

GIFT CARD SERVICES ADDENDUM

This Gift Card Addendum ("**Gift Card Addendum**") is by and between the Sub-Merchant as named in the Till Payments, LLC Application and Sub-Merchant Agreement ("**Agreement**") that applies to participate in Transactions using Till Payments' processing products ("**Sub-Merchant**") and Till Payments, LLC with its principal place of business at 3133 W Frye Road, Suite 101, Chandler, Arizona 85226 ("**Till Payments**"), each of which may be referred to individually as a "**Party**" or collectively as "**Parties**." In the event of a conflict between the Agreement and this Addendum, the provisions of this Addendum shall prevail

Till Payments and Sub-Merchant hereby agree as follows:

I. Pursuant to the Agreement, Till Payments provides software and a related payment facilitation platform for payment processing. In consideration of the fees defined herein, Till Payments shall also provide certain gift card services to Sub-Merchant in accordance with the terms herein.

- 1. Gift Card Services.** The "Gift Card Services" shall include the electronic processing of gift card, prepaid card and other related cards (collectively, a "**Card**") for purchases and other transactions made by customers of Sub-Merchant who hold approved cards ("**Approved Cards**"). Till Payments or Third Party Partner (defined below) shall electronically verify that an Approved Card, when swiped, scanned or key-entered through a certified point of sale device at a participating Sub-Merchant location, is a valid account on the Third Party Partner data processing system ("**Card System**") and complete the processing of the requested transaction according to the requirements of the card program associated with the Approved Card. The Gift Card Services shall be provided by Till Payments or a third-party partner ("**Third Party Partner**").
- 2. Sub-Merchant Obligations.** Sub-Merchant will comply with all applicable laws, rules and regulations ("**Applicable Laws**") in connection with its receipt of the Gift Card Services. Sub-Merchant is solely responsible for ensuring that its use of the Gift Card Services does not violate Applicable Laws of the jurisdictions in which Sub-Merchant does business, or any third-party rights. Sub-Merchant will use the Gift Card Services for its internal business purposes only and will not use the Gift Card Services for purposes not contemplated by this Gift Card Addendum or in any other way where such use may cause Sub-Merchant to violate any Applicable Law. Sub-Merchant's receipt of the Gift Card Services does not modify Sub-Merchant's liabilities or obligations under the Agreement.

Sub-Merchant agrees to: (a) provide Third Party Partner with all information and data reasonably required by Third Party Partner to perform the Gift Card Services; (b) maintain all Third Party Partner related transaction records and other records required by law or regulation; (c) obtain, operate and maintain at its own expense the electronic point of sale equipment; (d) be responsible for the accuracy and adequacy of all data transmitted by it or on its behalf for processing by or storage of information on the Card System (e) comply with all federal, state and local laws and regulations relating to this Addendum, including consumer protection, financial transaction and escheatment laws and acknowledges that neither Till Payments nor Third Party Partner are responsible for Sub-Merchant's compliance with Applicable Laws and agrees to wholly indemnify Till Payments and Third Party Partner for all related liabilities.

- 3. Card Production.** Neither Till Payments nor Third Party Partner will be responsible for proofs approved for production that contain errors. The design will be printed as it appears in the proof provided. It is the sole responsibility of Sub-Merchant to ensure that all materials submitted for printing are correct. Printing errors attributed to Sub-Merchant are not subject to free reprint. Depending on size of order, Sub-Merchant may correct the problem and reprint the order at up to 50% of the cost of the original order. Reprint cost will be quoted on a case-by-case basis. Material errors caused by Till Payments or Third Party Partner will be reprinted and shipped free of charge. Neither Till Payments nor Third Party Partner accepts liability for materials submitted by Sub-Merchant that are subject to copyright or trademark protections or that are otherwise in violation of the law. Neither Till Payments nor Third Party Partner will be held accountable for possession of such materials or illegal use of materials.

The finished product will not be defective in accordance with industry standards. If a product is found to be defective, then you must contact the Third Party Partner (as of the date this Addendum is signed shall be eCard Systems) for a reprint or a refund. eCard Systems must be contacted via e-mail at service@ecardsystems.com or by phone at 866-776-7409 within 15 days of receiving your order. If the product is deemed defective, one of the following resolutions will be offered: 1) Third Party Partner will reprint with the same production and delivery terms extending from the time of resolution. 2) Third Party Partner will authorize an RMA (Return Merchandise Authorization) for Sub-Merchant. A representative will contact Sub-Merchant to help with the return. The package must be received by Third Party Partners within 30 days of return authorization. Refunds will be processed only after the product has been returned, after which fund transaction will take place within five business days. Refused or undeliverable orders are not a valid reason for reprint or refund and reshipment of the order will be at Sub-Merchant's expense.

Neither Till Payments nor Third Party Partners makes any guarantee about time in transit of any shipping methods. Sub-Merchant assumes full risk of possible delivery delays. Packages shipped outside of the United States may be charged a duty based on the receiving country's import tax. Sub-Merchant is responsible for the payment of this fee.

- 4. Indemnification.** Without limiting the Agreement, Sub-Merchant will defend, indemnify and hold harmless Till Payments, Third Party Partner, its officers, directors and employees against any Claim relating to: (a) any violation by Sub-Merchant of Section 2 above; or (b) Sub-Merchant's misuse of the Gift Card Services.
- 5. Infringement Options.** If the use of the Gift Card Services by Sub-Merchant has become, or in Till Payments' opinion is likely to become, the subject of any Claim, Till Payments may at its option and expense: (i) procure for Sub-Merchant the right to continue using the Gift Card Services as set forth herein; (ii) modify the Gift Card Services to make it non-infringing; or (iii) if the foregoing options are not reasonably practicable, terminate this Addendum and refund Sub-Merchant any unused pre-paid Fees. Till Payments will have no liability or obligation with respect to any Claim to the extent such Claim is caused by the combination, operation or use of the Gift Card Services with other applications, portions of applications, products or services where the Gift Card Services would not by itself be infringing. This Section states Till Payments' entire and exclusive obligation, and Sub-Merchant's exclusive remedy, for any claim of any nature related to the subject matter described in this Section.
- 6. Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE GIFT CARD SERVICE AND ALL RELATED SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND ANY PROMISES CONTAINED IN THIS ADDENDUM ARE IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING IMPLIED

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. NEITHER TILL PAYMENTS NOR THIRD PARTY PARTNER ASSUME ANY LIABILITY WHATSOEVER TO SUB-MERCHANT FOR ANY LOST BUSINESS OR OTHER DAMAGES, REAL OR CONSTRUCTIVE, WHETHER ARISING FROM PRODUCTION ERRORS OR SHIPMENT AND DELIVERY DELAYS. NEITHER TILL PAYMENTS NOR THIRD PARTY PARTNER REPRESENTS THAT THE GIFT CARD SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR MEET SUB-MERCHANT'S REQUIREMENTS OR THAT THE ANALYTICAL RESULTS WILL BE ACCURATE OR COMPLETE. SUB-MERCHANT ACKNOWLEDGES THAT THE FUNCTIONALITY AND INTERFACES OF THE GIFT CARD SERVICES MAY CHANGE OVER TIME, BUT ONLY UPON NOT LESS THAN THIRTY (30) DAY'S NOTICE TO SUB-MERCHANT.

7. **Limitation of Liability.** Except as described in this paragraph, under no circumstances and under no legal theory, whether in tort, contract, or otherwise, will Till Payments or Third Party Partner be liable to the other for any indirect, special, incidental, consequential, or punitive damages of any character, including damages for loss of goodwill, lost profits, lost sales or business, work stoppage, computer failure or malfunction, lost data, or for any and all other similar damages or losses, even if such Party has been advised, knew or should have known, of the possibility of such damages. Further, neither Till Payments nor Third Party Partner will have liability or obligation with respect to any Claim to the extent such Claim is caused by use of the Gift Card Services by Sub-Merchant that is not in accordance with this Addendum. Notwithstanding anything to the contrary, in no event shall Till Payments' nor Third Party Partner's liability under this Addendum exceed the replacement cost of products deemed defective.
8. **Fees.** Sub-Merchant shall pay the Fees for the Gift Card Services in accordance with the terms of the Agreement. All Fees are non-refundable.

Except as otherwise provided in this Addendum, the terms of the Agreement shall remain in full force and effect, and all other terms and conditions in the Agreement shall apply. This Addendum shall have no force or effect unless and until signed by both Parties.