

Hooters Card® Rewards Program Terms and Conditions

The following describes the Terms and Conditions of the Hooters Card Rewards Program (the "Terms and Conditions") and includes information describing eligibility, accrual, conversion, and redemption of Points, as well as other important program conditions and limitations. Please read this document carefully and keep it in a safe place. **Any use of your HootersMasterCard® Card Account after your receipt of these Terms and Conditions will constitute your acknowledgment of, and agreement with, these Terms and Conditions.** These Terms and Conditions supersede any previously published Terms and Conditions or excerpts thereof. Any capitalized terms not defined in these Terms and Conditions shall have the meanings set forth in the Cardholder Agreement.

- 1) The Hooters Card Rewards Program (the "Program") has been developed and is administered by Hooters Card LLC. ("HC"). The Program is solely the responsibility of HC.
 - To be eligible to participate in the Program you must:
 - a) Maintain an open Account that is not in default ("Good Standing") with Merrick Bank;
 - b) Be an individual and;
 - c) Reside within the United States.
- 2) As used herein, the terms "Cardholder," "you," and "your," refer to the applicant who applies, and is approved by Merrick Bank for the Card. Approval for the Card shall result in the establishment of a credit card Account and concurrent membership in the Program.
- 3) Each Cardholder participating in the Program shall be eligible to earn Hooter Card Reward Points (Points) subject to these Terms and Conditions unless prohibited by law. Eligible Cardholders shall have the ability to redeem Points through any of several venues. Points shall be earned based upon the use of the Card for eligible Purchase transactions.
- 4) By participating in the Program, you authorize Merrick Bank and HC to share certain information about you and your Account between them, with their respective affiliates, and with unaffiliated third parties for the purpose of administering the Program and carrying out their respective duties pursuant to these Terms and Conditions.
- 5) MERRICK BANK AND HC DO NOT MAKE OR GIVE, AND HEREBY EXPRESSLY DISCLAIM, ALL WARRANTIES, REPRESENTATIONS, OR CONDITIONS, BOTH EXPRESS AND IMPLIED, ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY, REPRESENTATION, OR CONDITION OF MERCHANTABILITY, MERCHANTABLE QUALITY, OR FITNESS FOR ANY PURPOSE, PARTICULAR, SPECIFIC, OR OTHERWISE, OR ANY WARRANTY OF TITLE OR NON-INFRINGEMENT, FOR ANY OF THE PRODUCTS, PROCESSING, SERVICES, PROGRAMS (INCLUDING THE PROGRAM), OR REWARDS AND, EXCEPT AS SET FORTH IMMEDIATELY BELOW, SHALL HAVE NO LIABILITY FOR ANY COSTS, EXPENSES, LIABILITIES, DAMAGES, REDEMPTION OF POINTS, OR OTHER LOSSES (collectively, "Claim") THAT MAY ARISE THEREFROM. If a Cardholder makes a Claim, HC's sole obligation under the Program, except as expressly set forth herein, shall be to accept valid Points for redemption issued and presented in accordance with, and subject to, these Terms and Conditions. HC and its parent companies, affiliates, subsidiaries, managers, officers, directors, employees and agents shall have no other liability to the Cardholder of any kind, nature, or description whatsoever in connection with the Program, including, without limitation, liability arising out of, resulting from, based upon, or relating to: (i) the issuance of Cards, computation of Points, or the administration of the Card Program, including billing matters; (ii) any wrongful, negligent or unauthorized act or omission on the part of any establishments, manufacturers or suppliers offering products and/or services as Rewards; (iii) any defect in or failure of any service or product offered as a Reward or in the delivery thereof; (iv) any wrongful, negligent or unauthorized act or omission on the part of any other person or entity not under HC 's direct control; (v) any late, lost, stolen, damaged, incomplete, misaddressed, postage due or misdirected Points claims or other communications; (vi) any error, omission, interruption, deletion, defect, delay in operation or transmission, theft, destruction or unauthorized access to, or alteration of Points received and redeemed or in connection with any other Program activities; (vii) any problems or technical malfunction of any telephone network or lines, computer online systems, servers, or provider, computer equipment, software, failure of any e-mail or enrollment or other communication to be received on account of technical problems or traffic congestion on the Internet or any Web site, or any combination thereof, including any injury or damage to your or any other person's computer related to or resulting from participation in or downloading any materials in connection with the Program; or (viii) any other cause, condition, or event whatsoever beyond HC 's control. HC, Merrick Bank, their affiliates, and any merchants participating in Program make no guarantees, warranties or representations of any kind concerning the Program rewards. BY REDEEMING A REWARD, THE CARDHOLDER RELEASES, DISCHARGES, AND AGREES TO HOLD HARMLESS THE PROGRAM, HC, AND MERRICK BANK AND THEIR RESPECTIVE PARENT COMPANIES, AFFILIATES, AND SUBSIDIARIES, MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (COLLECTIVELY, THE "PROGRAM PROVIDERS"), TOGETHER WITH ANY MERCHANTS PARTICIPATING IN PROGRAM, FROM AND AGAINST ANY AND ALL LIABILITY (INCLUDING PRODUCT LIABILITY) FOR LOSS, CLAIM, EXPENSE, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE REDEMPTION, RECEIPT, OWNERSHIP, OR USE OF SUCH REWARD, INCLUDING ANY LOSS, THEFT, OR DESTRUCTION THEREOF. All Program rewards are void where prohibited by applicable federal, state, or local laws or regulations and are subject to change as may be necessary to comply with such laws or regulations. All participating Program merchants are in no way affiliated with or responsible for Program administration. In no event will the Program, HC, or Merrick Bank be liable or responsible for, and are released from, any Claim made by Cardholder or others which was caused by:
 - a) failure to provide Cardholder with one or more Point statements;
 - b) any errors or omissions in the catalog(s) and other sources;
 - c) redemption of Points or any problem that the Cardholder or others have in connection with a Reward;
 - d) redemption of Points by a Co-Applicant or Cardholder;
 - e) loss or theft of a Reward;
 - f) suspension or termination of the Program for any reason;
 - g) suspension or termination of the Cardholders' membership in the Program, the closing of the Cardholders Account or the cancellation or invalidation of any or all of the Cardholders' Points.
- 6) All questions regarding the accrual of Points, or the redemption of Points should be directed to 1.800.850.HOOT (4668).
- 7) All Rewards are subject to availability and limited quantities might apply.
- 8) If an Account is closed by the Cardholder or Merrick Bank, all Points not yet redeemed shall be automatically forfeited.
- 9) Liability for any federal, state, or local taxes, as may be applicable, arising out of participation in the Program and the accrual, redemption, or re-allocation of Points and the receipt of benefits thereunder shall be the sole responsibility of the Cardholder. Consult your tax advisor concerning tax consequences.
- 10) Earning Points: Points are earned by making Purchases with an open Hooters MasterCard Card Account in Good Standing. Cardholders earn Points at the rate of 5 Points per dollar of qualified Purchases made at any Hooters location including all Hooters Restaurants world wide (excluding the FedEx Field Location), Hooters Air, and any online purchase made at Hooters.com. For all other qualified Purchases, Cardholders will earn Points at the rate of 1 Point per dollar. Any Points earned by the use of an additional cardholder are added to the primary Cardholder and are redeemable by the primary Cardholder only. Points are only earned on qualified Card Purchases and Convenience Checks. Points are not earned on the purchase of HC Points, any transaction at www.hooterscard.com (including all Purchases), shipping and handling of rewards, Cash Advances, or any other non-Purchase transaction. There currently is no expiration date on earned Points and there is currently no limit on how many you can accumulate. Failure to earn any Points, with or without use of

the Card, during any period of twelve (12) consecutive months will result in the cancellation of your membership in the Program. You will be able to reinstate your membership by calling 1.800.850.HOOT (4668). Points not yet redeemed shall be automatically forfeited if you do not reinstate your membership within 180 days of cancellation. The total Points for any Account billing cycle will be rounded to the nearest whole point. For example, if your total amount of earned Points is 394.50, it will be rounded up to 395. If it is 394.49, it will be rounded down to 394.

- 11) Only the primary Cardholder with a Card Account in Good Standing and with a balance less than the Cardholder's credit limit is eligible to redeem Points. Cardholders whose Card Accounts are not in Good Standing or over the designated credit limit are not eligible to redeem Points. When a Cardholder's Card Account returns to Good Standing with a balance less than the designated credit limit, the Cardholder will once again be eligible to redeem Points.
- 12) Points appear on your monthly billing statement with the corresponding qualified purchase and are not eligible for redemption until they post to your online or mailed statement. You can check your Points total by calling 1.800.850.HOOT (4668) or online at www.hooterscard.com.
- 13) Redeeming Points: Points can be redeemed by visiting www.hooterscard.com or by calling 1.800.850.HOOT (4668). Once accrued Points in your account have been redeemed, the Points cannot be converted back into your account unless otherwise stated.
- 14) Depending upon the type of HC reward, certain limitations and restrictions may apply. HC rewards may not be used in conjunction with other offers or promotions associated with Accounts unless stated otherwise. Delivery of rewards may not be made outside the U.S. or to a post office box. Allow four to six weeks for delivery. Virtual rewards do not involve delivery, are only accessible on the internet, and may be subject to further terms and conditions as described on the internet. Shipping and handling fees are not included in the number of points required for redeeming some rewards. The shipping and handling fees can be deducted from available points at an exchange rate of 1 point per \$.007. If enough points are not available to fund the shipping and handling costs you may pay the additional amount via credit card.
- 15) Any credits applied to your Account may reduce or eliminate accumulated Points and may result in a negative Point balance. If such credits are applied to your Account after a reward for redemption has been selected that reduces your Point balance below the amount required for such reward redemption, we may suspend delivery of the requested reward. If your Account has a negative Point balance, any newly accumulated Points will be used to offset such negative point balance until such balance has been brought to zero. And, if your Account shows signs of fraud or abuse relating to the accumulation, purchase or redemption of Points, you may lose your accrued Points, and we may terminate your participation in Program immediately.
- 16) Posting of Cash Rewards: Hooters Card Cash Rewards are posted as statement credits upon request at the exchange rate set forth above in paragraph fourteen. Statement credits will only be posted if the earned amount of Hooters Card Cash Rewards is equal to or greater than twenty five dollars (\$25.00). Any amount less than twenty-five dollars (\$25.00) will be carried over to the next billing cycle. Statement credits are not posted or applicable as payments nor will they satisfy any required minimum payment amount on your Account.
- 17) Recurring HC Gift Card Plan: A Cardholder may elect to join our recurring HC gift card Plan, in which event the redeemed Points will be converted into HC gift cards at increments of 5000 Points for each \$50 Hooters gift card. HC gift cards will be sent to the Cardholder approximately 4-6 weeks after Cardholder reaches each available 5000 Point threshold. Any amount that is not redeemed will be carried over to the next Account statement. HC gift cards will be mailed to the primary Cardholder's mailing address listed on the Account. To enroll or terminate your participation in the recurring HC gift card Program please call 1.800.850.HOOT (4668) or visit www.hooterscard.com/giftcardprogram. For the complete terms and conditions, see HC GIFT CARD TERMS AND CONDITIONS available on www.hooterscard.com/giftcardprogramtermsandconditions.
- 18) Privacy: Each Cardholder consents to and authorizes HC and any of its parent companies, subsidiaries, affiliates, and any nonaffiliated third parties with whom any of the foregoing contract in order to manage the Program, to share information about the Cardholder and the Card (including the Program component) as necessary to effect, administer, enforce, service, or fulfill the terms of the Program and for other Permitted Purposes. The Cardholder's consent and authorization shall be effective while the Card is open and has active charging privileges, and shall not be superseded by any future privacy statement or opt-out notification or elections the Cardholder may make. To view the complete privacy policy, visit www.hooterscard.com/privacypolicy. A copy of the Merrick Bank privacy policy is provided to all Merrick Bank customers.
- 19) Program Changes; Termination: Merrick Bank and/or HC may, at any time, without prior notice, (a) change, limit or terminate any aspect of the Program; (b) terminate the Program in its entirety; (c) amend the Program Rules, benefits, or features, in whole or in part; (d) discontinue or replace any Reward with a similar one of lesser, equal, or greater value; (e) modify, delete, or terminate any or all participating partners (if any), Rewards, benefits, or special offers, if applicable, or (f) terminate a Cardholder's participation in the Program for any reason. Changes may affect outstanding transactions and Points, and may include, but are not limited to, the earnings rate for Points, the number of Points required for any Reward, the type of transactions qualifying for Points, the type or value of Rewards, the expiration date of Points, and the maximum number of Points that may be earned per month or year, or otherwise, if applicable. Any of the foregoing actions may be taken even if such actions affect the value of Points already earned. If the Program is terminated in its entirety, you will have 90 days to redeem your HC Points in accordance with the terms and conditions of the Program as then in effect, for such rewards as are then being offered under the Program.
- 20) Should the Cardholder desire to purchase additional Points to complete a redemption transaction on his or her account, he or she may do so with a maximum purchase of 1,000,000 Points in a rolling 12-month period. Points can be purchased at the rate of \$.01 per Point (i.e.: \$1.00 equals 100 Points). Points cannot be returned or refunded. Points are only available for immediate use and can not be added to your Account. Points can be redeemed for any reward. Purchasing Points does not earn additional Points. To purchase Points to complete a redemption transaction call 1.800.850.HOOT (4668) or visit www.hooterscard.com. HC reserves the right to change the Point conversion ratio at any time.
- 21) Points are not the property of the Cardholder, and cannot be sold or transferred in any way (including upon death or as part of a domestic relations matter). Points are redeemable only as described above. Points may not be transferred and may not be assigned or pledged to any third party unless otherwise noted.
- 22) Returns: We are unable to cancel orders for merchandise after you have redeemed Points. Return of Program merchandise is available for UNOPENED items only. If you would like to return your unopened order, please wait for your item to be delivered to you and within 5 days after delivery call 1.800.850.HOOT for return instructions and obtain a Return Merchandise Authorization Number ("RMA"). We reserve the right to refuse any return. In the event we elect to do so, we will not return the item back to you unless it is requested. You are responsible for all postage regarding any refused return. Postage is the responsibility of the cardholder and will not be reimbursed.
 - a) Phone 1.800.850.HOOT (4668). Inform a customer service representative that you would like to return your item and they will take you through the return process.
 - b) They will email, or mail you a letter if requested, with a Return Merchandise Authorization Number (the "RMA") and all instructions. Please keep this number in a safe place as you will not be able to return your item without it. Please allow 5 business days to receive the email, or 10-14 days to receive the mailed letter.
 - c) NOTE - the item must be returned in its unopened original packaging and must be mailed within 7 days after receiving your RMA.
 - d) Your Points will be credited back to your account (within 30-60 days) after we confirm receipt and approve return of item.
 - e) Postage is the responsibility of the cardholder and will not be reimbursed, with the exception for damaged or defective merchandise.

- 23) Exchanges: Subject to authorization, you may exchange merchandise only in the event of merchandise defects or damaged shipment. If an item received is defective or damaged, it may be exchanged without charge within a maximum of 3 days after delivery. An RMA number must be obtained prior to return of any Program reward (See Returns).
- 24) Because Merrick Bank and HC are not responsible for defective equipment or mishaps, all responsibility shall lie with the equipment manufacturer's warranty and procedures. If an identical or similar item is not available, the redeemed Points will be credited back to your account and will appear within 30 – 60 days.
- 25) All aspects of the Program are governed by the laws of the State of Georgia, without reference to the Georgia choice of law provisions.
- 26) The only rights granted to Cardholders by these Terms and Conditions are those expressly specified herein.
- 27) Important Notice: Merrick Bank or HC may terminate the Program at any time without prior notice to Cardholders or other participants in the Program. These Terms and Conditions may be modified from time to time without prior notice to Cardholders or other participants in the Program. Modifications may include, but not be limited to, the number of Points earned on Purchases, HC Point redemption method(s), and the fees associated with the Program.

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Merrick Bank, is the issuer of this credit card program.

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