of the Poynt Software and/or Poynt Gateway to process any Transactions on your behalf.

4. TRANSACTION PROCESSING

- 4.1 Where any data relating to a Transaction is processed through the Terminal:
 - 4.1.1 Poynt will be responsible to you for the transmission of any data relating to the Transaction through the Poynt Gateway, meaning that Poynt will be solely responsible to you for:
 - (a) transmission of any data relating to the Transaction initiated from the Terminal and received by the Poynt Gateway, until such data is received by Elavon from Poynt; and
 - (b) the transmission of any data relating to the Transaction returned by Elavon, which Poynt will receive via the Poynt Gateway and pass back to the Terminal.
 - 4.1.2 Elavon will only be responsible to you for any data relating to Transactions after Elavon has received the data from Poynt in accordance with section 4.1.1(a).

5. EXCLUSION OF LIABILITY

- 5.1 Subject to section 5.2, except as expressly set out in these Additional Terminal Terms or in your Core Terms, we make no representations and disclaim all warranties, express or implied, concerning the Terminals. You hereby waive any claim (including any claim based on strict or absolute liability in tort) you might have against us for any loss, damage (including incidental or consequential damage) or expense caused by the Terminals.
- 5.2 Nothing in these Additional Terminal Terms shall exclude or limit either Party's liability for:
 - 5.2.1 death or personal injury resulting from that Party's negligence;
 - 5.2.2 fraud or fraudulent misrepresentation; or
 - 5.2.3 any matter for which it is not permitted by Laws to exclude or limit, or to attempt to exclude or limit, that Party's liability.

6. DATA PRIVACY

- 6.1 To the extent you receive support and maintenance services from Elavon under these Additional Terminal Terms you will remain the controller of any personal data held within the Terminals or, subject to section 6.6 below, personal data otherwise provided by you for the purpose of receiving such services, and Elavon will be a processor of that data. The data processing activities carried out by Elavon are as follows:

Subject matter and duration of processing:	Personal data is processed for the purpose of providing you with support and maintenance services during the term of the Additional Terminal Terms
Nature and purpose of processing:	Obtaining, recording, transmitting and storing personal data for the purpose of providing the support and maintenance services
Types of personal data:	Your name, address, email address and phone number and the name, address, email address and phone number of any data subject receiving the benefit of any support and maintenance services Data relating to Transactions from customers who purchase goods or services from you
Categories of data subjects:	You and any data subjects receiving the benefit of any support and maintenance services (where applicable) Customers who purchase goods or services from you

- 6.2 Where Elavon is acting as a processor on your behalf, Elavon shall:
- 6.2.1 only act on instructions from you regarding the processing of the Personal Data set out in section 6.1 ("Support Data"), including as permitted under your Agreement and for the purposes of providing you with the support and maintenance services;
 - 6.2.2 be responsible for the reliability of any of Elavon's employees or sub-contractors who have access to the Support Data and shall ensure that any persons used by Elavon to process the Support Data are subject to legally binding obligations of confidentiality in relation to such Support Data;
 - 6.2.3 promptly notify you of any requests made by any data subjects under the Data Protection Rules in relation to the processing of Support Data, to enable you to deal with such request;
 - 6.2.4 taking into account the nature of the processing undertaken by Elavon, assist you, in so far as reasonably and legally possible, in responding to requests from data subjects exercising their rights under the Data Protection Rules;
 - 6.2.5 comply with Elavon's security policies and any other security procedures agreed between you and us from time to time which are intended to ensure that appropriate technical and organisational measures are taken against Data Breach and unauthorised or unlawful processing of the personal data and against accidental access, disclosure, loss or destruction and/or alteration of, or damage to, the personal data, having regard to the state of technological developments at the relevant time and the cost of implementing the measures, so as to ensure a level of security appropriate to the harm that may result from breach of such measures and the nature of the personal data to be protected
 - 6.2.6 taking into account the nature of the processing undertaken by Elavon and the information available to Elavon, assist you, in so far as is reasonably and legally possible, with notification of data breaches to regulators and individuals, with the conduct of data protection impact assessments and with prior consultation with data protection regulators, in each case to the extent that such assistance is legally required under the Data Protection Rules;
 - 6.2.7 upon request and subject to the confidentiality provisions in your Agreement, Elavon shall make available to you information regarding Elavon's compliance with sections 6.1 – 6.5 (inclusive). Not more than once in any 12 month period you may request an audit to check Elavon's compliance with sections 6.1 – 6.5 (inclusive). You shall be responsible for paying the costs of the audit at Elavon's standard rates. The scope and timing of the audit shall be agreed in advance and any information accessed as a result of the audit shall be subject to the confidentiality obligations set out in your Agreement; and
 - 6.2.8 upon termination or expiry of your Additional Terminal Terms, to the extent that Elavon holds any Support Data on your behalf, you agree that Elavon shall delete such Support Data unless Elavon is required to retain the Support Data to comply with applicable laws or is otherwise authorised by law to retain the Support Data.
- 6.3 You warrant and undertake that any instructions given by you to Elavon in respect of the Support Data shall at all times be in accordance with the Data Protection Rules and that compliance with such instructions and the processing of the Support Data as permitted by these Additional Terminal Terms shall not result in a breach of the Data Protection Rules by you or Elavon.
- 6.4 You agree that Elavon may appoint Elavon's Affiliates as sub-processors and that both Elavon and Elavon's Affiliates may appoint third party sub-processors in connection with the provision of the support and maintenance services, provided in each case that equivalent obligations to those contained in sections 6.1 to 6.5 (inclusive) are included in a written contract with all sub-processors. A list of these sub-processors is available from Elavon upon written request.
- 6.5 You acknowledge and agree that Elavon may transfer Support Data to countries outside the UK, European Union and/or the European Economic Area including the United States of America in connection with the provision of the support and maintenance services provided that proper precautions to safeguard the security and confidentiality of such data are taken and in this case, the Standard Contractual Clauses (a copy of which is available as at the date of these Additional Terminal Terms in the Annex to the Commission Decision at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0087&from=EN>) shall constitute an adequate safeguard for the purpose of the Data Protection Rules. Elavon will be deemed to be acting as the controller under the Standard Contractual Clauses to enable such transfer of the Support Data to take place.
- 6.6 Elavon will be the controller of any personal data Elavon collects, processes and receives from you in order to provide you with the support and maintenance services.

7. TERMINATION

- 7.1 If you do not return the Terminals at the end of the Minimum Period of Hire, these Additional Terminal Terms will continue on the same terms until terminated by either Party giving not less than 30 days prior written notice (with such notice to expire on or at any time after the Minimum Period of Hire).
- 7.2 Without prejudice to any other rights and remedies available to you or us (as set out in the Core Terms or under the Card Scheme Rules or at Law), these Additional Terminal Terms will terminate automatically upon termination or expiry of:
- 7.2.1 our agreement with Poynt (as our agreement with Poynt is necessary to enable us to provide the Terminals for hire to you);
 - 7.2.2 your Poynt Agreement;
 - 7.2.3 your TOS; or
 - 7.2.4 your CCA Terms (if applicable).
- 7.3 For the avoidance of doubt, both Parties' rights and conditions to terminate the Core Terms also apply to these Additional Terminal Terms. Notwithstanding the foregoing, the Parties hereby acknowledge that termination of these Additional Terminal Terms shall not result in the automatic termination of any of the Core Terms (except as set out in section 9.1.2 below).

8. PAYMENT OF FEES

- 8.1 In consideration for your hire and use of the Terminals, you will pay us the Fees in accordance with the payment and invoicing terms set out in your Core Terms. Please note you may be liable to pay other charges and fees under your Core Terms, and such charges and fees will be payable in accordance with your Core Terms.
- 8.2 References to:
- 8.2.1 Fees and Adjustments in your TOS; and
 - 8.2.2 Monthly Payments in the CCA Terms (if applicable),
- shall be deemed to include references to the Fees for the purpose of these Additional Terminal Terms.
- 8.3 You may also be liable to pay Poynt fees under your Poynt Agreement. These fees are separate and in addition to your Fees payable to us under these Additional Terminal Terms.

9. CCA TERMS

- 9.1 If the CCA Terms apply to you:
- 9.1.1 the following provisions of the CCA Terms are expressly disappplied in these Additional Terminal Terms and shall not apply to your hire of the Terminals under these Additional Terminal Terms:
 - (a) Section 6.3 (Warranties, Disclaimer of Warranties); and
 - (b) Section 7 (Software License); and
 - 9.1.2 your CCA Terms will terminate automatically upon termination or expiry of these Additional Terminal Terms.

10. SUPPLEMENTAL PRIVACY NOTICE

YOUR DATA

A. Poynt on-boarding

Following our acceptance of your Poynt Terminal Application, we will transfer your personal data to Poynt for the purpose of Poynt on-boarding you onto the Poynt Software to enable Poynt to process Transactions on your behalf.

We will transfer your personal data to Poynt to enable Poynt to provide its transaction processing services to you. We consider that it is necessary and in the legitimate interests of both yourself and Poynt, to enable you to receive services from Poynt and we rely on this legal basis to process your personal data in these circumstances.

B. Support and maintenance services

To the extent you receive support and maintenance services from us and we require your personal data in order to provide such services to you, we will also transfer your personal data to Poynt. This is for the purpose of enabling Poynt to provide support and maintenance services to you (via us). In these circumstances, we rely on contractual necessity as the legal basis to process your personal data.

C. Our Privacy Policy

With respect to sections A and B above, our Privacy Policy further sets out how we collect and use your personal data throughout the term of our Agreement with you. It also sets out the rights you have in relation to your personal data. Our Privacy Policy is available at:

https://www.elavon.co.uk/content/dam/elavon/en-gb/documents/customer-centre/compliance/2018/Privacy_Notice_UK_IRE.pdf

11. REASONABLE ADJUSTMENTS

- 11.1 Your Poynt device will be supplied with an ADA Plate accessory. This should be attached to your device to ensure visually impaired users are able to independently enter their PIN as required. We will supply instructions for use. It is your responsibility to ensure that ADA plate accessories are used at your discretion and to comply with relevant legislation. We will not be liable for any action resulting from your application or use / misuse of the accessory.

It is very important that you read these Additional Terminal Terms and your Core Terms, before you submit this Poynt Terminal Application.

* Customer declaration and signatures

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By submitting this Poynt Terminal Application, the Customer and its representative(s) warrant and represent to us that (i) all information provided in this Poynt Terminal Application Form is true, complete and accurate; (ii) the person submitting this Poynt Terminal Application is duly authorised to bind the Customer to all provisions of this Poynt Terminal Application and the terms contained herein.

By submitting this Poynt Terminal Application, you understand that provided you meet our criteria for accepting customers, a binding agreement for the hire of the Terminals as set out in this Poynt Terminal Application Form is entered into between you and us on, and subject to, the Additional Terminal Terms. If you do not meet these criteria, we will decline the Poynt Terminal Application. We retain the right to decline this Poynt Terminal Application without further explanation.

Signed for and on behalf of the Customer:

Name (please print)

Date (DD/MM/YYYY)

INTERNAL USE ONLY

I certify to the best of my knowledge and belief that the information provided in this Poynt Terminal Application was provided by the Customer and is true, complete and accurate in all respects. I further certify that the signatures were provided by the Customer's owner(s) or officer(s), as appropriate.

Signature

Full Name & title (please print)

Date (DD/MM/YYYY)

Sales Rep Code