

CUSTOMER AGREEMENT

THIS AGREEMENT, is entered into this _____ day of _____, 201____, by and

between _____

_____ (being referred to hereinafter as “Customer”) and SportGame, Inc., whose address is Post Office Box 220, Ocean Springs, Mississippi 39566-0220 (hereinafter referred to as “SportGame”).

WHEREAS, SportGame offers contests for clientele of Customer at no cost to the clientele which will entice clientele to frequent the business establishment of Customer; and

WHEREAS, Customer is desirous of obtaining from SportGame certain goods and services which will permit Customer to conduct a certain promotion (“the Promotion”) at its business establishment.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is agreed upon by all the parties, the parties agree as follows:

1. **TERMS AND CONDITIONS:**

This Agreement shall become effective on _____ 201____, and shall remain in effect for _____ months. Customer shall have the right to renew this Agreement pursuant to the terms hereof for _____ month intervals. SportGame reserves the right not to allow a renewal of this Agreement, if within the discretion of SportGame, Customer is not promoting the contests being offered hereunder or Customer takes any action detrimental to SportGame. Customer agrees to make all payments to SportGame promptly when due. Customer agrees that neither SportGame nor Customer will charge Customer’s clientele (hereinafter referred to as “members”) for their participation. No purchase shall be necessary for members to participate. Customer shall offer members, without discrimination, the free participation in the contests to be offered by SportGame. The Promotion shall be subject to rules, regulations and laws which may be applicable for Customer’s location. Customer shall provide SportGame their contest rules before each contest starts. Customer shall electronically transmit all members’ game entries to SportGame within the time limitations prescribed for each contest. SportGame will electronically track all members’ entries and will electronically return all contest results to Customer after each contest ends. Customer shall have sole discretion in determining prizes to be awarded to contest winners.

2. **PAYMENTS:** Customer agrees to pay SportGame a base rate of \$257.00 per week for the first Promotion. If Customer offers more than one Promotion per week (such as a separate contest for employees) each additional contest will cost \$50.00 per week. Customer agrees to prepay the first five (5) weeks base payment of \$1,285.00 plus a minimum installation fee of \$900.00. Customer also agrees to prepay security deposits for equipment units in the amount of \$600.00 per unit. Thereafter Customer will be billed each month. Customer agrees to install an additional unit if this location’s play ticket entry total exceeds 7,000 tickets per month.

3. **RENEWAL TERMS:** Customer shall have the right to renew this Agreement upon its termina-

tion, subject to the approval of SportGame. For each renewal, both Customer and SportGame have the right to re-negotiate the base rate per week. To renew, Customer agrees to prepay the first five weeks base rate at the re-negotiated rate.

4. **EQUIPMENT:** SportGame will furnish the following equipment to Customer for the duration of this Agreement:

Printer (s) S/N _____

Card Reader (s) S/N _____

SportGame Data Unit (s) S/N _____

Location of Equipment (physical address): _____

Customer agrees to pay a security deposit of \$600.00 for each equipment unit, which consists of 1 printer, 1 card reader, and 1 SportGame data unit. Following termination of this Agreement, Customer will return said equipment in good working order, normal wear and tear excepted. Upon return of the equipment, SportGame will refund the security deposit. Customer shall not seek to alter the equipment in any way without the prior written consent of SportGame. In addition, Customer agrees that it shall not pledge its interest in said equipment as security for any loan or other obligation and recognizes that title to said equipment shall remain in SportGame. SportGame shall promptly replace any non-operative or malfunctioning equipment upon notification by Customer. Customer shall bear the entire risk of loss and shall keep said equipment insured against theft, damage or destruction at all times and shall provide SportGame with proof of such insurance within a reasonable time after installation of the equipment.

5. **TERMINATION:** The following provisions shall govern the termination of this Agreement:

A. SportGame may terminate by notice given to Customer, effective immediately, in any of the following events: (1) Customer comes into default on its payments under this contract; (2) any assignment or attempted assignment by Customer of any interest in this Agreement without SportGame's written consent; (3) commission of any fraudulent act or material misrepresentation by Customer relating to SportGame; (4) subject to applicable law, this Agreement shall terminate automatically upon Customer's cessation of business, election to dissolve, dissolution or bankruptcy.

B. In the event either party has any business relations with the other party after termination of this Agreement, such relations shall not be construed as a renewal of this Agreement or as a waiver of such

termination, but all such transactions shall be governed by terms identical with the provisions of this Agreement relating to the same unless the parties execute a new Agreement superseding this Agreement.

6. **CONFIDENTIALITY:** Customer agrees by and on behalf of itself, its heirs, legal representatives, employees, agents and assigns and as an inducement to SportGame to place its equipment in the business establishment of Customer, that it will not allow access to the equipment by any persons except those employees and persons associated with Customer who are absolutely necessary for the proper operation and use of the equipment. Furthermore, Customer warrants and represents that it understands that should it allow someone to study, duplicate or use any of the SportGame's format, programs, products or equipment that it could be liable to SportGame for damages associated with the same.

7. **LIMITATIONS OF LIABILITY OF SPORTGAME:** SportGame does not guarantee any winner in any contest and shall not be liable for acts of third parties, acts which are unforeseeable or acts which are beyond its control.

8. **ASSIGNMENT:** Customer will not assign, transfer, or otherwise dispose of this Agreement or any interest therein or sublet Equipment or permit Equipment to be used by anyone other than Customer or the employees of Customer without the written consent of SportGame.

9. **CHANGE OF NAME, BILLING ADDRESS OR LOCATION OF EQUIPMENT:** Customer will inform SportGame at (228) 875-0082 within one week, of any change in company name, billing address, telephone number or location of SportGame equipment.

10. **ENTIRE AGREEMENT:** This Agreement represents the entire Agreement between Customer and SportGame and may only be modified in writing with the consent of both parties. This Agreement shall be binding on the parties hereto, their successors, representative and assigns.

11. **INTERPRETATION:** The parties acknowledge that each party (and their counsel, if they deemed necessary) have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

12. **CUSTOMER'S DEFAULT:** If Customer allows any payments due to SportGame to be in arrears more than ten (10) days after written notice of the delinquency, or remains in default under any other condition of this Agreement for ten (10) days after written notice from SportGame, SportGame may, at its option, after notifying Customer, terminate this Agreement.

If the contract is terminated pursuant to this provision, after 24 hour notice from SportGame, Customer is obligated to meet SportGame representatives at Customer's premises and safely and securely provide SportGame with its equipment. If SportGame recovers its equipment from Customer due to Customer's default, Customer remains liable to SportGame for any amounts due SportGame until said amounts are paid in full.

13. **TAXES AND ASSESSMENTS AGAINST EQUIPMENT:** Except where Customer is completely tax exempt, Customer agrees that it will pay in full all applicable sales taxes, personal property taxes, special assessments, and governmental charges of any kind imposed on the equipment during the term of this Agreement. Any such tax or assessment shall be payable directly to the entity imposing the tax, assessment, or charge at least thirty (30) days before the date payment is due. Customer may, at its own expense, contest any tax or assessment which is imposed. In the event Customer contests such tax or assessment, Customer must deposit with SportGame the full amount of the tax or assessment, plus the amount of penalty that might be imposed for failing to make timely payment and one year of interest at the rate imposed by the entity levying the tax or assessment. When the contest is resolved, Customer may use the money deposited with SportGame to pay any tax or assessment, plus any penalty or interest, due under the final resolution and keep any balance of the deposit. If the deposit is insufficient to pay these amounts, Customer must immediately pay the balance due to the entity imposing the tax, assessment, or charge.

14. **ATTORNEY'S FEES AND COSTS:** SportGame may hire or pay someone else to help collect any debt owed under this contract if it is not paid in a timely fashion. Customer agrees to pay to SportGame any amounts expended for collection, which includes, subject to any limits under applicable law, SportGame's attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's fees, expenses for bankruptcy proceedings, and appeals. If not prohibited by applicable law, Customer will also pay any court costs, in addition to all other sums provided by law. As to attorney's fees, Customer agrees the amount that shall be owed will be equal to 33 1/3 percent of the debt owed, or the actual amount of the bill, whichever is greater. As to all other disputes pertaining to this agreement, each party shall bear its own attorney's fees and costs.

15. **MISCELLANEOUS: NOTICES AND ADDRESSES:** All notices required under this Agreement must be given by confirmed fax followed up by ordinary mail addressed to the proper party, at the following addresses:

Customer: _____

Fax: _____

SportGame:
SportGame, Inc.
Post Office Box 220
Ocean Springs, MS 39566
FAX: 228 875-0029

16. **CUMULATIVE REMEDIES:** All SportGame's and Customer's rights and remedies under this Agreement are cumulative, and none will exclude any other right or remedy provided by

law or any other provision of this Agreement. All the rights and remedies may be exercised and enforced concurrently.

17. **SURVIVABILITY OF TERMS:** If any of the terms of this Agreement are construed to be unenforceable by any court in any jurisdiction, the remaining provisions of this Agreement shall be given full force and effect and the disallowance of one or more provisions shall not effect the parties rights to enforce all other provisions.

18. **COMPLIANCE WITH LAWS:** Customer may not use, or permit use of the equipment, contest or procedures of SportGame in any manner which may constitute an illegal purpose or act.

19. **GOVERNING LAW:** The parties to this Agreement intend this Agreement to be executed as an agreement made and executed in Mississippi and to be construed in accordance with the laws of the State of Mississippi. Any and all legal actions arising out of this Agreement shall be brought in courts of the State of Mississippi, Jackson County, and Customer hereby consents to the exclusive jurisdiction of Mississippi courts.

FOR: _____	FOR: SportGame, Inc.
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____