

TenderCard™ Terms and Conditions



Merchant appoints TenderCorp, LLC dba TenderCard™ and/or its Affiliates, to provide a point of sale gift and/or loyalty program and any related equipment and services, subject to "Terms and Conditions" as described herein. Merchant acknowledges that these Terms and Conditions shall define their contract with TenderCard and/or its Affiliates for the duration of their relationship. Application and/or agreement(s) is/are assignable by TenderCard.

Delivery: Cards will be shipped as ordered within 3 to 15 business days from the time TenderCard receives Merchant's approval of artwork (Proof). Delivery time may vary based upon quantity, type of cards ordered and shipping method.

Terms And Conditions: Merchant acceptance of all terms of the Agreement is an express condition of TenderCard's obligation to Merchant and TenderCard reserves for itself sole discretion to determine if Merchant has complied with the Terms and Conditions of this Agreement. All Terms and Conditions of this Agreement may be changed by TenderCard upon ten (10) business days written notice. Such changes will supersede any previous Terms and Conditions. This Agreement constitutes the entire Agreement between Merchant and TenderCard with respect to the subject matter hereof, and supersedes any prior Agreement, oral or written, between Merchant and TenderCard and/or its representative(s). Merchant agrees that the failure by TenderCard to enforce any Terms or Conditions of this Agreement is not a waiver of any terms and conditions herein contained.

Notice: Any notice to TenderCard, including but not limited to change of ownership, changes to bank account(s) on file or cancellation, must be submitted in writing via email, fax or mail to the numbers/addresses specified at the bottom of this page.

Artwork: Artwork submitted by or created for Merchant may be used by TenderCard and/or its affiliates in marketing, advertising or in any other medium.

Term Of Agreement: Term Of Agreement: The initial term of this Agreement shall commence on the effective date, and shall continue for two (2) years; thereafter it shall automatically and continually renew for a period of one (1) year.

Termination of Agreement: In order to terminate this Agreement with no penalty Merchant must give TenderCard written notice of intent not to renew in the form of a signed and returned "TenderCard Indemnification Form" no more than thirty (30) days prior to such termination and no later than five o'clock p.m. (ET) on the anniversary date of the original effective date, as defined in the "Term of Agreement" at the address, fax, or email listed on the bottom of this page. Termination prior to the end of the initial 2 year term, is subject to an Early Termination Fee of \$250.00. This fee is collected in addition to any monthly processing fees or supplies purchased. Termination after the initial two year term, is subject to remaining hosting fees for the balance of that 1 year term and will be accelerated and ACH'd immediately. Termination prior to deployment of gift/loyalty supplies and/or download will result in no refund of any monies collected, however no further fees will be assessed. TenderCard may terminate this Agreement during any term for any reason and without any penalty or liability by giving Merchant written notice at least thirty (30) days prior to such termination.

Indebtedness: Should Merchant not satisfy any debt or obligation to TenderCard or an Affiliate, TenderCard or TenderCard's portion of debt to an Affiliate, based upon contracts and/or agreements between Merchant, TenderCard and/or Affiliate, such as outstanding and unpaid balances to TenderCard, such debt is subject to 1 1/2% interest per month as herein described; and Merchant's services shall be subject to immediate interruption.

Method Of Payment: Upon execution of this Agreement by Merchant's authorizing signature, Merchant agrees to make

payment in full for fees and/or indebtedness to TenderCard via electronic transfers recurring monthly from its designated bank account, and therefore authorizes its bank to charge such funds and to pay to TenderCard (or its' assignees) any such amounts.

Terms Of Authorization: The authorization to charge Merchant's bank account is the same as if Merchant had personally signed a check to TenderCard. This authorization will remain in effect until 1) written notification to TenderCard to end this agreement and a reasonable amount of time to act; or 2) TenderCard sends Merchant written notice that this Agreement will end in ten (10) business days. A record of payments will be included in Merchant's regular bank statement.

Venue: This Agreement shall be interpreted under the laws of the Commonwealth of Massachusetts. Applicant agrees that the venue for the enforcement of the terms and conditions of this Agreement shall be Barnstable County, Massachusetts.

Limitation of Liability: Notwithstanding anything in this Agreement to the contrary, in no event shall TenderCard, its Affiliates or its directors, officers, employees, agents or subcontractors be liable under any theory of tort, contract, strict liability or other legal theory for lost profits, lost revenues, lost business opportunities, exemplary, punitive, special, incidental, indirect, or consequential damages, each of which is hereby excluded by agreement of the parties, regardless of whether such damages were foreseeable or whether any party or any entity has been advised of the possibility of such damages.

Association (Master Account) Funding: The Master Account is responsible for holding all funds for activated cards via a Funding Account owned by the Master Merchant. This Funding Account is used for the express purpose of disbursing funds to Participating Merchants of this program. TenderCard will initiate an ACH debit (sweep) of the Participating Merchant Accounts daily and credit the Funding Account. Based on the funds transfer frequency, as authorized within this Agreement, TenderCard will initiate an ACH credit to Participating Merchants as activated cards are redeemed.

Association (Participating Merchant) Funding: The Master Account is responsible for holding funds for all activated cards. TenderCard will initiate an ACH credit to the Participating Merchant's bank account for cards redeemed; and such ACH credit will occur in accordance with the funds transfer frequency as authorized within this Agreement and chosen by the Master Account.

Multi Location Chain Merchant: Location that issues a card holds that card balance in their bank account for the life of the card. When a card is redeemed, other than the Issuing Location, TenderCard will initiate an ACH debit to the Issuing Location and credit the Redeeming Location. When a card is reloaded, other than the Issuing Location, TenderCard will initiate an ACH debit to the Reloading Location and credit the Issuing Location. These ACH movements are based on the funds transfer frequency as authorized within this Agreement and chosen by the Headquarters Location.

Closing Of Chain Merchant: If a location closes and has outstanding card balances, those balances will be transferred to the designated headquarters location. Headquarters and Closing Location assumes responsibility for transferring funds. TenderCard accepts no responsibility for transferring these funds.