



WACHOVIA

A Wells Fargo Company

# Visa® Gift Card Cardholder Agreement

Please note that the Gift Card is available for use the next business day after purchase.  
Effective February 15, 2010.

The Visa Gift Card is subject to the following Terms and Conditions ("Cardholder Agreement" or "Agreement") in accordance with applicable law. Please read this Agreement carefully and keep it for future reference. By retaining, signing, activating or using the Card (whether done by you or by another person with your consent or authorization), you accept and agree to all the terms and conditions of this Agreement with us, Wachovia Bank\*, a division of Wells Fargo Bank, N.A. In this Agreement, "you," "your" and "Cardholder" mean any person that has received this Card and is authorized to use it as provided for in this Agreement. Any reference to "we," "our" and "Bank" means Wachovia Bank or Wachovia Bank of Delaware\*, divisions of Wells Fargo Bank, N.A.

**1. Disclosure of Information to Third Parties.** You agree that we may disclose information about you, your Card or any Card transactions to third parties (1) in order to complete a transaction; (2) as required or permitted by law; and (3) with your permission.

**2. Card Description.** The Card is a nonreloadable, nonpersonalized prepaid debit card. The Card is not a credit card and does not have a line of credit attached to it. When you use the Card, the amount available on the Card will be reduced by the amount of the purchase until it reaches zero. There is no separate deposit account established in your name at the Bank for the Card, and the Card is not linked to any of your checking, savings, debit card or credit card accounts. No interest will be paid on the Card balance, and such balances are not deposits and are not FDIC-insured.

**3. Card Activation and Usage.** The Card becomes active no later than the end of the next business day after the purchase. Whenever you use your Card to make an authorized transaction, you are authorizing us to reduce the amount of the transaction from the Card balance. At the time of each purchase the merchant will obtain an approval for the purchase amount to ensure adequate funds are available. The amount of the approval may remain unavailable for up to three business days. You agree to use the Card only as provided in this Agreement and in accordance with applicable law. You agree that the amount of funds shown on the Bank's records regarding the Card will determine the balance on the Card.

**4. Available Transactions and Limits.** The Card is a prepaid Card that may be used to make signature-based ("non PIN") purchases at merchants that have agreed to accept Visa® debit cards. You agree that we may, without notice, refuse to perform any transaction.

(a) Non PIN Purchases. You may use the Card to pay for purchases at retail establishments that have agreed to accept Visa® debit cards Point-Of-Sale (POS) transactions or purchases.

(1) The Card may not be used to make a cash withdrawal from a teller at a financial institution.

(b) Preauthorized Debits. You agree not to make preauthorized or recurring transactions, such as monthly payments, dues or fees through the use of the Card.

(c) Limitation on Frequency of Transfers. Except as provided in the next sentence, you may use the Card an unlimited number of times per day for purchases. Bank reserves the right to require or permit certain

merchants to obtain authorizations to accept the Card for certain types of purchases exceeding certain amounts, and Bank may limit the number of such authorizations in any given day or deny an authorization if Bank suspects fraudulent activity or for other security reasons. Some merchants, such as gas stations, hotels, restaurants and other merchants that accept gratuity, receive authorization for a greater amount than the actual purchase amount to allow for additional services or gratuity. For restaurants and personal service merchants, this is generally 15% more than the original purchase amount and will result in a hold on the available funds on the Card for the original purchase amount plus the additional amount. This hold will remain in effect until we receive the transaction from the merchant or three business days, whichever occurs first. During the hold period, the funds will not be available to you. You agree not to make transactions that exceed the amount of funds stored on the Card. You must have the amount available on the Card to pay for your transactions. If your purchase amount is greater than the available amount on the Card, you will be responsible for paying the remaining balance on the transaction. If a merchant attempts an authorization on the Card for an amount greater than the available balance on the Card, the Bank may not authorize the transaction. Bank is not responsible for the failure of any merchant to complete a transaction with the Card. If you exceed the amount of funds stored on the Card, you agree to promptly pay Bank the excess amount. If you do not pay Bank the excess funds, Bank may report to consumer reporting agencies the unpaid amount or Bank may exercise a right of setoff against any account you may have with Bank.

(d) Other Limits. Card may only be used to make purchases in the United States. When using the Card at gas stations with pay-at-the-pump capabilities, the Card cannot be authorized directly at the pump. Present the Card to the attendant for payment. You should use the Card only at the time of an actual POS transaction and you may not use the Card for an advance reservation or guarantee of any purchase of goods and services (i.e. rental car or hotel reservation guarantees.) You may not use your Card (or any account linked to your Card) for any unlawful purpose including, but not limited to, "restricted transactions" as defined in the Unlawful Internet Gambling Enforcement Act of 2006 and Regulation GG issued thereunder. In addition, Wachovia Bank (as the issuer of your Card) reserves the right to deny transactions or authorizations from merchants apparently engaging in the Internet gambling business or identifying themselves through the Card transactions record or otherwise as engaged in such business.

**5. Liability for Failure to Complete Transactions.**

If we do not complete a transfer from the Card on time or in the correct amount according to our agreement with you, we will be liable for your actual losses or damages. There are some exceptions to our liability, such as:

- If through no fault of ours, you do not have enough money on the Card to cover a transaction; or
- If the transaction would exceed your available Card balance; or
- If the terminal or system was not working properly; or

\*Effective March 20, 2010, Wachovia Bank and Wachovia Bank of Delaware will become divisions of Wells Fargo Bank, N.A."

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- If circumstances beyond our control (such as flood or fire) prevent the transaction, despite reasonable precautions that we have taken; or
- If there are other exceptions stated in these terms and conditions or provided by law.

**6. Expiration Date and Accessing Any Remaining Balance.** The Card will be valid through the month and year embossed on the Card (the "Expiration Date"). The monthly service fee can consume the balance on your Card before the Expiration Date. The Expiration Date is for administrative purposes only; any remaining balance on the Card after the Expiration Date is still accessible. If any funds remain on the Card upon the Expiration Date, call us at 800-504-5719 to request a replacement Card or a refund of the remaining funds, less applicable fees. Any refund will be sent to you at the address you provide.

**7. Cancellation.** The Bank may cancel or suspend use of the Card at anytime without prior notice to you. You agree (1) that the Card is the Bank's property; and (2) that you will cut your cancelled Card in two parts immediately upon our request and return the Card to us. If any funds remain on the Card at cancellation, call us at 800-504-5719 to request a refund of the remaining funds, less applicable fees. Any refund will be sent to you at the address you provide.

**8. Unclaimed Funds.** The balance remaining on the Card may become unclaimed funds escheatable to the State, if, as shown by the Bank's records, you have not, within the applicable statutory period, requested refund of unused funds on your expired or canceled Card, corresponded with the Bank concerning the Card or transacted any business on the Card. If that occurs, the funds will escheat to the State in which your last known address was located according to Bank's records or the State where the Card was purchased.

**9. Card Balance or Activity Information.** You may access the Card balance and certain other activity information at [wachovia.com/giftcard](http://wachovia.com/giftcard) or by calling the toll-free telephone number provided on the back of the Card.

**10. Risk of Loss and Errors.** The Card is like cash in that it may be used wherever accepted without identification. You agree to use your best efforts to protect the Card against loss, theft or unauthorized use. A replacement Card may be issued for the remaining balance less any applicable fees. We may correct any error made by us in debiting or crediting the Card by making the appropriate adjustment to the Card balance. You agree to promptly repay us any amount credited to the Card in error. In case of loss, error or questions regarding transactions made using the card, telephone us at 800-504-5719 immediately. You agree to provide us the information that we request in order to investigate your inquiry.

**11. Liability for Unauthorized Use.** Under our Zero Liability policy, you may incur no liability for promptly reported unauthorized use of your Gift Card subject to certain conditions. A transaction is considered "unauthorized" if it is initiated by someone other than you without your actual or apparent authority and if you receive no benefit from the transaction. A transaction is not considered unauthorized if (1) you furnish the Card, Card number or other identifying information to another person and expressly or implicitly give that individual authority to perform one or more transactions, and the person exceeds that authority; or (2) for any other reason, we conclude that the facts and circumstances do not reasonably support a claim of unauthorized use. We may deny you the benefit of the policy if we ask you for a written statement, affidavit or other information in support of the claim, and you do not provide it within the time requested or within a reasonable time if no date is stated. Our liability under this policy is limited to reimbursing you for the amount of your loss up to the face amount of any unauthorized transaction. We are not liable for any special, indirect or consequential damages.

**12. Arbitration of Disputes/Waiver of Jury Trial and Participation in Class Actions.** If either you or we request, any dispute or claim concerning your account or your relationship to us will be decided by binding arbitration under the expedited procedures of the Commercial Financial Disputes Arbitration Rules of the American Arbitration Association (AAA) and Title 9 of the U.S. Code. Arbitration hearings will be held in the city where the dispute occurred or where mutually agreed. A single arbitrator will be appointed by agreement of the parties, or, if the parties are unable to agree, by the AAA and will be a retired judge or attorney with experience or knowledge in banking transactions. We will pay any costs that are required to be paid by us under the arbitration administrator's rules and procedures, and subject to applicable law. If the arbitrator rules in your favor on any claim presented, we will reimburse you for arbitration filing fees you have paid up to \$700.00. Unless applicable law states otherwise, each party will pay their own attorney, expert, and witness fees. This rule applies no matter which party wins arbitration. A court may enter a judgment on the award. Any statute of repose or limitations period which would provide a defense to a claim brought in a lawsuit in state or federal court will also apply with equal force and effect to any arbitration brought pursuant to this section. To the extent permitted by law, if any dispute or claim results in a lawsuit, and neither you nor we have elected or requested arbitration, you and we knowingly and voluntarily agree that a judge, without a jury, will decide the case. The arbitration or trial will be brought individually and not as part of a class action. If it is brought as a class action, it must proceed on an individual (nonclass, nonrepresentative) basis. **YOU UNDERSTAND AND KNOWINGLY AND VOLUNTARILY AGREE THAT YOU AND WE ARE WAIVING THE RIGHT TO A TRIAL BY JURY AND THE RIGHT TO PARTICIPATE OR BE REPRESENTED IN ANY CLASS ACTION LAWSUIT.**

**13. Amendments.** Bank may amend this Agreement from time to time. Amendments will be effective after notice has been posted on our Web site at [wachovia.com/giftcard](http://wachovia.com/giftcard) or as otherwise required by law. Provisions changed pursuant to bank regulatory authority will be effective according to applicable regulation without further notice.

**14. Severability.** If any provision of this Agreement shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

**15. No Waiver.** The Bank's failure to enforce the performance of any provision of this Agreement will not constitute a waiver of the Bank's right to subsequently enforce such provision or any other provision of this Agreement.

**16. Governing Law.** This Agreement, the Card, all Card transactions and all arbitration proceedings will be governed by the Visa Rules and Regulations, the laws of the United States and the laws and regulations of the State of South Dakota.

**17. Business Day Disclosure.** Bank's business days are Monday through Friday. Saturdays, Sundays and federal holidays are excluded.

**18. Schedule of Fees and Service Charges.** Bank will charge the Card for transactions and fees according to this Agreement. You agree to pay the fees and charges assessed by Bank according to this Agreement. All fees and charges will be automatically assessed against the Card, and you will be responsible for any deficiency. The following fees and charges are imposed by Bank upon the issuance and for use of the Card:

- Monthly Service Fee (after 12 months)\$2.50
- Check Issuance/Card Replacement Fee \$15.00