

# Gift & Loyalty Card Program | Merchant Application

Bankcard MID#: \_\_\_\_\_ ISO Name: \_\_\_\_\_ ISO#: \_\_\_\_\_ Sales Agent: \_\_\_\_\_

**LOCATION INFO**

Legal Name: \_\_\_\_\_ Tax ID# (required): \_\_\_\_\_

DBA Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

DBA Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mail Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

New location  Multi location  Corporate reporting  Multi Program  GIFT  LOYALTY  Special Program(cvc, sac, etc.)

**PRINCIPAL INFO**

Name(Print): \_\_\_\_\_ Title: \_\_\_\_\_ Email: \_\_\_\_\_

Social Security#: \_\_\_\_\_ Phone: \_\_\_\_\_ % Equity Ownership: \_\_\_\_\_

Principal Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**FEES**

Monthly Service Fee Per Location	Transaction Fee	Package Cost	Discount Rate	Reorder Cost	ALL MERCHANTS: Additional \$5.00 Monthly Fee Applies If Not Processing Transactions For 90 Consecutive Days.
\$ _____	\$ _____	\$ _____	% _____	\$ _____	

**PROGRAM OPTIONS AND CARD DESIGNS**

**PreDesigned**

**INTRODUCTION 30** Loyalty Program NOT Applicable with Intro Package (DBA name only printed on cards)

**PREDESIGNED 100** \_\_\_\_\_

**PREDESIGNED 500** \_\_\_\_\_  
(Optional 2 additional lines of text: Phone#, address, etc.)

**Logo**

**LOGO 100**  **LOGO 1000**  **Proof - \$30.00**

**Card Types**

Please select a PreDesigned or Logo card type:

Salon  Flowers  Spa  
 Rose  Swirls  Color Bags  
 Parchment  Blue Present  Cafe  
 Pizzeria  Restaurant  Red Bow  
 Diner  Yellow  Red  
 Blue  White  Green  
 Black

Email Camera Ready Artwork/Logo to: art@giftcardtraining.com

**Conversion**

**Database Conversion**  
*Importing of all outstanding gift cards that have balances.  
Free up to 1,000 cards / \$0.30 per card after  
Conversion Worksheet Required*

**Physical Conversion**  
*Converting all new gift cards that have not been activated.  
Free up to 1,000 cards / \$0.25 per card after  
Conversion Worksheet Required*

**MERCHANT TRAINING & DOWNLOAD - OPTIONAL** (\$25 per location billed to Sales Office) **SHIPPING** (billed to merchant)  **GROUND**  **NEXT DAY**

**Custom**

**CUSTOM 100** (Custom Face Only)  **CUSTOM 1000** (Fully Custom)

Email ready to print artwork to: art@giftcardtraining.com

**A-La-Carte**

**CARD QUANTITY** \_\_\_\_\_ (100 or more fully custom cards)

**Total Card Cost \$** \_\_\_\_\_

Email ready to print artwork to: art@giftcardtraining.com

A-La-Carte Marketing Items	Quantity	Cost
Card Carriers - \$0.20 ea.		
4x6 Static Cling - \$2.50 ea.		
Round Sticker - \$1.00 ea.		
Table Tent - \$2.50 ea.		
Acrylic Display - \$6.50 ea.		
Metal Countertop Display - \$14.95 ea.		
Custom Card Carriers - request quote min. qty. 500		

**EQUIPMENT INFO**

Terminal Type: \_\_\_\_\_ Number of Terminals: \_\_\_\_\_

**If terminal or equipment type is ever changed, you must contact Customer Support to ensure uninterrupted service.**

POS Software: \_\_\_\_\_ Version: \_\_\_\_\_ Number of Workstations: \_\_\_\_\_

**SPS-EFT Install** → POS Addendum Required. Software Installation Fee of \$175 per location applies. See Equipment Compatibility Chart for details.

**Dealer Install**

**NOTE:** Separate TID # is required for each terminal or POS workstation.  
(1) TID is already included per location.  
**NOTICE:** A \$1.50 per terminal charge will be billed monthly for all additional TID# issued for terminals or POS software.

Time Zone (Check One):  Eastern  Central  Mountain  Pacific  Hawaiian  Alaska Terminal Application Type:  Retail  Restaurant

**VOIDED CHECK FROM CHECKING ACCOUNT MUST BE ATTACHED WITH PRE-PRINTED BUSINESS NAME**

NOT VALID UNLESS APPROVED AND SIGNED BY AUTHORIZED OFFICER OF SPS-EFT

**Merchant Acceptance**

By signing below, I the undersigned, acknowledge and agree that the Gift & Loyalty Card Program services (“Services”) provided pursuant to this merchant application (“Application”) are provided by Sage Payment Solutions EFT, Inc. (“SPS-EFT”). I further represent to SPS-EFT that I have read the terms and conditions (“T&Cs”) attached to this Application and that I am authorized to sign and accept the T&Cs on behalf of the entity listed below (“Merchant”). I acknowledge and agree that the Merchant desires to use the Services in accordance with the T&Cs and that the T&Cs together with this Application, if accepted by SPS-EFT, create a legal agreement between the SPS-EFT and the Merchant (“Agreement”) separate and distinct from any other services offered in connection with the SPS-EFT Services. On behalf of the Merchant I will ensure that the T&Cs are reviewed and agree that they will be binding on the Merchant upon the use of the SPS-EFT account issued to the Merchant.

I certify to SPS-EFT that the information provided in this Application is true, complete and accurate. I authorize SPS-EFT to verify the information on this Application and consent to the collection, use and disclosure of personal information about me for this purpose. I consent to the sharing of credit information about me or the Merchant with credit reporting agencies or credit bureaus as well as entities the Merchant purports to have a financial relationship and to use of third party databases to obtain or verify information about the Merchant and its financial condition.

**ACH Authorization**

ACH Debit/Credit Authorization: Merchant hereby authorizes SPS-EFT in accordance with this ACH Debit Agreement to initiate debit/credit entries to Merchant’s checking account, as indicated per the attached copy of a voided check from same. The authority is to remain in full force and effect until (a) One hundred and twenty (120) days after SPS-EFT has received written notification from Merchant of its termination in such a manner as to afford SPS-EFT reasonable opportunity to act on it, and (b) all obligations of Merchant to SPS-EFT that have arisen under this agreement have been paid in full.

**Personal Guarantee**

To induce SPS-EFT to enter into the Agreement, I the undersigned (the “Guarantor”), guarantee to SPS-EFT the due and punctual payment and performance of any and all of the present or future, direct or indirect, absolute or contingent indebtedness, obligations and liabilities of the Merchant named on this Application (and its successors and assigns) which arise pursuant to or in connection with the Agreement as they become due from time to time (collectively the “Liabilities”) regardless of the place or manner in which the Liabilities arise or are evidenced, in any currency, whether incurred by the Merchant alone or with another or others and whether as principal or guarantor. If this Guarantee is executed by more than one party, the obligations of all parties executing this Guarantee shall be joint and several and each such party shall, therefore, be severally liable for all of the obligations guaranteed hereby, notwithstanding any discharge or unenforceability of the obligations with respect to any other party executing this Guarantee. The Guarantor shall pay or perform the Liabilities immediately on demand without any requirement that payment or performance of any of the Liabilities has been demanded from the Merchant. The Guarantor will pay and perform the Liabilities without regard to (i) any equities between the Guarantor and the Merchant or the Guarantor and SPS-EFT; or (ii) any defense or right of set-off, combination of accounts or appropriation or any cross-claim which the Merchant or the Guarantor may have. The amount of the Liabilities at any time shall be deemed to be as stated by SPS-EFT based on its records, absent manifest error. The Guarantor waives all defenses to any action or proceeding to enforce this Guarantee.

This Guarantee shall not be limited, lessened, released or discharged by the recovery of any judgment against the Merchant or any other person, by any voluntary or involuntary liquidation, dissolution, winding-up, merger or amalgamation of the Merchant or any other person, by any sale or other disposition of all or substantially all of the assets of the Merchant, or by any judicial or extra-judicial receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, moratorium, arrangement, composition with creditors or other proceedings affecting the Guarantor, the Merchant or any other person. The Guarantor shall reimburse or indemnify SPS-EFT on demand for all costs and expenses (including legal fees and disbursements on a solicitor-and-his-own-client basis) paid or incurred in enforcing the Liabilities. This Guarantee shall enure to the benefit of the successors and assigns of SPS-EFT. This Guarantee is binding upon the Guarantor, and any heirs, executors, legal representatives, successors and assigns of the Guarantor and is effective until the obligations of the Guarantor hereunder have been permanently paid or performed in full.

**MERCHANT AGREED AND ACCEPTED:**

I have read and agree to the terms of this agreement. The officer(s) identified have the authority to execute the GIFT & LOYALTY Service Agreement with SPS-EFT on behalf of the corporation or LLC if applicable.

X \_\_\_\_\_ Date \_\_\_\_\_  
 Authorized MERCHANT or Officers Signature

**VOIDED CHECK FROM CHECKING ACCOUNT MUST BE ATTACHED WITH PRE-PRINTED BUSINESS NAME**

**Official SPS-EFT use only**

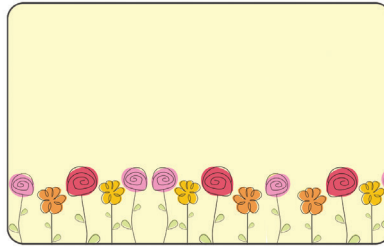
Application Approved by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**NOT VALID UNLESS APPROVED AND SIGNED BY AUTHORIZED OFFICER OF SPS-EFT**

PreDesigned and Logo Card Options



Salon



Flowers



Spa



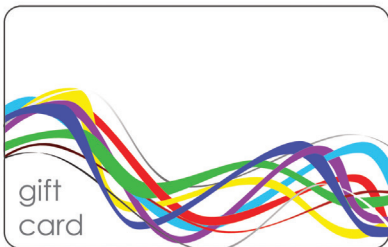
Red Bow



Blue Present



Rose



Swirls



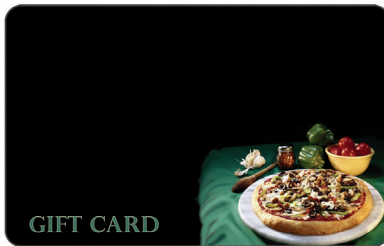
Color Bags



Parchment



Cafe



Pizzeria



Restaurant



Solid Color Card Options:  
Yellow, Red, Blue,  
White, Green, Black



Diner

Text colors available for PreDesigned cards: Black, White, Silver, Gold, Blue, Red  
Optional: Visit [www.GiftCardStudio.com](http://www.GiftCardStudio.com) to preview or submit your design.

## Option 1: Frequency Program

- **Rewards are earned based on number of visits or number of items purchased**
- 1 visit or purchase = 1 point or X # of dollars.
- Points will continue to accumulate until the consumer chooses to redeem their reward.
- Rewards can only be redeemed one at a time.
- If the merchant chooses the reward to be a dollar amount, the value will be automatically placed on the gift/loyalty card.

- Merchant determines what rewards to give for points accumulated
  - Example 1: "Get 5 haircuts and 6th haircut is free" (not available on Nurit terminals)
  - Example 2: "Buy 10 sandwiches and the 11th is free" (not available on Nurit terminals)
  - Example 3: "Visit 10 times and earn XXX dollars on your loyalty/gift card"

**Please complete the table below to define your program:**

Points Needed For Reward	Consumers' Reward	Max Points Per Day That Can Be Added

**NOTE:** Rewards are available the following business day

## Option 2: Dollar Program

- **Rewards are earned based on dollars spent**
- \$1.00 spent = 1 Point
- The dollar reward value will be automatically placed on the card once the consumer reaches the specified point level. Once a reward level is reached and the reward is added on the card, the dollar spending counter is reverted back to 0 and the consumer must spend the following amount to reach the next level.

- Merchant determines what rewards to give for points accumulated
  - Example 1: Single level of reward
    - Spend \$100.....Receive a \$10 reward on your card.
  - Example 2: Multiple levels of rewards
    - Spend \$100.....Receive a \$15 reward on your card.
    - Spend \$250.....Receive a \$40 reward on your card.
    - Spend \$500.....Receive a \$70 reward on your card.

**Please complete the table below to define your program:**

Award Level	Points Needed For Reward	Consumers' Reward	Max Points Per Day That Can Be Added
FIRST			
SECOND			
THIRD			
FOURTH			
FIFTH			

**NOTE:** Rewards are available the following business day

## Option 3: Rebate/Discount Program

*\*Available only on the following terminals: Omni 3750/Omni 3740/Omni 3730/Omni 3300/VX510/Vx570, Hypercom T7/T4100/T4200 series*

**Please select one of the following programs:**

- Rebate** – Award a percentage or flat dollar amount to use toward future purchases
- Discount** – Apply percentage or flat dollar amount off of purchase price at time of visit

### Monetary Program

- **Flat monetary amount**
- **Must set threshold amount**
- **Option to set various award levels. Maximum of 10 award levels per program.**
- **Monetary examples**
  - Example 1: \$5 rebate/discount on any purchase
  - Example 2: \$5 rebate/discount on any purchase over \$20
  - Example 3: \$5 rebate/discount on purchases over \$20, \$10 on purchases over \$40, \$15 on purchases over \$60, etc.

### Percentage Program

- **Percentage of purchase amount**
- **Must set threshold amount**
- **Option to set various award levels. Maximum of 10 award levels per program.**
- **Percentage examples**
  - Example 1: 5% rebate/discount on any purchase
  - Example 2: 5% rebate/discount on any purchase over \$20
  - Example 3: 5% rebate/discount on purchases over \$20, 10% on purchases over \$40, 15% on purchases over \$60, etc.

Please complete the below to define your program...

Award Level	Threshold	Consumers' Rebate/Discount
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

After the initial loyalty program and/or rebate/discount program is activated it can be changed at any time by submitting a new addendum. We reserve the right to charge a fee if the loyalty program and/or rebate/discount program has been changed multiple times. Please be aware that if the loyalty solution and/or rebate/discount solution reward levels are changed all remaining balances will be left on the active cards. Clerks and web users accessing the system from a terminal or web system assume liability for adding correct point values. The processor assumes no liability for inaccurate data entered into the system. By signing below you agree that the above information is accurate and you agree to the terms outlined above.

Merchant Name: \_\_\_\_\_ Contact Name: \_\_\_\_\_

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

**Please Note:** If terminal or equipment type is ever changed, you must contact Gift & Loyalty Card Customer Support at 1-888-481-0757 to ensure uninterrupted service.

### Merchant Rights and Responsibilities: Gift & Loyalty Card Service

ALL INFORMATION CONTAINED ON THIS APPLICATION WAS COMPLETED BY OWNERS AND/OR OFFICERS OF MERCHANT AND THEY WARRANT THAT ALL ACCOUNT INFORMATION AND SALES VOLUME INDICATED THROUGHOUT THIS APPLICATION ARE ACCURATE AND ACKNOWLEDGE THAT ANY VARIANCE TO THIS INFORMATION COULD RESULT IN DELAYED AND/OR WITHHELD SETTLEMENT OF FUNDS. NO BLANK SPACES WERE LEFT INCOMPLETE. N/A OR NONE HAS BEEN FILLED IN ANY SPACES WHERE APPLICABLE. THIS AGREEMENT SHALL NOT BE BINDING OR TAKE EFFECT UNTIL MERCHANT HAS BEEN APPROVED BY A SPS-EFT OFFICER AND A MERCHANT NUMBER HAS BEEN ISSUED.

SPS-EFT has developed the SPS-EFT prepaid service. The service together with its related software and documentation integrates with various retail store locations and provides a prepaid/stored value tracking system for anonymous customer activity at the retail business. The service shall hereinafter be referred to as the SPS-EFT Gift prepaid. MERCHANT desires to initially purchase processing for SPS-EFT Gift prepaid and desires SPS-EFT to service those cards. NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, SPS-EFT and MERCHANT agree as follows:

#### TERMS AND CONDITIONS

##### I. SPS-EFT's LICENSE

- a. SPS-EFT hereby grants to MERCHANT the right to use the SPS-EFT product at its specified locations. Further, MERCHANT agrees that SPS-EFT shall be the exclusive store value /prepaid processing provider of MERCHANT during the term of this Agreement and that each SPS-EFT Gift Card issued will contain an account number and magnetic stripe encoded to SPS-EFT's specifications.
- b. If MERCHANT fails to perform any of its obligations hereunder or shall commit an act of bankruptcy within the meaning of the Federal Bankruptcy Act or if the bankruptcy, receivership, insolvency, liquidation, or other similar proceeding shall be instituted by MERCHANT on all or any part of its property, SPS-EFT may terminate the limited license granted in this Section 1 immediately upon written notice. No payments made to SPS-EFT by MERCHANT hereunder shall be refunded to it; and the obligations of MERCHANT under this Agreement shall survive any termination thereof.

##### II. FEE, PAYMENTS AND OBLIGATIONS

- a. MERCHANT shall pay a transaction fee for any instance the terminal dials in to the system, a discount fee, and a monthly service fee as per the schedule of fees on page one. Examples of transaction fees that will be charged as per fee schedule of this agreement include: Issuance (per card regardless if issuance is single or group), Purchase (redemption), Balance Inquiry, Add Value, Void, Transfer, Clerk Maintenance, Reports. MERCHANT shall pay a network compliance fee up to \$4.00 per month, and an annual subscription fee up to \$59.95 per year. MERCHANT agrees that SPS-EFT will assess up to \$25.00 for each NSF chargeback. MERCHANTS using POS software must submit a POS Installation Form and POS software users shall pay a five (\$5.00) dollar monthly fee for phone support. POS Software support calls exceeding the three call limit shall be billed at a rate of ten (\$10.00) dollars per call (refer to the POS Software section of SERVICE PROVIDED). Applicable shipping charges will be assessed for all reorders. MERCHANT shall pay a unload report fee if merchant requests in writing to receive a report detailing cards in issuance and current balances. Unload reports can be provided on a monthly basis for a monthly fee of five (\$5.00) or a one-time report can be provided for a one-time fee of ten (\$10.00) dollars. MERCHANT shall pay a plate change fee for any design change on reorders. Actual plate change rates are listed on the appropriate program reorder forms. MERCHANT shall pay a monthly inactivity fee of five (\$5.00) dollars after 90 days of no activity. MERCHANT may select to convert previously issued cards to the new processor and shall pay a fee for conversion of card database of previously issued cards. Rush conversion is available and will be added to the conversion cost. Refer to the Gift Card Conversion Worksheet for further information and conversion rates.
- b. MERCHANT must promptly notify SPS-EFT in writing of any dispute regarding fees under this Agreement. MERCHANT'S written notice must include: (i) MERCHANT name and account number; and (ii) the dollar amount and description of the disputed fees. Such written notice must be received by SPS-EFT no later than ninety (90) days after the disputed fees have been paid by MERCHANT or charged to MERCHANT'S account by SPS-EFT. MERCHANT'S failure to so notify SPS-EFT will waive and bar the dispute.
- c. Payment for the service of all SPS-EFT cards ordered by MERCHANT shall be in advance and concurrent with the MERCHANT'S signed SPS-EFT Service Agreement. See cost of set-up, card reorders, and training and download fees under the schedule of fees section on page one.
- d. SPS-EFT reserves the right to block MERCHANT'S access to related processing equipment and/or software in the event any related SPS-EFT Prepaid Service fees or charges result in a chargeback or return of any kind from MERCHANT'S designated account.
- e. SPS-EFT reserves the right at all times to unilaterally change all or part thereof, or any other terms of this Agreement upon written notice to MERCHANT.

##### III. PROMOTIONAL MATERIALS AND REPRESENTATIONS CONCERNING SPS-EFT'S SERVICE

- a. From time to time, SPS-EFT may design educational and promotional materials and send such to MERCHANT for MERCHANT to distribute or display. MERCHANT further agrees to immediately remove and properly dispose of SPS-EFT's stale promotional materials and to display the most current materials upon receipt of such from SPS-EFT. MERCHANT will discontinue the use of all of SPS-EFT's promotional materials and properly remove said materials upon receipt of written notification of suspension or termination of this Agreement. In the event of suspension, MERCHANT shall redisplay appropriate materials upon receipt of written verification of resumption of service by SPS-EFT.
- b. MERCHANT shall make no use of SPS-EFT's promotional materials or marks, other than as set forth in paragraph (a) above, without SPS-EFT'S prior written consent. In no way shall the MERCHANT indicate that SPS-EFT's services are an endorsement of the MERCHANT, its business or its business practices.

##### IV. EQUIPMENT AND SOFTWARE

- a. MERCHANT shall furnish each outlet, retail location, or business entity with compatible terminal or approved POS software. SPS-EFT shall assign each MERCHANT'S terminal or virtual terminal an identification number. MERCHANT is responsible for all telecommunication fees and charges, including but not limited to telephone fees, associated with and related to the use of the terminal. MERCHANT shall maintain all equipment related to SPS-EFT Gift Prepaid processing in good working order at MERCHANT'S expense. MERCHANT shall advise SPS-EFT immediately in the event of a breakdown of related equipment, software, or of any other system failure. Moreover, SPS-EFT'S approval of such equipment does not constitute nor express an implied warranty, representation or endorsement of such equipment.
- b. MERCHANT agrees to utilize only equipment approved by SPS-EFT for the processing of SPS-EFT Gift Prepaid transactions and in a format and medium of transmission acceptable to SPS-EFT.
- c. Any improvements or modifications requested by MERCHANT and performed by SPS-EFT (or its affiliated Information Technology Partners) will be agreed to by both parties in writing. All such enhancements shall remain the sole property of SPS-EFT (or SPS-EFT'S partners). All costs for said services shall be covered under a separate agreement.

##### V. SERVICE PROVIDED

SPS-EFT will provide the following facilities and capabilities to MERCHANT:

- a. AUTHORIZATION: SPS-EFT will provide authorization of a SPS-EFT Card Program transaction requested and initiated by the retail location via a dial telephone network. SPS-EFT will respond to each request with an approval or decline.
- b. ONLINE REPORTING: SPS-EFT will provide periodic reports to enable MERCHANT to monitor and manage the program implemented at each of its affiliated retail store locations. MERCHANT will have access to a web site secured with a username and password.
- c. CUSTOMER SERVICE (Help Desk): SPS-EFT provides a telephone Help Desk, which will be used for response to MERCHANT and/or CONSUMER inquiries and for receiving notifications of problems, defects, and malfunctions.
- d. RESPONSE TIME: SPS-EFT agrees to provide to MERCHANT an estimated resolution time within forty-eight (48) hours of the time a problem, which materially impacts MERCHANT'S operation, is reported.
- e. SUPPORT: SPS-EFT agrees to establish support for problem diagnosis and to provide file transfer capabilities for downloading and uploading software. MERCHANT agrees to install a SPS-EFT approved device on their premises.
- f. POS SOFTWARE SUPPORT: MERCHANTS using POS software must submit a POS Installation Form and POS software users shall pay a monthly fee for software support. POS Software support is limited to three calls per month and MERCHANTS shall be charged for calls exceeding the three call limit (refer to FEE, PAYMENTS AND OBLIGATIONS section).
- g. VIRTUAL TERMINAL: The virtual terminal is an optional service that provides MERCHANT the ability to issue cards, add value, void transactions, and redeem cards on the virtual terminal.

##### VI. ADDITIONAL SERVICES

- a. ACH POOLING: If MERCHANT has submitted the ACH Pooling Agreement addendum then MERCHANT wishes SPS-EFT also to provide ACH Pooling services to MERCHANT. If MERCHANT has not submitted the appropriate addendum, MERCHANT is not entitled to such services. If MERCHANT elects the ACH Pooling service, MERCHANT agrees that SPS-EFT will move funds associated with SPS-EFT Card Program to/from the account MERCHANT has designated on the ACH Pooling Agreement and the ACH Pooling Agreement Terms and Conditions also apply.
- b. LOYALTY SERVICES: If MERCHANT has submitted the Loyalty Addendum then MERCHANT wishes SPS-EFT also to provide Loyalty Card services to MERCHANT. If MERCHANT has not submitted the appropriate addendum, MERCHANT is not entitled to such services. If MERCHANT elects Loyalty Card services, MERCHANT agrees that SPS-EFT will award points or dollar value as outlined in the Loyalty Addendum.
- c. GIFT CARD CONVERSION: If MERCHANT has submitted the Gift Card Conversion Worksheet then MERCHANT wishes SPS-EFT also to provide Card Conversion services to MERCHANT. If MERCHANT has not submitted the appropriate Worksheet, MERCHANT is not entitled to such services.

##### VII. AUTHORITY OF PARTIES

Each party represents and warrants that it is a corporation duly authorized, validly existing, and in good standing under the laws of the jurisdiction under which it is incorporated and the execution of this Agreement is valid, binding, and enforceable in accordance with its terms.

SPS-EFT hereby reserves the right to use MERCHANT'S custom card artwork for promotional purposes.

VIII. WARRANTY/LIMITATIONS OF REMEDY

SPS-EFT warrants that any maintenance or other services rendered to MERCHANT in accordance with the terms of this Agreement will be performed in a professional manner by qualified personnel. **EXCEPT FOR THE WARRANTY STATED IN SECTION (a), SPS-EFT MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES FOR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

a. LIMITATION OF LIABILITY AND MERCHANT'S WAIVER OF DAMAGES.

- i. **Force Majeure:** SPS-EFT shall not be responsible for delays, nonperformance, damages, lost profits or other losses caused directly or indirectly by any Act of God, including, without limitation, fires, earthquakes, tornadoes, hurricanes, wars, labor disputes, communication failures, legal constraints, power outages, data transmission loss or failure, incorrect data transmission or any other event outside the direct control of SPS-EFT.
- ii. MERCHANT must examine all statements relating to this Agreement, and promptly notify SPS-EFT in writing of any dispute regarding fees owed to SPS-EFT. MERCHANT'S written notice must include: (i) MERCHANT name and account number; and (ii) the dollar amount and description of the disputed fees. Such written notice must be received by SPS-EFT no later than ninety (90) days after MERCHANT received from SPS-EFT the periodic statement of fees that includes the disputed fees. MERCHANT'S failure to so notify SPS-EFT of a dispute regarding any component of the statement and fees owed will waive and bar the dispute.
- iii. SPS-EFT shall be responsible for performance of the services as a third-party provider in accordance with the terms of this Agreement. SPS-EFT shall not be responsible for any other person's or entity's errors, acts, omissions, failures to act, negligence, or internal conduct, including without limitation entities such as SPS-EFT's communication carrier or clearing houses, and no such entity shall be deemed to be a representative or an agent of SPS-EFT. **IN NO EVENT SHALL SPS-EFT BE LIABLE TO MERCHANT FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES WHICH MERCHANT OR ITS CUSTOMERS, AFFILIATES, PARENT COMPANIES, ASSOCIATES, AGENTS, OFFICERS, DIRECTORS OR EMPLOYEES MAY INCUR OR SUFFER IN CONNECTION WITH THIS AGREEMENT, INCLUDING LOSS OR DAMAGE FROM SUBSEQUENT WRONGFUL DISHONOR RESULTING FROM SPS-EFT'S ACTS OR OMISSIONS PURSUANT TO THIS AGREEMENT.**

b. **SITUS:** The situs for all transactions covered by this Agreement shall be Okaloosa County, Florida. MERCHANT acknowledges that this Agreement was formed in Florida, upon its acceptance by SPS-EFT.

c. **ATTORNEYS FEES:** In the event that it becomes necessary for SPS-EFT to employ an attorney to enforce, interpret, mediate or arbitrate this Agreement, or collect a debt from MERCHANT, SPS-EFT shall be entitled to recover its reasonable attorneys' fees, costs, and disbursements related to such dispute from MERCHANT.

d. **ASSIGNABILITY:** MERCHANT may not assign its rights and obligations hereunder to a third party, without prior written consent of the other party, which consent shall not be unreasonably withheld, provided that such consent shall not relieve the assigning party of any of its obligations hereunder. Notwithstanding the foregoing, either party may assign this Agreement to a parent, affiliated or Subsidiary Corporation, or a Partnership, Limited Liability Company or other entity consisting of the majority of existing shareholders without consent upon notice to the other party.

IX. TERM AND TERMINATION

- i. This Agreement shall be effective upon the date hereof for a term of twenty-four (24) months. This agreement will automatically renew for additional one (1) year terms, unless notice is provide in writing by MERCHANT sixty (60) days prior to the termination of the agreement. MERCHANT must provide sixty (60) days written notice to SPS-EFT of termination and monthly minimum and subscription fees will continue in effect for this time. As long as this agreement is in force, all SPS-EFT Gift Card Programs on the system shall continue to be maintained. In the event of the termination of this Agreement and upon the request of MERCHANT, SPS-EFT shall provide an Unload Report of the existing cards in the SPS-EFT database and a one-time Unload Report fee of ten (\$10.00) will be assessed and electronically debited from the MERCHANT's account. Unless specifically requested in writing by MERCHANT at the time of termination, SPS-EFT is under no obligation to retain any card numbers or card balance data.
- ii. In the event of a material breach, this Agreement shall terminate at the sole discretion of SPS-EFT.
- iii. If merchant terminates this agreement, a one-time fee of one hundred ninety nine dollars (\$199.00) will be assessed and electronically debited from the MERCHANT's account for administrative processing.

X. BINDING FORCES

This Agreement shall be binding upon and inure to the benefit of and be enforceable by the administrators, legal representatives, agents, successors, and assigns of the parties hereto.

XI. NOTICES

All notices provided for by this Agreement shall be made in writing and shall be deemed received by the intended recipient; (i) the third business day after the date placed in United States Mail or; (ii) the first day after notice is sent by express mail or; (iii) the first day after notice is sent by express mail or other overnight mail service. All notices shall be delivered to the address indicated on this agreement unless the party giving any such notice has been notified, in writing or verbally, of a change of such address.

XII. ENTIRE AGREEMENT

This Agreement and Exhibits attached hereto shall constitute the entire agreement between the parties with respect to the subject of this Agreement and the parties represent that there are no collateral agreements or side agreements not otherwise provided for within the terms of this Agreement. The terms and conditions of the Agreement supersede those of all previous agreements, if any, between the parties with respect to the subject matter of this Agreement.

XIII. GOVERNING LAW

This Agreement shall be governed and construed and enforced in accordance with the laws of the State of Florida. Any claims or charge made hereunder shall be brought in state or federal court in the State of Florida. The parties hereto irrevocably consent to the jurisdiction and venue of such court and waive any present or future objections to venue or jurisdiction in such court. The parties agree that service of process may be made upon them by certified or registered mail as provided in paragraph (X) above or any other method authorized under local rules of civil procedure.

XIV. FAIR GIFT CARD ACT OF 2009

a. UNFAIR OR DECEPTIVE ACTS OR PRACTICES REGARDING GIFT CARDS:

- i. Prohibition on Imposition of Fees or Charges:
  1. **IN GENERAL** - It shall be unlawful for any person to impose, with respect to a gift certificate, store gift card, or general-use prepaid card, a dormancy fee, inactivity charge or fee, or a service fee.
  2. **EXCEPTION** - A dormancy fee, inactivity charge or fee, or service fee may be charged with respect to a gift certificate, store gift card, or general-use prepaid card if (a) such certificate or card has a remaining value of \$5 or less at the time such charge or fee is assessed; (b) such charge or fee does not exceed \$1; (c) (i) there has been no activity with respect to the certificate or card in the 24-month period ending on the date the charge or fee is imposed; and (ii) the certificate or card was issued more than 24 months before such date; (d) the holder of the certificate or card may reload or add value to the certificate or card; and (e) the following disclosure requirements are met.
  3. **DISCLOSURE REQUIREMENTS** - The disclosure requirements of this paragraph are met if (a) the gift certificate, store gift card, or general-use prepaid card clearly and conspicuously states in at least 10-point type (i) that a dormancy fee, inactivity charge or fee, or service fee may be charged; (ii) the amount of such fee or charge; (iii) how often such fee or charge may be assessed; and (iv) that such fee or charge may be assessed for inactivity; and (b) the issuer of such certificate or card informs the purchaser of such charge or fee before such certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.
- ii. Prohibition on Sale of Gift Cards With Expiration Dates:
  1. **IN GENERAL** - It shall be unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.
  2. **EXCEPTIONS**- A gift certificate, store gift card, or general-use prepaid card may contain an expiration date if (a) the expiration date is not less than 5 years after the date on which the card is purchased; and (b) the terms of expiration are prominently disclosed in all capital letters that are at least 10-point type.
- b. **RELATION TO STATE LAWS:** This Act shall not supersede any provision of State law with respect to dormancy fees, inactivity charges or fees, service fees, or expiration dates of gift certificates, store gift cards, or general-use prepaid cards.
- c. **ENFORCEMENT:** A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

XV. **IRS REPORTING AND WITHHOLDINGS.** Section 6050W of the Internal Revenue Code ("Code") requires payment providers and third party payment networks, such as SPS-EFT, to report payment settlement amounts to the Internal Revenue Service ("IRS") for each Merchant processing through SPS-EFT. Merchant shall verify its identity by providing SPS-EFT with a Tax Identification Number ("TIN") such as a Social Security Number (SSN) or Employer Identification Number (EIN) for each Merchant Account. In the event Merchant fails to provide its TIN, SPS-EFT will place a restriction on Merchant's Account and may restrict the receipt of funds into Merchant's Account, or withhold a percentage of payments deposited into Merchant's Account in order to satisfy the backup withholding requirements of the IRS.

XVI. **BANK SECRECY ACT (BSA) PREPAID ACCESS FINAL RULE.** The Financial Crimes Enforcement Network (FinCEN) enacted changes to the BSA to establish a more comprehensive regulatory approach for prepaid access (previously referred to as stored value). Merchants that sell gift cards or similar prepaid access services may now be required to register with FinCEN as a Money Services Business (MSB). Merchant is responsible for insuring they comply with all federal and local legislation and SPS-EFT does not provide legal advice. For additional information regarding BSA and MSB registration requirements visit [www.fincen.gov](http://www.fincen.gov).