

Visa Gift Card Marketing Agreement

This Marketing Agreement ("Agreement") dated _____ ("Effective Date") is entered into by and between Prepaid Technologies, LLC ("PT"), with a mailing address of 6 Office Park Circle, Suite 100 and _____ ("Agent") with a mailing address of _____.

WHEREAS, PT has an agreement with National Bank of Commerce of Birmingham ("Bank") to provide Visa gift card services; and WHEREAS, Agent is a chartered financial institution and is a Visa member bank which desires to market prepaid Visa gift cards; and NOW, THEREFORE, in consideration of the mutual promises and covenants hereto, the parties agree as follows:

1) Term of Agreement.

- a) PT will be the exclusive provider for prepaid card programs for Client for the term of this Agreement, which shall commence upon the date hereof and shall continue for Three (3) years, unless earlier terminated in accordance with this Agreement. Thereafter, this Agreement shall automatically renew itself on the same terms and conditions for successive periods of one (1) calendar year unless either party elects not to renew this Agreement by written notice at least sixty(60) days prior to the expiration date.
- b) Notwithstanding the foregoing, this Agreement shall automatically terminate upon the expiration or termination, for whatever reason, of any contract between PT and its vendors that shall affect the delivery of payroll/payment card services.

2) PT obligations. Subject to the terms and conditions of this agreement PT will provide the following services:

- a) Issuance of non-personalized, instant issue Visa gift cards through Bank for Agent's programs; and
- b) Printed cards, card carriers, cardholder terms and conditions, and envelopes for Agent; and
- c) CardWiz Internet access to load and activate cards for desired locations; and
- d) On-line cardholder access to balance and transaction data; and
- e) 800 IVR access for cardholders to check on balance and transaction history or to report lost or stolen cards; and
- f) Print ready marketing materials;
- g) Keep confidential any and all information pertaining to the cardholder, the Bank or PT that is made available to PT;

3) Agent obligations. Subject to the terms and conditions of this agreement Agent will provide the following:

- a) Send a daily ACH deposit representing the total daily value loads to Visa gift cards sold; and
- b) Provide security for Visa gift cards to meet Visa requirements; and provide name and static IP address for each Cardwiz user; and
- c) Collect "good funds" from Cardholders in connection with all Funding Payments for Visa gift cards sold at "agent" branch locations. By way of example, and not in limitation of the foregoing, "Agent" shall be responsible for (1) any chargeback initiated through any card association where the Funding Payment involved the use of a credit card; (2) any return entries or adjustment entries initiated through any funds transfer systems where the Funding Payment involved an electronic funds transfer; and (3) any dishonored items where the Funding Payment involved the use of a check or draft.
- d) Adhere to all Visa and Bank requirements pertaining to the card program as provided by PT, the Bank or Visa; and
- e) Report through Cardwiz any cash transaction for purchasing cards; and
- f) Keep confidential any and all information pertaining to the cardholder, or Bank or PT that is made available to Agent;
- g) Comply with all bank regulatory requirements pertaining to USA Patriot act and Bank Secrecy Act and other banking regulations governing the sale or use of these cards through Agent's organization.

4) Fees.

Initial set up	\$100.00 per Branch with \$1,750.00 minimum
Annual license fee	\$300.00
Optional logo setup	\$300.00
Card and Packaging	\$2.95 minimum 500 card order
Marketing materials	Per Schedule
Standard reporting	included
Cardholder on-line access to balance and transactions	included
Cardholder 800 IVR to report lost/stolen card	included
On Line Cardwiz order entry	2 Included then \$5 per user per month
Cardholder issue Fees	Determined by "Agent"
Cardholder Fees Applied to Card	
Monthly service charge	\$2.50/month. First six months fees waived
Balance transfer/lost stolen fee	\$10.00
Cancel Card and Issue check	\$15.00
Monthly service fee for expired cards	\$10.00/month

5) Expired card stock:

Agent is responsible for inventory management of card stock in Agent's possession. Card stock that is within 6 months of expiration date or past expiration date must be destroyed in accordance with Visa regulations. Such "expired" card stock may not be returned to PT.

6) Ownership of Cards.

Both parties acknowledge that the Visa cards are owned by the Bank, that the Bank may cancel any or all cards at any time for reason with prior written notice to parties and the cardholder, and that such cancellation shall not be deemed or construed a breach of this Agreement.

7) Confidential Information.

Each party agrees that the Proprietary Information and the contents of this Agreement (collectively "Confidential Information") are confidential information of the entity supplying it and its respective licensors (the "Disclosing Party"). The entity receiving such Confidential Information (the "Receiving Party") shall exercise at least the same degree of care, but not less than reasonable care, to safeguard the confidentiality of the Confidential Information as the Receiving Party would exercise to protect its own confidential information of a similar nature. The Receiving Party may use the Confidential Information only to exercise its rights and obligations under this Agreement. The Receiving Party shall not duplicate, sell or disclose to others the Confidential Information, in whole or in part, without the prior written permission of the Disclosing Party. The Receiving Party may, however, disclose Confidential Information to its employees, agents and representatives who have a need to know the Confidential Information to perform work for Receiving Party, provided that the Receiving Party uses reasonable efforts to ensure that the Confidential Information is not duplicated or disclosed in breach of this Agreement. Notwithstanding the foregoing, in no event shall the Receiving Party disclose the Confidential Information to any competitor of the Disclosing Party without specific, prior written consent from an officer of the Disclosing Party. Proprietary Information means (i) any data or information that is competitively sensitive material, and not generally known to the public, including, but not limited to, information about product plans, marketing strategies, finance, operation, customer relationships, customer profiles, sales estimates, business plans, and internal performance results relating to the past or present future business activities of parties, as appropriate, and its and their subsidiaries and affiliated companies and the customers, Agents and suppliers of any of them; (ii) any scientific or technical information, design, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords either party, as appropriate, a competitive advantage over its competitors; (iii) all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, data bases, inventions, know-how, and trade secrets, whether or not patentable or copyrightable; (iv) all documents, inventions, substances, engineering and laboratory notebooks, drawings, diagrams, specifications, bills and materials, equipment, prototypes and models, and other tangible manifestation of the foregoing which now exists or come into the control or possession of either party, all of which must be identified as confidential prior to disclosure, as appropriate. The obligations of confidentiality and restriction on use in this Agreement shall not apply to any Confidential Information that the Receiving Party proves: (i) was in the public domain prior to the Effective Date or subsequently came into the public domain through no fault of the Receiving Party; (ii) was lawfully received by the Receiving Party from a third party free of any obligation or confidence to the third party; (iii) was already in the Receiving Party's possession prior to receipt from the Disclosing Party; or (iv) is required to be disclosed in a judicial or administrative proceeding after all reasonable legal remedies for maintaining such

information in confidence have been exhausted including, but not limited to, giving the Disclosing Party as much advanced notice as practical (if legally permissible) of the possibility of disclosure to allow the Disclosing Party to stop such disclosure or obtain a protective order concerning such disclosure. The obligations of the parties with regard to this Section 10, "Confidential Information" shall survive the termination of this Agreement.

8) **Protecting Customer Information.**

Agent acknowledges that the Bank is the card issuer and that cardholders are Bank and Agent customers and Bank and Agent shall implement best commercially reasonable measures designed to ensure the security and confidentiality of Bank's customers' information (sometimes hereinafter referred to as "Customer Information"), protect against any anticipated threats or hazards to the security or integrity of such information and protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any Bank and Agent customer. Bank agrees not to solicit cardholders without Agent consent.

9) **Limitations of Damages; Indemnification.**

- a) Notwithstanding anything in this Agreement to the contrary and to the extent permitted by applicable law, in no event shall either party, its affiliates or any of its or their directors, officers, members, employees, agents or subcontractors be liable under theory of tort, contract, strict liability or other legal or equitable theory for lost profits, 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 either party or any entity has been advised of the possibility of such damages;
- b) Each party agrees to indemnify, defend, and hold harmless the other party, including its agents, employees, directors, officers, members and affiliates, for any claims, losses, or damages, including reasonable attorneys' fees, resulting from such party's (i) negligent acts, (ii) breach of any term or provision of this Agreement, or (iii) unauthorized disclosure or release, whether intentionally or otherwise, of Customer Information.
- c) Each party further agrees to indemnify, defend and hold harmless each other, including its agents, employees, members, officers and affiliates, for any claims, losses, or damages, including reasonable attorneys' fees, resulting directly or indirectly from any agreement that the other party has with its vendors or Agents, which are not the result of the willful misconduct or negligence of the other party;
- d) Further, Agent agrees to indemnify, defend, and hold harmless PT, including its agents, employees, directors, officers, members and affiliates, for any claims, losses, or damages, including reasonable attorneys' fees, resulting from (i) a claim related to the marketing, sale, or promotion of the cards, (ii) claims relating to customer support provided by Agent, if any, (iii) any state or federal laws or regulations pertaining to these cards, including the sale of cards by Agent or its customers, or fees charged to the cardholder, (v) or any claim that is not directly related to the obligations of PT as described herein.

10) **Arbitration.** It is the intention of both parties of this agreement to resolve any disputes under this Agreement amicably by reasonable businesslike negotiations and without resort to litigation or arbitration. However, the parties acknowledge and agree that this Agreement and the subject matter hereof are substantially connected with and involve interstate commerce. Any dispute arising out of or relating to this Agreement which cannot be amicably settled by the parties shall be settled by arbitration in accordance with the commercial arbitration rules of the American Arbitration Association currently in effect at the time of the dispute. Such arbitration shall take place in Birmingham, Alabama. The provisions of this Agreement relating to arbitration and judgment upon the award rendered by the arbitrators shall be specifically enforceable in any court having jurisdiction thereof. The parties shall give notice of its intent to cause any controversy or claim to be settled by arbitration, together with a description of the facts and circumstances giving rise thereto in sufficient detail as to permit the other party to investigate the particulars thereof. A copy of the notice to arbitrate shall also be furnished to the regional office of the American Arbitration Association nearest to the defendant's location. Within twenty (20) days after receipt of a notice of arbitration from the party instituting arbitration, the other party shall send a notice to the party instituting arbitration containing a detailed response to the claim giving the position of the party, and any counterclaim and the remedies sought. In the event the party receiving a notice of arbitration gives notice of a counterclaim, the party instituting the arbitration shall have ten (10) days following its receipt of such notice to provide a written detailed response to the counterclaim setting forth that party's position. The award of the arbitrators shall be final, binding and non-appealable by either party;

11) **WAIVER OF JURY TRIAL:** each of the parties hereto expressly waives any right it may have to a trial by jury in any legal or court action commenced by any of the parties hereto to enforce, collect, defend, enjoin, or that otherwise relates to this agreement or any of the transactions herein described. Likewise, each party hereto waives any right to have a jury trial in any such legal or court action for any defense, claim of set-off, claim of recoupment, counterclaim or third party action asserted or raised in any such legal or court action. Any legal or court action relating to this agreement or the transactions herein described shall be tried exclusively to a court without a jury. Both parties of this agreement each specifically acknowledges that its execution of this waiver of jury trial is a material inducement for its entering into this agreement;

12) **Assignment.** This Agreement may not be assigned, in whole or in part, by either party without the prior written consent of the other party;

13) **Compliance With Laws:** PT and Agent each acknowledge and agree that its performance of its obligations under this Agreement shall be in accordance with all applicable federal, state and local laws, ordinances and regulations and those of any regulatory body having jurisdiction over this Agreement;

14) **Independent Contractors.** The relationship of the parties under this Agreement shall be and at all times remain one of independent contractors and PT is neither an employee or agent of Agent, and vice versa. Neither party shall have any authority to assume or create obligation on the other's behalf and shall not take any action which has the effect of creating the appearance of its having such authority;

15) **Notice.** PT and Agent agree that any notice to be given by a party pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective addresses of the parties as set forth in the first paragraph of this Agreement or such other persons or addresses as may be designated in writing by the party to receive such notice;

16) **Entire Agreement.** This Agreement and all appendices attached hereto and incorporated herein by reference, contain the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements and understandings relating to this Agreement;

17) **Waiver; Enforceability.** No waiver or modification of any of the provisions of this Agreement shall be binding unless made in writing and signed by all of the parties hereto. Failure of either party at any time to require performance of any provision of this Agreement shall not affect the right at a later time to enforce the provision or any other provision. In the event that any provision of this Agreement is held invalid, illegal, or unenforceable, such invalidity, illegality, or enforceability, shall not affect any other provisions of this Agreement;

18) **Binding Effect.** This Agreement, once executed by both parties, shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns;

19) **Governing Law.** The validity, construction and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Alabama, regardless of the laws that might otherwise govern under applicable principals of conflicts of law; provided, however, Section 12 of this Agreement shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16;

Signature page follows:

IN WITNESS WHEREOF, PT and Agent have caused this Agreement to be executed and delivered by their respective authorized officers as of the Effective Date.

Prepaid Technologies, LLC

By: _____

Its: _____

AGENT _____

By: _____
Signature

Print Name

Its: _____
Title

Participant Sponsorship Notice Only For Banks That Want Their LOGO On The Card



Complete areas marked with arrow.

The undersigned sponsoring Principal-Type Member hereby notifies Visa U.S.A. Inc. that we have entered into a written sponsorship agreement with _____ and wish to sponsor it, effective (date) _____. (If effective date is not provided this sponsorship notice will be processed effective immediately.) Said sponsorship may be in addition to any existing sponsorship(s) of said Member as noted on the next page.

The undersigned sponsoring Principal-Type Member agrees to accept full and complete responsibility for the proper performance by the said Participant-Type Member of its membership obligations as set forth in the By-Laws and Operating Regulations of Visa U.S.A.; to take such action and perform such services as may be necessary to properly fulfill this obligation; and immediately to notify Visa U.S.A., in writing, addressed to its head office, upon termination of our sponsorship agreement with said Participant-Type Member. We certify that this sponsorship has been duly authorized by appropriate corporate action. Any notices or other correspondence sent to us in connection with any matter arising out of our sponsorship as designated may be sent to our address for notice as shown in the membership records of Visa U.S.A.

Principal-Type Member Information

Legal Name of Sponsoring Principal-Type Member: National Bank of Commerce of Birmingham
 Legal Address: 1927 First Avenue North
 City, State, and Zip Code: Birmingham, Alabama 35203
 Business ID: 10014852
 Officer Name: John R. Bragg Officer Title: Executive Vice President
 Signature: _____ Date: _____
 Telephone: 205-583-3653 Facsimile: _____ E-mail: jbragg@access-bank.com

Participant-Type Member Information

Legal Name of Sponsored Participant-Type Member: _____
 Legal Address: _____
 City, State, and Zip Code: _____
 Business ID: _____ Visa BID # starts with 100
 Officer Name: _____ Officer Title: _____
 Signature: _____ Date: _____
 Telephone: _____ Facsimile: _____ E-mail: _____

Form prepared by

Name: _____
 Telephone: _____ E-mail: _____

Return To

Prepaid Technologies, 6 Office Park Circle, Suite 100, Birmingham, Alabama 35223 will return this form to Visa USA
 Visa U.S.A. Inc., Franchise Management, 900 Metro Center Boulevard, M3-4G, Foster City, CA 94404

For questions please call (650) 432-4316 or E-mail askmembership@visa.com.

For Visa Use Only

Membership Analyst: _____	Date: _____
Previous Sponsor BINs Returned:	Account Range
BIN: _____	Range: _____ to: _____
BIN: _____	Range: _____ to: _____
BIN: _____	Range: _____ to: _____

Participant Sponsorship Notice

(Continued)

Type of Request (\$100 Processing Fee - Sponsoring Principal-Type Member will be billed through Visa Integrated Billing)

Change of Sponsorship

Legal Name of previous Sponsor(s)/Sponsor to delete (not Processor): _____

Business ID: _____

Note: All account ranges shared with previous Sponsor will be returned to the BIN Licensee (Sponsor).

Additional Sponsorship

Our sponsorship agreement with the named Principal-Type Member authorizes the performance of the following function(s):

Credit Solicitation: BIN
Classic:
Gold:
Platinum:
Traditional:
Business:
Purchasing:
Corporate:
Signature:
Other:

Credit Issuing: BIN	Account Range	Co-Resident Mark (Check One)
Classic:	Range: to:	
Gold:	Range: to:	
Platinum:	Range: to:	
Traditional:	Range: to:	
Business:	Range: to:	
Purchasing:	Range: to:	
Corporate:	Range: to:	
Signature:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Other:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus

Check Card Issuing: BIN	Account Range	Co-Resident Mark (Check One)
Classic:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Gold:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Platinum:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Business:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Purchasing:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Corporate:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Prepaid Buxx:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Prepaid Consumer Gift Non-Personalized: 445423	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Prepaid Consumer Gift Personalized:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Prepaid Flexible Spending:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Prepaid Payroll:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus
Other:	Range: to:	<input type="checkbox"/> Plus <input type="checkbox"/> Interlink <input type="checkbox"/> Cirrus

BIN	
Cash Disbursement:	
Acquiring:	
POS Check:	<input type="checkbox"/> Drawee <input type="checkbox"/> Acquirer

Program Plan

Business ID: _____ Member Name _____

Estimate the following information about your program's size at the end of its third year of operation.

Section 1: Visa U.S.A. Inc.

Prepaid Card Issuance	Number of Cards		Annual Sales Volume *	
	First Year	Third Year	First Year	Third Year
Prepaid Personalized:				
Prepaid Non-Personalized:				

