



Merchant Agreement – Terms and Conditions

Valued Merchant Services
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This Agreement to accept and process electronic Stored-value cards is made between you, the Merchant (also “you” and “your(s)”), and Valued Merchant Services, LLC. (also “Valued Merchant Services (VMS)”, “we”, “us” and “our”(s)), and is incorporated by reference in this Application for Merchant Agreement which you have signed and filed with us (the “Application”). According to the terms of this Agreement and any applicable operating procedures, you agree to participate in our Stored-value processing Program (the “Program”), honor Stored-value cards, and submit the necessary information and electronic data to us for processing. We agree to provide authorization and processing services.

This Agreement will be binding upon the successors, assignees and legal representatives of the parties. The terms of this Agreement and the Program it authorizes are subject to all applicable state, local and federal laws. We reserve the right to cancel this agreement at any time for your failure to comply with the terms of this Agreement. In addition to this document, this Agreement includes your Merchant Application, any operating procedures, Quick Reference Guide, schedule or addenda that we have provided or may provide from time to time, or may be provided by any organization through which we derive Program authority.

Glossary of terms

The definitions contained in the Glossary will apply to the defined terms contained in this agreement.

- a) “Stored-value card”: A mag-stripe card or smart card that replaces traditional paper gift or loyalty certificates used in retail, restaurant, lodging and other establishments.
- b) “Mag-stripe card”: A card with a magnetic strip on the front or back of the card.
- c) “Merchant”: Any business that accepts Stored-value cards as a form of payment.
- d) “Merchant Agreement”: A contract between a merchant and [YOUR COMPANY NAME] that contains their respective rights, duties, and obligations for participation in the Stored-value card or gift card Program.
- e) “Smart Card”: A credit card size plastic card or key tag with an imbedded memory or microprocessor chip that stores data that may be accessed through a contact surface on the card or by wireless a proximity reader.
- f) “POS Terminal”: An electronic point of sale (POS) terminal that is capable of reading mag-stripe or smart cards for the purpose of authorizing transactions.

1. STORED-VALUE CARD ACCEPTANCE

You agree to be responsible for the actions of your employees while acting in your employ.

2. TRANSACTION PROCEDURES

- A. Authorizations must be obtained for every transaction, unless otherwise specified in our operating procedures guide.
- B. If the Stored-value card has expired or the funds have been depleted, refer your internal merchant policy to re-activate, re-issue or accept a different form of payment for the balance for goods and services.
- C. You agree to follow the steps for completing transactions as set forth below and the Quick Reference Guide, which may be modified or supplemented by future guides or updates.
 1. Total the sale, including tax, and follow the instructions in your Quick Reference Guide to authorize the transaction using your point of sale terminal.
 2. Return the Stored-value card and customer copy of the sales draft to the customer.

3. RETURNS AND EXCHANGES

- A. You agree to establish and maintain a fair and uniform policy consistent with your existing operation procedures for the exchange and return of merchandise purchased with a Stored-value card.
- B. All disputes involving the goods or services purchased with a Stored-value card will be settled between you and the cardholder. You agree to indemnify and hold us harmless from any claim or liability relating to any such dispute.
- C. Any internal operating policy regarding non-cash credit through the use of the Stored-value card program is your expressed decision. You agree to indemnify and hold us harmless for any claim relating to any dispute regarding your non-cash credit policy.

4. CHARGES AND ASSESSMENTS

- A. You agree to pay processing and settlement fees as set forth in your signed quote or proposal for the processing and settlement of all Stored-value card transactions.
- B. Your fee schedule, which is detailed in our quote or proposal letter, sets forth fee charges and assessments. Fees and assessments subject to change, however we will provide you with written notice of said changes at least 90-days prior to the date that the change goes into effect. Fees and assessments are payable by you with respect to any processing fees, purchase or rental fees for POS equipment, card stock, setup fees, charges for supplies and charges for promotional materials.

INITIALS _____

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Merchant Name: _____

5. EQUIPMENT

- A. If you are implementing a new Stored-value card program at your establishment, you agree to obtain from a third party or us the number of electronic terminals you will need.
- B. You agree to arrange and pay for the installation of any necessary telephone lines, jacks and other equipment to operate the POS terminals for the purpose of Stored-value card acceptance.
- C. If you rent POS terminals from us, you agree that the POS terminals will remain our exclusive property. In the event of termination of this agreement, you will return these rented POS terminals to us on demand, in good condition, with only reasonable wear and tear accepted.
- D. In no event will we be liable to you or your customers for special, collateral, incidental or consequential damages arising out of the operation or failure of the equipment. You agree to indemnify and hold us harmless from any claim or liability relating to the operation of or failure of the equipment.

6. DESIGNATED AUTOMATIC FUNDS TRANSFER ACCOUNT

- A. You authorize us to initiate and/or transmit automatic credit and/or debit entries to account and depository of your choice identified in this Application for Merchant Agreement or in any subsequent written designation (Designated Automatic Funds Transfer Account). This authority includes, but is not limited to, the initiation and transmission of such entries, request or orders as may be necessary to:
- 1) Debit or charge the Designated Automatic Funds Transfer Account for any fees, or other reimbursements due to us under the terms of this Agreement or our operating procedures;
 - 2) Reverse or adjust any entries made in error or by mistake however caused, or,
 - 3) Revoke any provisional credit with respect to any entry or group of entries.
- B. You agree to be bound by all applicable terms and provisions of the rules of the National Automated Clearinghouse Association (NACHA) or other applicable association or network, in effect from time to time.
- C. You agree that we may adopt or use such schedules, facilities, intermediaries and/or means of transmission, or alternatives as we believe suitable and that we accept no undertaking and make not warranty or assurances regarding the date or time at which entries will be received by, credited to or debited from the Designated Automatic Funds Transfer Account.
- D. You acknowledge that we have no control over you, your agents or employees, intermediaries such as NACHA or other facilities involved in the initiation or transmission of entries to and from the Designated Automatic Funds Transfer Account, and that such facilities or intermediaries may be damaged, impaired or other wise fail to function properly or timely due to circumstances beyond our control. You agree that we shall have no responsibility or liability for any loss or damage resulting, wholly or partial, from such failures or circumstances beyond our control, and you assume the risk of any such loss or damage.
- E. You acknowledge that we are providing ACH Services at cost and that we would not do this if we were exposed to liability and cost other than those required by law. Consequently you agree that we shall not be liable to any extent not required by Ohio Uniform Commercial Code. You agree that in no event shall we be liable for any indirect or consequential losses or damages, damages to person or property, or any loss of profits notwithstanding notice to us of the possibility of such losses.

7. AMENDMENTS

- A. You agree that we shall have the right to change the rules, procedures, terms and conditions under this Agreement. We agree to inform you of the changes at least 10 of our business days before the change becomes effective.
- B. We may change the fees from time to time and will give you notice of the change at least 90 calendar days before the effective date.
- C. This Agreement may not otherwise be amended except by written agreement between the parties.

8. LEGAL LIABILITY

- A. Should it be necessary for either party to initiate legal action to enforce its rights under this Agreement, the prevailing party will be reimbursed by the other party for all cost and expenses, including reasonable attorney's fees, incurred by this legal action.
- B. We agree to exercise due care in processing Stored-value card transactions. We will have no liability for any acts or omissions due to any cause or conditions beyond our reasonable control. Our sole liability to you or any third party will be to correct such errors or omissions that are within our power and authority to correct. In no event will we be liable for any indirect, consequential, special, exemplary or punitive damages, even if we have been advised of the possibility of such damages.

9. ARBITRATION

You and we agree that any and all claims, demands, disputes or controversies of every kind or nature between us arising out of or related to this Agreement, as to the existence, applicability, construction, validity, interpretation, performance or non-performance, enforcement, operation, or breach thereof, which is not otherwise settled by your agreement, shall be submitted to, determined and decided by arbitration, held at [YOUR CITY AND STATE] in accordance with the provisions of the [YOUR STATE] Uniform Arbitration Act, or any successor statute.

The Merchant:

Merchant Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Valued Merchant Services, LLC (VMS):

Signature: _____

Printed Name: _____

Title: _____

Date: _____