



## Moneris VISA National Account Merchant Agreement

This agreement is made as of December 1, 2015 among [REDACTED] (the "Merchant"), Moneris Solutions Corporation and Royal Bank of Canada. The parties wish to enter an arrangement to permit holders of VISA credit cards to use their cards to purchase goods and services from the Merchant. The parties therefore agree to the Moneris VISA National Account Merchant Agreement, which consists of: (a) this signature page; (b) Schedule A – Moneris National Account Merchant Credit Card Agreement Terms and Conditions; and (c) Schedule B – VISA Fees and Floor Limits.



## Moneris MasterCard National Account Merchant Agreement

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This agreement is made as of December 1, 2015 among [REDACTED] (the "Merchant"), Moneris Solutions Corporation and Bank of Montreal. The parties wish to enter an arrangement to permit holders of MasterCard credit cards to use their cards to purchase goods and services from the Merchant. The parties therefore agree to the Moneris MasterCard National Account Merchant Agreement, which consists of: (a) this signature page; (b) Schedule A – Moneris National Account Merchant Credit Card Agreement Terms and Conditions; and (c) Schedule B – MasterCard Fees and Floor Limits.



## Moneris Discover National Account Merchant Agreement

This agreement is made as of October 1, 2015 between [REDACTED] (the "Merchant") and Moneris Solutions Corporation. The parties wish to enter an arrangement to permit holders of Cards (as defined below) to use their Cards to purchase goods and services from the Merchant. The parties therefore agree to the Moneris Discover National Account Merchant Agreement, which consists of: (a) this signature page; (b) Schedule A - Moneris National Account Merchant Credit Card Agreement Terms and Conditions; and (c) Schedule B - Discover Fees and Floor Limits.

[REDACTED] **Moneris Solutions Corporation**

Name:

Title:

Name:

Title:



## Schedule A - Moneris National Account Merchant Credit Card Agreement Terms and Conditions

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### 1. Introduction

These terms and conditions are Schedule A to each of the Moneris VISA National Account Merchant Agreement and the Moneris MasterCard National Account Merchant Agreement and the Moneris Discover National Account Merchant Agreement (as each such agreement may be amended, restated, replaced or otherwise modified from time to time, individually, the "Agreement").

In the Moneris VISA National Account Merchant Agreement, "Card" means a valid card carrying the VISA name or symbol; "Bank" means Royal Bank of Canada ("RBC"); and "Card Brand" means Visa Canada Corporation and Visa, Inc. and their respective affiliates, successors and assigns. In the Moneris MasterCard National Account Merchant Agreement, "Card" means a card carrying the MasterCard name or symbol; "Bank" means Bank of Montreal ("BMO"); and "Card Brand" means MasterCard International Inc. and its affiliates, successors and assigns. In the Moneris Discover National Account Merchant Agreement, "Card" means a valid card operating within the Discover network and for which we provide processing services; "Bank" means Moneris Solutions Corporation; and "Card Brand" means DFS Services LLC and its respective affiliates, successors and assigns. For greater certainty, Card shall include any card representing any form of payment that is made available by the Card Brand and for which we provide processing services.

In each Agreement, "we", "us" and "our" mean Moneris Solutions Corporation and "you" and "your" mean the Merchant and each Merchant, if there is more than one.

For your convenience, the terms of each Agreement are the same, except as indicated above. However, you acknowledge that these are three separate agreements. BMO is not a party to the Moneris VISA National Account Merchant Agreement or the Moneris Discover National Account Merchant Agreement, and RBC is not a party to the Moneris MasterCard National Account Merchant Agreement or the Moneris Discover National Account Merchant Agreement, and Moneris Solutions Corporation, acting in its capacity as the Bank, is not a party to the Moneris VISA National Account Merchant Agreement or the Moneris MasterCard National Account Merchant Agreement.

### 2. Definitions

In addition to the terms defined in Section 1, the following capitalized words have the meanings shown below:

"Authorization" means authorization provided by the Card issuer indicating that the Cardholder's account has sufficient credit available to support the Transaction.

"Authorization Number" means the number the Card issuer provides to indicate that sufficient credit is available on the Card to support the Transaction and that the Card is not currently blocked.

"Authorization System" means the computer systems used to provide you with Authorizations.

"Business Day" means any day, other than Saturday or Sunday, on which banks are open for business in Toronto, Ontario.

"Card Brand Rules and Regulations" means the rules and regulations, as amended, supplemented, revised or otherwise modified from time to time of each applicable Card Brand.

"Cardholder" means the person who presents a Card.

"Chargeback" occurs when we or the Bank reverse a credit or a payment for a Transaction.

"Confidential Information" means confidential or proprietary information including but not limited to: the terms of this Agreement, pricing, Card Brand Rules and Regulations, merchant numbers, trade secrets, information concerning Terminals, advertising, marketing, designs, plans, specifications, software and programs or methods of the operation of Terminals and financial information.

"Data Security Standards" means the data security standards of us and the Card Brand, including without limitation, Payment Card Industry Data Security Standard ("PCI DSS"), Payment Application Data Security Standard ("PA DSS") and Pin Entry Device Standard (PED), as each may be amended, supplemented or otherwise modified from time to time.

"Draft Capture" means the electronic capture of Card and Transaction data entered into the Terminal and authorized via the Authorization System.

"ECommerce" is the processing of online Transactions, using electronic media over any public or private network.

"Electronic Transaction Record" means the data or information that we require you to submit, in the form that we advise you of from time to time, in order to process your Transactions.

"Floor Limit" means the maximum dollar value of a Transaction that can be processed without an Authorization Number during a Time Out as set out in Schedule "B".

"Foreign Transaction" means a Transaction processed on a Card issued outside of Canada.

"Merchant" has the meaning ascribed to that term in the opening paragraph of this Agreement.

"Merchant Discount Rate" or "MDR" is the fee or the percentage of each Transaction that we charge for the services we provide under this Agreement as set out in Schedule B.

"Operating Manual" means the manual that we provide you with respect to processing Transactions and using your Terminals as such manual may be amended, supplemented or otherwise modified from time to time.

"Personal Identification Number" or "PIN" means the confidential number that Card issuers issue with a Card to authenticate a Cardholder and authorize Transactions through Terminals.

"Prohibited Transaction" means a Transaction carried out in furtherance of a prohibited or illegal activity, Transactions we tell you from time to time are Prohibited Transactions or any other Transactions that you are not authorized to process.

"Remote Transactions" are Transactions that are completed where both the Cardholder and Card are not present at the point of sale. Remote Transactions include mail orders, telephone orders and Ecommerce transactions.

"Reserve" means an amount owing to you by the Bank as established in accordance with our procedures and identified by us as your reserve.

"Terminal" means the electronic funds transfer equipment, printer and/or PIN Pad software applications that meet our specifications and have been supplied by, certified or otherwise approved by us and that you use to process Transactions.

"Time Out" means the Authorization System is not available or your host has not received a reply within 45 seconds after it has been requested.

"Transaction" means any transaction between you and a Cardholder in which a Card is used in connection with a sale, a refund or an adjustment to either.

"Transaction Receipt" means the form you are required to use and provide to the Cardholder as proof of a Transaction including a sale, refund or adjustment and showing, among other things that we may inform you of from time to time, the amount of the Transaction and whether the Transaction was approved or declined by the Card issuer.

"Wired Terminal" means a Terminal that communicates through traditional wired or other communication services.

"Wireless Terminal" means a mobile short range or long range Terminal that derives power from a battery and communicates over cellular or data communication services.

### **3. Basic requirements**

#### **3.1 Nature of your Business and Honouring Cards**

You agree not to process Transactions that you know or ought to have known are fraudulent, unauthorized by the Cardholder or Prohibited Transactions. You are responsible for the actions of your employees (or any other person

that uses the services provided for in this Agreement). You agree to honour Cards that are presented to you as a form of payment in accordance with the terms and conditions of this Agreement and you agree that you and your employees will follow all procedures and instructions that we provide including those procedures and instructions set out in the Operating Manual. It is your responsibility to ensure that you obtain and are in compliance with the most recent version of Operating Manual available at <http://www.moneris.com> or such other website as we may advise you of from time to time. You also agree not to use our services to process Transactions for another person, entity or merchant.

### **3.2 Non-discrimination**

You agree that you will not discriminate as to the conditions of a sale if a Card is presented as a form of payment nor will you discriminate against or discourage the use of any particular Card brand unless you are expressly permitted to do so under the Card Brand Rules and Regulations. For example, you will not charge a fee or surcharge on Transactions, or set a minimum or maximum value for accepting Cards. If you have a private label card program, you may provide additional benefits to your private label Cardholders.

Notwithstanding the foregoing, you are not restricted from imposing fees or surcharges on Transactions in the ordinary course of your business, as long as such fees or charges are:

- (i) applied to a product or service regardless of the method of payment used by your customers, including whether or not a Card is used or the type of Card; and
- (ii) the fee or surcharge is not connected in any respect to your acceptance of Cards..

### **3.3 Requesting additional customer information**

You agree not to request additional identification or information from a person who presents a Card unless it is reasonably necessary to complete the Transaction, if we instruct you to do so or if you find the circumstances of the Transaction questionable.

### **3.4 Exchanges, refunds and adjustments**

You agree to follow a fair policy for exchanging, returning and adjusting the price of goods or services that were paid for with a Card, and to communicate this policy clearly to your customers. You also agree to settle any claims or disputes directly with your customers.

If a purchase made using a Card is returned, a credit or refund must be issued to the same Card by completing a Transaction Receipt and not in cash. If your business has a "no refund" or "no exchange" policy, this must be clearly indicated on the Transaction Receipt.

### **3.5 Advertising**

You agree to display the promotional material and decals we provide to advise the public that you accept Cards at your place of business and on your website.

### **3.6 Data Security, Protection of Cardholder Information and Card Brand Rules and Regulations**

You and any of your authorized third party service providers will adhere to the Card Brand Rules and Regulations, Data Security Standards and the Operating Manual and you are responsible for complying with all applicable laws related to Cardholder and Transaction information. You agree to provide us with information from time to time for the purposes of verifying that you and your authorized third party service provider are complying with the Data Security Standards and all other Card Brand Rules and Regulations. It is your responsibility to ensure that you obtain and are in compliance with the most recent version of the Data Security Standards available at <https://www.pcisecuritystandards.org>, or such other website as we may advise you of from time to time. You must obtain all publicly available Card Brand Rules and Regulations and Data Security Standards available on the Card Brand websites. In the event that certain Card Brand Rules and Regulations are not publicly available, we will advise you of these certain Card Brand Rules and Regulations.

You are not permitted to use a third party, including any third party software products, to process, transmit or store Cardholder data or Transaction information unless you receive our prior written consent and you are responsible for ensuring that the third party and/or the third party software is compliant with the Data Security Standards and all other

Card Brand Rules and Regulations. You must provide us with prior written notice of any changes in any third party service provider and/or third party software used in the processing, transmission or storage of Cardholder data and/or Transaction information and we reserve the right, upon notice to you, to make reasonable modifications to the terms governing the continued provision of services to you.

You agree to provide us with assistance in the investigation of any suspicious activity, including, without limitation, suspected, potential or actual fraud, security compromises or Card skimming incidents involving Cardholder data or Transaction information including permitting us, the Bank, the Card Brands and/or any third party authorized by us, the Bank or the Card Brands to inspect your premises, computers and all equipment and software used in connection with the processing, transmission or storage of Cardholder data or Transaction information.

You must inform us immediately if you have suffered or suspect you have suffered, or any authorized third party or third party software has suffered or you suspect has suffered, a security breach or security compromise involving Cardholder data or Transaction information. You authorize an audit by a security firm approved by us, the Bank and/or the Card Brand if we, the Bank or the Card Brand require the audit in connection with the actual or suspected security breach or compromise. You agree to implement all recommendations set forth by the audit. You are responsible for all costs and fees related to the audit and the implementation of any recommendations.

You are responsible for any fines, fees, assessments, costs, including without limitation Card re-issuing costs and/or monitoring costs and charges levied by the Card Brands, the Bank and/or us as a result of Data Security Standards and all other Card Brand Rules and Regulations applicable to you or your Transactions. Without limiting the foregoing and for greater certainty, you agree to indemnify us and the Bank and our respective affiliates, officers, directors, employees and agents from any claims, suits, damages, losses, costs expenses and fees (including legal fees) which are directly or indirectly, or in any way or in any manner whatsoever the result of, caused by or arise from your non-compliance with this Agreement, the Operating Manual, Card Brand Rules and Regulations and/or the Data Security Standards.

### **3.7 Card Brand Programs**

If you participate in any programs or promotions operated by the Card Brand, you agree to obtain all necessary approvals and consents and act in accordance with all rules, requirements and regulations related to the programs.

### **3.8 Exclusivity**

You agree not to enter into an agreement or arrangement with anyone else regarding the acceptance of Cards except that we acknowledge and agree that you have an existing agreement with TD Merchant Services and you may process up to fifteen percent (15%) of the cumulative Transaction volume in Dollars listed in Schedule B for the various Card Brands with TD Merchant Services without breaching the exclusivity requirement.

## **4. Processing your Transactions**

### **4.1 How to process Transactions**

To process Transactions, you agree to:

- (a) ensure that the Card is presented;
- (b) ensure the Terminal is set to process Transactions and is not otherwise in a different mode (i.e. training mode);
- (c) not sell merchandise or services for a cost to the Cardholder in excess of your ticketed or posted price;
- (d) examine the Card to ensure that:
  - (i) the current date is within the valid dates or before the expiration date; and
  - (ii) If there is a signature panel on the back of the Card, the Cardholder has signed it. If the signature panel is not signed, ask the Cardholder to sign it in your presence and provide you with two pieces of identification, one with a photograph and verify the Cardholder's identity;
- (e) include the total amount due for each Transaction on a single Transaction Receipt unless:
  - (i) the Cardholder pays the balance of the amount due by another means at the time of the Transaction; or
  - (ii) all or a portion of the goods or services will be delivered or provided at a later date. In this case, use two Transaction Receipts: The first Transaction Receipt will be issued for the amount of a deposit, and should

- be clearly marked "deposit", and the second Transaction Receipt will be completed to indicate payment of the balance owing by clearly marking "balance" when the goods are delivered or the service is provided.
- (f) use your Terminal to read the information contained in the Card in accordance with the instructions in the Operating Manual;
  - (g) obtain an Authorization Number; we may conclude that an Authorization Number was improperly obtained if you do something or fail to do something that could influence the Card issuer's decision to issue it. Examples are:
    - (i) there is any reasonable cause to suspect that the Card has been stolen, is counterfeit or has been altered in any way or you have otherwise been made aware that the Card is subject to a warning; and/or
    - (ii) the circumstances of the Transaction are unusual or suspicious (i.e. an unusually high Transaction amount or a request for the delivery of goods to a destination where you typically do not conduct business).
  - (h) not to continue with the Transaction if you get a *decline* response when you request an Authorization;
  - (i) ensure that the numbers displayed on your Terminal and printed on the Transaction Receipt, match the numbers on the Card;
  - (j) telephone us for instructions before returning the Card to the Cardholder if you have been made aware that a Card presented to you is subject to a fraud-warning;
  - (k) watch the Cardholder either sign the Transaction Receipt or enter a PIN;
  - (l) if applicable, compare the signature with the signature on the Card and if the two signatures don't match telephone us for instructions before returning the Card to the Cardholder; and
  - (m) give the Cardholder a copy of the Transaction Receipt and keep the original.

It is your responsibility to follow the instructions displayed on your Terminal and as provided in the Operating Manual and you acknowledge that you are responsible for all Transactions processed through your Terminal.

#### **4.2 Processing Remote Transactions**

Certain exceptions to Section 4.1 apply to Remote Transactions as noted in this Section 4.2.

You agree not to accept Remote Transactions unless you receive our prior written consent.

If you process Remote Transactions, you agree to disclose clearly to the Cardholder that you, rather than another supplier of goods and services, are the merchant of record and are responsible for Transactions, products and services, customer service, dispute resolution; and all terms and conditions of sale.

If the Card used for a Remote Transaction is rejected or if the Card issuer cancels the pre-authorization, you agree not to deliver the goods or services unless you negotiate a different form of payment. All Remote Transactions are subject to a Chargeback if the Cardholder disputes the charge.

For Remote Transactions, you may complete the Transaction Receipt without a Cardholder signature or Card imprint however a Remote Transaction is still subject to a Chargeback if the Cardholder disputes the charge. You agree to identify Remote Transactions in all Electronic Transaction Records in the manner that we identify to you from time to time.

If you conduct ECommerce, you must be able to demonstrate to us that you and your service provider meet the minimum encryption level standards for gathering and transmitting Cardholder data such as industry standard secure sockets layer and/or other security standards that we or the Card Brand require you to meet from time to time such as 3-D Secure or Secure Code. You agree that if you or your service provider store Cardholder data within your systems or facilities you agree that the Cardholder data you store is protected in the manner and at the level required by the Card Brand or higher. In addition, if you conduct ECommerce, you must display your consumer data privacy policy, information regarding the security capabilities and policy for transmission of Card details and the address of your principal place of business on your website.

#### **4.3 Processing Transactions during a Time Out**

If you use a Terminal to process Transactions your Floor Limit is zero and you must obtain an Authorization Number for each Transaction. In the event of a Time Out or if we tell you the Authorization System is down, you agree to follow the

procedures in the Operating Manual and take the following steps:

- (a) you agree to notify us by telephone;
- (b) always obtain an Authorization Number if the amount of the Transaction is greater than your Floor Limit, however we recommend as a best practice that you request an Authorization Number for all Transactions;
- (c) always take an imprint of the Card and ensure the Transaction Receipt contains the following information:
  - (i) the total value of the Transaction;
  - (ii) your merchant number;
  - (iii) if the Transaction is greater than your Floor Limit, the Authorization Number;
  - (iv) the Cardholder's signature; and
  - (v) the date of the Transaction.
- (d) after manually completing the Transaction Receipt you must then:
  - (i) write proof copy on the Transaction Receipt; and
  - (ii) manually enter the Transaction including the Authorization Number into your Terminal; and
- (e) re-connect to the Authorization System within 5 minutes after we tell you it is available.

#### **4.4 What each Transaction Receipt Represents**

You agree that each Transaction Receipt and the Transaction it supports will:

- (a) be a legitimate Transaction in the ordinary course of your business;
- (b) not involve a cash advance;
- (c) not include Transactions other than those described on the Transaction Receipt;
- (d) comply with the terms of this Agreement, our procedures and instructions and all applicable laws;
- (e) be enforceable and allow the Card issuer to collect the value of the Transaction from the Cardholder;
- (f) not cover an existing debt or a dishonoured cheque; and
- (g) not be a Prohibited Transaction.

You also agree to indemnify us and the Bank against all claims made against us by a Cardholder or Card issuer that arise, or are alleged to arise from any Transaction in which you are involved.

#### **4.5 Dynamic Currency Conversion**

If we provide you with dynamic currency conversion or other currency conversion services, you must:

- (a) notify us prior to offering such conversion services to Cardholders;
- (b) inform Cardholders that the conversion service is optional;
- (c) not impose any additional requirements on Cardholders to have Transactions processed in local currency;
- (d) not use any language or procedures that cause the Cardholders to choose conversion services by default;
- (e) not misrepresent, either explicitly or implicitly, that the conversion services are provided by the Card Brand;
- (f) comply with all Transaction Receipt requirements required by us or the Bank from time to time; and
- (g) comply with any other requirement regarding conversion services that we may notify you of from time to time or as provided for in the Card Brand Rules and Regulations.

### **5. Banking Arrangements**

#### **5.1 Reimbursement for your Transactions**

You agree to seek reimbursement for the Transactions you process only from the Bank. You agree not to request or

accept reimbursement from any other source for Transactions that you have delivered to us and that we have not rejected or returned to you.

## 5.2 Processing your Electronic Transaction Records

You agree to deliver your Electronic Transaction Records as follows and within three days of the Transaction date:

- (a) If you deliver Electronic Transaction Records to us through Draft Capture, you will deliver records to us using our Draft Capture service, and not by any other means;
- (b) If you deliver Electronic Transaction Records to us through a third party processor, you will ensure that your third party processor complies with the standards that we provide from time to time including without limitation Card Brand Rules and Regulations and the standards otherwise set forth in this Agreement and that you are liable for any losses or damages we suffer relating to Transactions handled by your third party processor; or
- (c) If you deliver Electronic Transaction Records to us by electronic file, you will:
  - (i) follow our procedures with respect to electronic files;
  - (ii) use the access codes, passwords and other identifiers we provide and take all necessary steps to guard against their theft, loss or fraudulent use;
  - (iii) allow only authorized persons to use your access codes, passwords and other identifiers we provide. Anyone using your access codes, passwords and other identifiers will be considered to have your authorization unless you tell us otherwise; and
  - (iv) tell us immediately about any loss, theft or unauthorized knowledge or use of your passwords and identifiers.

## 5.3 Settlement and Adjustments

- (a) The Bank will credit the Transaction proceeds to your bank account and will use reasonable commercial efforts to settle with you by crediting your bank account with an amount equal to the value of the Transactions you present to us for settlement within two (2) Business Days of when we receive your Electronic Transaction Records. The Bank reserves the right to modify the terms of settlement.
- (b) You agree that we and the Bank may debit or set off from any of your bank accounts (or combinations thereof), the Reserve or any hold back under Section 10.3, the amount of any fees and charges (including MDR, transaction fees, Card Brand assessments, fees or fines), adjustments, Chargebacks, other credits or debits described in this Agreement, and any applicable taxes.

You agree to pay to us or the Bank, as applicable, any sum owing or becoming owing under this Agreement that is not, or cannot be fully or permanently satisfied by debtor set off. If you process Electronic Transaction Records through a third party service provider, the settlement amount will be reduced by any Electronic Transaction Records we reject.

If your bank account is at a financial institution other than RBC or BMO:

- (i) The Bank will use reasonable commercial efforts to settle with you by crediting to the other financial institution an amount equal to the value of the Transactions you present to us for settlement within two (2) Business Days of when we receive your Electronic Transaction Records. The Bank reserves the right to modify the terms of settlement to the other financial institution; and
- (ii) You acknowledge that it is the responsibility of the other financial institution to credit your account after receiving the Bank's electronic transfer of funds. It is your responsibility to pay any fees charged for accepting these deposits or for processing any other credits or debits described in this Agreement.

## 5.4 Statements

You agree to review all of the Transactions listed on your statement, and to tell us in writing within 30 days of receipt in the case of paper statements, or within 30 days of the Transaction date for activity viewed electronically, about any concerns including suspected omissions, incorrect debits or inaccurate Transactions. If you do not receive a statement

or if you are unable to view your Transaction activity electronically you agree to tell us immediately. Otherwise, you agree that all the Transactions, fees, charges and payments listed are correct and you will release the Bank and us from any claim relating to any item listed and any item suspected to be missing from your statements.

This Section does not apply to Chargeback disputes, which are covered by Section 6.4.

#### **5.5 Costs**

You will pay to us, for ourselves and as agent for the Bank, immediately all costs and expenses, including any legal fees and disbursements on a full indemnity basis, that we or the Bank at any time pay or incur in connection with the enforcement of this Agreement, including in connection with the defense and enforcement of any and all security.

#### **5.6 Cross Guarantee**

If more than one merchant is processing Transactions under this Agreement, each merchant guarantees to each of us and the Bank, as an irrevocable and continuing guarantee, the due and punctual payment of all obligations, present and future and however arising or incurred, of each other merchant to us or to the Bank under this Agreement and/or any other agreement between that other merchant and us, and agrees that there will be no defence to its liability as guarantor except the full and permanent payment of all sums guaranteed (all other defences being irrevocably waived). If we request, each merchant will also execute and deliver forthwith a separate guarantee covering the same obligations as referred to in this Section in a form satisfactory to us. You agree that we may suspend the operation of this Agreement or otherwise withhold services until the requested guarantee(s) is provided.

#### **5.7 Reserve**

If there has been a change in your business as described in Section 11.1 or if we have been informed of a potential or actual breach of the Data Security Standards or Card Brand Rules and Regulations, we or the Bank may require you to establish a Reserve and make payments to us for that purpose from time to time in such amounts as are necessary to maintain at all times the minimum balance specified by us from time to time based on the financial exposure to us in continuing to process your Transactions. All such payments will be received by us as agent for the Bank. You agree, as an irrevocable direction to us and the Bank, that we may also create or maintain the specified minimum balance of the Reserve with deductions from Transaction proceeds or other payments or credits due to you and/or by debiting any account or accounts you have with the Bank. The repayment to you of any balance of the Reserve is subject to Section 10.3 and the terms and conditions of this Agreement generally and you are entitled to any such repayment only from the Bank. You are not entitled to repayment of any balance of the Reserve until such time as you have no further indebtedness or other obligations, outstanding, anticipated or potential, to either us or the Bank under this Agreement and/or under any separate guarantee, and your entitlement is only to be repaid any ultimate balance of the Reserve remaining after the full and permanent satisfaction of all such indebtedness and other obligations. You agree that, to be valid, any request for repayment of any balance of the Reserve must be made to us as agent for the Bank.

You acknowledge that the Reserve, and any holdback under Section 10.3, are simple debts and do not involve or create any trust, custodial, agency, liability to segregate or other similar obligations on the part of the Bank or us.

#### **5.8 Reviews**

We will review the risk and/or exposure to us and/or the Bank (including, without limitation, credit, operational, reputational, financial, technological, security and/or fraud risk or exposure) of the continued provision of services to you on a regular basis as we deem necessary and we may, as a result of any such review, make reasonable modifications to the terms governing the provision of service to you. In the course of such review, we may request and you shall provide such additional information and access as we deem reasonably necessary.

### **6. Chargebacks**

#### **6.1 Chargeback Reasons**

We and the Bank do not decide which Transactions are charged back and we do not control the initiation and issuance of a Chargeback. We and the Bank are not responsible for charged back Transactions but you may pursue a claim against the Cardholder directly.

Even if an Authorization Number has been issued for a Transaction, we may refuse to accept any Transaction contained in the Electronic Transaction Record; the Bank may not credit your bank account with the amount of the Transaction; and/or we or the Bank may process a Chargeback if:

- (a) the Transaction Receipt is illegible or does not contain all required information;
- (b) the Transaction was not completed according to the terms of this Agreement;
- (c) the amount of the Transaction exceeds your Floor Limit or you did not get an Authorization Number according to the terms of this Agreement;
- (d) the Card used in the Transaction is one we told you not to accept;
- (e) the Transaction has been disputed by the Cardholder;
- (f) the Transaction Receipt refers to merchandise which the Cardholder claims has been returned to you or has not been received by the Cardholder;
- (g) the Cardholder claims the goods or services referred to in the Transaction Receipt were unsatisfactory;
- (h) the signature on the Transaction Receipt is not reasonably similar to that on the signature panel of the Card, or is claimed to be a forgery;
- (i) you process a Transaction Receipt for a preauthorized order after receiving notification from the Cardholder to cancel further Transactions;
- (j) the Transaction was made without the Cardholder's permission (or permission was not granted by the person who was otherwise issued and authorized to use the Card);
- (k) you have failed to keep your copy of the Transaction Receipt for 24 months or you have failed to give us the Transaction Receipt within 8 days of our request;
- (l) you did not obtain a signature of the Cardholder and an imprint of a Card used in a Transaction which was manually keyed through your Terminal;
- (m) in the case of Remote Transactions, you did not have our advance approval to accept Remote Transactions, or a Cardholder disputes a Remote Transaction;
- (n) the Transaction included a cash advance from you to the Cardholder;
- (o) the Transaction was illegal or unenforceable;
- (p) the Transaction involves covering an existing debt or a dishonored cheque;
- (q) subject to Section 4.1(e)(ii), you divided the total amount of a Transaction between more than one Transaction Receipt;
- (r) the full amount of a single sales Transaction was not authorized;
- (s) you have previously submitted an Electronic Transaction Record in respect of a particular Transaction and received credit for it;
- (t) the Electronic Transaction Record represents a Transaction that never took place;
- (u) you have misrepresented a Transaction or attempted to submit an Electronic Transaction Record in respect of a Transaction that did not result directly from a Transaction between you and a Cardholder; or is a fictitious transaction; or you have otherwise attempted to defraud us;
- (v) a Card issuer charges back all or part of the amount of a Transaction in accordance with Card Brand Rules and Regulations; or
- (w) in any other way, you have not followed the terms of this Agreement.

The amount of any Chargeback is a debt payable to the Bank.

## 6.2 Documentation

For each Transaction that is charged back or not credited to your bank account, we will obtain appropriate verification and provide a copy to you.

### **6.3 Chargeback disputes**

You agree that if you wish to dispute (i) a Chargeback or (ii) a refusal to credit your account with the proceeds of a Transaction, you must respond to our request for information regarding the disputed Chargeback within 10 days of our request or, in the case of a refusal to credit your account tell us in writing about your concerns within 10 days after the date of the Transaction. Otherwise, you agree that you will release the Bank and us from any claim relating to those Chargebacks or refusals to credit your account.

### **6.4 Excessive Chargebacks, Counterfeit and Fraud**

You are ultimately responsible for the Transactions you process. The Card Brand may impose fees, fines or penalties if your Chargeback volume or the number of Transactions you process on fraudulent or counterfeit Cards is excessive. You will reimburse the Bank for the amount of all fees, fines or penalties levied as a result of these transactions. You will cooperate with us to determine why your Chargeback volume or the number of transactions processed on fraudulent or counterfeit cards is excessive and to implement measures to reduce the volume. We may terminate access to the Authorization System for any of your locations if the Chargeback volume or the number of transactions processed on fraudulent or counterfeit cards is excessive and/or exceeds Card Brand's accepted levels.

## **7. Required Retention Periods and Providing Records**

You agree to keep and maintain copies of all Transaction Receipts you issue for at least 24 months. If we request that you provide us with a copy of a Transaction Receipt within 24 months after the Transaction, you agree to provide it to us within 8 days of our request. If you do not provide the requested Transaction Receipt, or the Transaction Receipt you provide does not correspond in all respects to the Electronic Transaction Record you sent to us of the same Transaction the amount of the Transaction will be a debt payable to the Bank and will be debited or set off pursuant to Section 5.3 of this Agreement.

## **8. Equipment**

### **8.1 Terminals**

If we supply your Terminals, they will be supplied in accordance with the terms of the "Moneris Debit Card and Terminal Agreement". If you obtain Terminals elsewhere, they must meet our requirements, specifications and be certified or otherwise approved by us. Upon our request, you agree to provide information on the location of all of your Terminals.

### **8.2 Imprinters**

You are required to have an imprinter to permit your stores or locations process Transactions when your electronic system is not working, or if your Terminal is unable to read a Card. You may rent imprinters from us for the fee set out in Schedule B.

Any imprinter we rent to you remains our property and you agree to return it to us in the same condition as when you received it, except for normal wear and tear, otherwise we will charge you for the cost of the imprinter.

## **9. Fees and Merchant Discount Rate**

You agree to pay our fees and charges for the services we provide you (including the Merchant Discount Rate, Transaction fees, and any other applicable fees and taxes) as indicated in Schedule B. We have the right to review your Merchant Discount Rate on an annual basis and to raise your Merchant Discount Rate in accordance with the terms set out in Schedule B.

If the Card Brand increases any of the fees or charges we are required to pay for each Transaction or if the Card Brand changes the existing fee structure or implements a new fee structure, we will have the right, upon at least 30 days notice to (a) raise your fees by the amount of the increase; and/or (b) make corresponding changes to your fee structure.

You will be also responsible for any fees, fines, penalties or assessments levied by the Card Brand on us or the Bank in connection with the processing of your Transactions. Without limiting the foregoing and for greater certainty, you agree

to indemnify us and the Bank and our respective affiliates, officers, directors, employees and agents from any claims, suits, damages, losses, costs, expenses and fees (including legal fees) which result from, are caused by or arise from your non-compliance with this Agreement, the Operating Manual, Card Brand Rules and Regulations and/or the Data Security Standards (including without limitation any fines, fees, assessments, costs, Card re-issuing costs and charges levied by the Card Brands).

We have the right to increase the fees and charges applicable to you (including the Merchant Discount Rate) by the amount of any cost increases that we incur as a result of changes in: (a) the manner in which you process Transactions with us; (b) the way you carry on business; and/or (c) the Card Brand fee structure.

## 10. Term and Termination

### 10.1 Term

The first term of this Agreement will end on **November 30, 2018**. After the first term, this Agreement will automatically renew for further 1 year terms unless any party notifies the others at least 60 days before the end of the first term or renewal term, that it wishes to cancel this Agreement such cancellation to be effective at the end of the initial term or any renewal term, as the case may be.

### 10.2 Termination for Cause

#### (a) Default by you

We may terminate this Agreement by giving you 10 days notice, immediately suspend operation of this Agreement and/or take other steps we consider necessary acting in a reasonable manner, including, without limitation, establishing a Reserve or such action that is required by the Card Brand if:

- (i) you do not observe or act according to the terms and conditions of this Agreement, and fail to correct that default within the timeframe in the notice we send to you;
- (ii) you start bankruptcy or insolvency proceedings, or do something that would allow a third party to petition you into bankruptcy or insolvency proceedings;
- (iii) the continued provision of services to you would pose a level of risk and/or exposure to us (including, without limitation, credit, operational, reputational, financial, technological, security and/or fraud risk or exposure) that we consider in our sole discretion, to be unacceptable;
- (iv) the Card Brand Rules and Regulations require that we and/or the Bank terminate and/or suspend this Agreement;
- (v) if applicable, you do not create and maintain the specified minimum balance of the Reserve and you fail to correct that default within 3 days after we send you notice to do so;
- (vi) if applicable you do not provide us with financial statements as required by this Agreement;
- (vii) you fail to notify us of a change as required by Section 11.1;
- (viii) you failed to comply with Section 5.8; or
- (ix) you failed to comply with Section 3.6.

If more than one merchant is processing Transactions under this Agreement, a notice of termination or suspension delivered to any Merchant will be deemed to be delivered to each Merchant and we may exercise any and all rights associated with such notice against any and all Merchants.

#### (b) Default by us or the Bank

You may terminate this Agreement by giving us 10 days notice if we or the Bank do not observe or act according to the terms and conditions of this Agreement and fail to correct that default within 30 days after you send us written notice of default with instructions to correct it.

### **10.3 Effects of termination**

When this Agreement ends:

- (a) you remain responsible for paying any amount you owe us and/or the Bank pursuant to this Agreement;
- (b) the terms will remain in effect for any Transactions delivered to us before the cancellation date; and
- (c) your rights to accept Transactions, as outlined in this Agreement, to use advertising, displays and other items associated with Transactions will end.

Immediately upon notice of termination by either party under this Agreement, the Bank will pay you all settlement funds owing to you under this Agreement less a holdback equal to any potential or anticipated Chargebacks, fees and MDR or other amounts which may be or become payable by you pursuant to this Agreement after its cancellation and/or termination. The holdback will be used to settle any such amounts and the remainder will be paid to you no later than 240 days after the effective cancellation or termination date of this Agreement. If the holdback is insufficient to cover such amounts, you agree to pay any deficiency promptly on demand.

## **11. Other conditions**

### **11.1 Changes in your business**

You agree to provide us with immediate notice of any changes to your business or the manner in which you carry on business that may reasonably impact the services we provide you under this Agreement and we reserve the right upon notice to make reasonable modifications to the terms governing the continued provision of services to you. For greater certainty, the changes contemplated by this Section include without limitation, a corporate reorganization, a change of control, an increase in Transaction volume, and/or any change to the core business for which you use our services.

### **11.2 Assigning this Agreement**

This Agreement is binding on the parties and their successors and assigns. You will not assign this Agreement without our prior written consent, which we will not unreasonably withhold.

### **11.3 Confidential information about the parties**

Each party agrees not to disclose, or use other than in connection with this Agreement, any Confidential Information that it receives from another party. However, a party may disclose Confidential Information to its advisers who are bound by a duty of confidence to that party, and to regulatory officials or to the extent otherwise required by law.

### **11.4 Limitation of Liability**

We and the Bank will not be liable for any claims, losses, costs, exemplary, punitive, special, incidental, direct, indirect or consequential damages, lost profits, lost revenues, lost business opportunities, loss of goodwill or expenses caused by the unavailability or performance failure of the Authorization System or any Terminals, nor for any claims, losses, costs, exemplary, punitive, special, incidental, direct, indirect or consequential damages, lost profits, lost revenues, lost business opportunities, loss of goodwill or expenses from any other services we provide under this Agreement.

### **11.5 Entire Agreement**

This Agreement replaces all previous agreements, arrangements and understandings between you, us and/or the Bank concerning the service we provide.

### **11.6 Enforcing or Amending this Agreement**

A party's conduct, actions or failure to enforce any of the terms and conditions of this Agreement do not waive any of its rights under this Agreement; or change the other parties' obligations under this Agreement, unless all parties agree to an amendment in writing. No modification, amendment or supplement to this Agreement shall be binding upon any of the parties unless made in writing.

## **11.7 Providing notice**

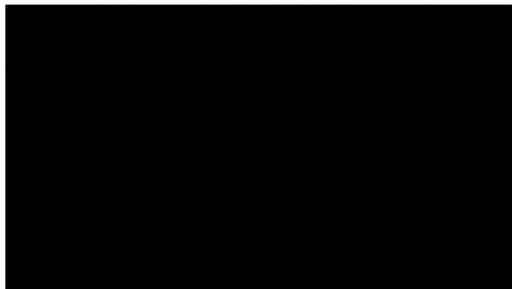
Any notice given under this Agreement will be delivered personally or sent by regular mail, prepaid registered mail, email or fax. If there is a postal service disruption, notices will either be hand-delivered, emailed or faxed.

Notice will be given to us and the Bank at:

Moneris Solutions Corporation  
3300 Bloor Street West  
7<sup>th</sup> Floor West Tower  
Toronto, Ontario  
M8X 2X2  
Attention: Chief Sales & Relationship Officer  
Fax number: (416) 734-1245  
Email: jeff.guthrie@moneris.com

With a copy to:

Moneris Solutions Corporation  
3300 Bloor Street West  
10<sup>th</sup> Floor, West Tower  
Toronto, Ontario  
M8X 2X2  
Attention: Chief Legal Officer  
Fax number: (416) 734-1153  
Email: Faeron.trehearne@moneris.com



Notices delivered personally will be deemed to be received on that day. Notices delivered by fax will be deemed to be received on the next business day. Notices sent by mail will be deemed to be received 5 business days after mailing.

## **11.8 For residents of Quebec**

It is agreed that it is the express wish of the parties that this Agreement and any related documents be drawn up and executed in English. *Il est la volonté expresse des parties que cette convention et tous les documents s'y rattachant soient rédigés en anglais.*

## **11.9 Governing Law**

This Agreement will be governed by the laws of the province of Ontario. The parties agree that the courts of the province of Ontario will have exclusive jurisdiction over any matters arising from this Agreement. Each party hereby irrevocably attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

## **11.10 Financial Statements**

You will provide us with annual audited consolidated financial statements within 120 days following the end of each fiscal year prepared in accordance with Canadian generally accepted accounting principles or International Financial Reporting Standards applied consistently from one period to the next.

## **11.11 Privacy**

The parties acknowledge that certain information collected, used and disclosed pursuant to this Agreement may constitute personal information pursuant to the Personal Information Protection and Electronic Documents Act (Canada), as amended and maybe regulated by such act and other applicable law. The parties agree that any such information will be collected, used, disposed, and disclosed in accordance with applicable law and will only be collected, used, disposed and disclosed in connection with the services provided hereunder.

## **11.12 Telecommunications**

You agree that if you require third party telecommunications support you authorize us to make the necessary arrangements with the third party telecommunications provider, subject to the following:

- (a) you are responsible for all aspects of compatibility, installation, operation, security and systems integration and any and all payments due and owing to third party telecommunications providers;
- (b) you are not a third party beneficiary of any agreement between us, and a third party telecommunications provider;
- (c) we will have no liability to you for any losses whatsoever that you suffer due to the failure or disruption of communications service and/or support;
- (d) you agree to indemnify us for any and all payments we may make to any third party telecommunications providers on your behalf; and
- (e) you agree to follow the policies of the telecommunications provider.

## Schedule B - VISA Fees and Floor Limits

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### Transaction Fees:

	Price Per Transaction
Visa Transaction Fee**	0.065%

*\*\*This Includes Purchase and Refund Transactions*

### Card Brand Fees:

You agree to pay all Card Brand interchange fees, assessment fees and any other fees and charges that the Card Brand applies to Transactions from time to time. You agree that you are responsible for the full amount of any increase imposed by the Card Brand and any fees, fines, penalties or assessments levied by the Card Brand on us or the Bank in connection with the processing of your Transactions.

### Other Fees:

Merchant Direct Fee	\$25.00 per month
Imprinter Rental Fee	\$16.00 per year
Imprinter Purchase Fee	\$30.00
eSELECTplus Set Up	\$150.00 per merchant set-up
eSELECTplus Monthly Fee	\$25.00 per virtual device per month
eSELECTplus Transaction Fee	\$0.10 per transaction
Chargeback Fee	\$15 per Chargeback
<b>Floor Limit:</b>	<b>\$0.00</b>

### Adjustments

We have the right to review your Visa Transaction Fee on an annual basis and to raise your Visa Transaction Fee if:

- (a) the total dollar value of your Transactions (processed over a twelve month period) has decreased by 15% or more from the Projected Annual Transaction Volume (Dollars) set out below; or
- (b) the total number of your Transactions (processed over a twelve month period) has decreased by 15% or more from the Projected Annual Transaction Volume (Transactions) set out below.

In addition to the foregoing, If the Card Brand increases any of the fees or charges we are required to pay for each Transaction or if the Card Brand changes the existing fee structure or implements a new fee structure, we will have the right to (i) raise your fees by the amount of the increase; and/or (ii) make corresponding changes to your fee structure.

Projected Annual Transaction Volume (Dollars)

Projected Annual Transaction Volume (Transac

## Schedule B - MasterCard Fees and Floor Limits

### Transaction Fees:

	Price Per Transaction
MasterCard Transaction Fee**	0.065%

*\*\*This Includes Purchase and Refund Transactions*

### Card Brand Fees:

You agree to pay all Card Brand interchange fees, assessment fees and any other fees and charges that the Card Brand applies to Transactions from time to time. You agree that you are responsible for the full amount of any increase imposed by the Card Brand and any fees, fines, penalties or assessments levied by the Card Brand on us or the Bank in connection with the processing of your Transactions.

### Other Fees:

**MasterCard Compliance Fee** \$80.00 per Incident  
*\*\*Applicable to certain MasterCard chargeback reason codes*

**Merchant Direct Fee** \$25.00 per month

**Imprinter Rental Fee** \$16.00 per year  
**Imprinter Purchase Fee** \$30.00

**eSELECTplus Set Up** \$150.00 per merchant set-up  
**eSELECTplus Monthly Fee** \$25.00 per virtual device per month  
**eSELECTplus Transaction Fee** \$0.10 per transaction

**Chargeback Fee** \$15 per Chargeback

**Floor Limit:** \$0.00

### Adjustments

We have the right to review your MasterCard Transaction Fee on an annual basis and to raise your MasterCard Transaction Fee if:

- the total dollar value of your Transactions (processed over a twelve month period) has decreased by 15% or more from the Projected Annual Transaction Volume (Dollars) set out below; or
- the total number of your Transactions (processed over a twelve month period) has decreased by 15% or more from the Projected Annual Transaction Volume (Transactions) set out below.

In addition to the foregoing, If the Card Brand increases any of the fees or charges we are required to pay for each Transaction or if the Card Brand changes the existing fee structure or implements a new fee structure, we will have the right to (i) raise your fees by the amount of the increase; and/or (ii) make corresponding changes to your fee structure.

**Projected Annual Transaction Volume (Dollars):** \$ [REDACTED]

**Projected Annual Transaction Volume (Transactions):** [REDACTED]

## Schedule B - Discover Fees and Floor Limits

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### Transaction Fees:

	Price Per Transaction
Discover Transaction Fee**	0.065%

*\*\*This Includes Purchase and Refund Transactions*

### Card Brand Fees:

~~You agree to pay all Card Brand interchange fees, assessment fees and any other fees and charges that the Card Brand applies to Transactions from time to time. You agree that you are responsible for the full amount of any increase imposed by the Card Brand and any fees, fines, penalties or assessments levied by the Card Brand on us or the Bank in connection with the processing of your Transactions.~~

### Other Fees:

Merchant Direct Fee \$25.00 per month

Imprinter Rental Fee \$16.00 per year

Imprinter Purchase Fee \$30.00

~~eSELECTplus Set Up~~ \$150.00 per merchant set up

~~eSELECTplus Monthly Fee~~ \$25.00 per virtual device per month

~~eSELECTplus Transaction Fee~~ \$0.10 per transaction

Chargeback Fee \$15 per Chargeback

Floor Limit: \$0.00

### Adjustments

~~We have the right to review your Discover Transaction Fee on an annual basis and to raise your Discover Transaction Fee if:~~

- (a) ~~the total dollar value of your Transactions (processed over a twelve month period) has decreased by 15% or more from the Projected Annual Transaction Volume (Dollars) set out below; or~~
- (b) ~~the total number of your Transactions (processed over a twelve month period) has decreased by 15% or more from the Projected Annual Transaction Volume (Transactions) set out below.~~

~~In addition to the foregoing, If the Card Brand increases any of the fees or charges we are required to pay for each Transaction or if the Card Brand changes the existing fee structure or implements a new fee structure, we will have the right to (i) raise your fees by the amount of the increase; and/or (ii) make corresponding changes to your fee structure.~~

Projected Annual Transaction Volume (Dollars): N/A

Projected Annual Transaction Volume (Transactions): N/A



## **Moneris National Account Merchant Debit Card and Terminal Agreement**

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This agreement is made as of December 1, 2015 between Federated Insurance Company of Canada and Moneris Solutions Corporation.

### **1 Introduction**

In this agreement, "we" and "our" and "us" mean Moneris Solutions Corporation. "You" and "your" mean [REDACTED]

You and we wish to enter an arrangement to permit you to accept debit cards and/or to rent point of sale terminals from us.

Sections dealing with debit card transactions apply to you if Schedule A indicates that we will provide debit card services to you. Sections dealing with terminals apply to you if Schedule A indicates that we will provide terminals to you.

### **2 Definitions**

In addition to the terms defined in Section 1, the following capitalized words have the meanings shown below:

"Agreement" means this agreement as the same may be amended, modified, replaced or superseded from time to time.

"Authorization" means that the Cardholder's account has sufficient funds available to support the Transaction.

"Authorization Number" means the number we provide to certify that a Transaction has been approved by the issuer of the Card.

"Business Day" means any day other than Saturday or Sunday on which banks are open for business in Toronto, Ontario, Canada.

"Card" means a valid card issued by a financial institution that can be used, together with a PIN, to process debit card Transactions at your Terminal.

"Card Association" means the Interac Association and its successors and assigns.

"Card Association Rules and Regulations" means the rules and regulations mandated by the Card Association as amended from time to time.

"Confidential Information" means confidential or proprietary information including but not limited to: the terms of this Agreement, pricing, Card Association Rules and Regulations, trade secrets, information concerning Terminals, advertising, marketing, designs, plans, software and programs or methods of the operation of Terminals.

"Cardholder" means the person presenting a Card.

"Draft Capture" means the electronic capture of Card and Transaction data entered into a Terminal.

"Personal Identification Number" or "PIN" means the confidential number that a financial institution issued to a Cardholder to authorize Transactions through Terminals.

"Swiping" a Card means using your Terminal to read the information contained on a Cardholder's Card, using the method instructed for the type of Terminal you have.

"Terminal" means the electronic funds transfer equipment and printer you use to process Card Transactions. Your Terminal must be supplied by us or approved by us.

"Transaction" means any legitimate Transaction between you and a Cardholder in which a debit Card is used, and that involves a sale or refund, or an adjustment in the amount of a sale or refund.

"Transaction Log" means an electronic file containing a daily log of all your Transactions.

"Transaction Record" means the slip you give the Cardholder showing the amount of the Transaction and whether the Transaction was approved or declined by the issuer.

"Wired Terminal" means a stationary Terminal that derives power from an electrical outlet and communicates through traditional, wired, telecommunication services.

"Wireless Terminal" means a mobile Terminal that derives power from a battery and communicates over cellular, data telecommunication services and includes but is not limited to a Terminal that is used in connection with wireless GSM communication services.

### **3 Basic requirements**

#### **3.1 Honouring Cards**

You agree to honour the Card of any legitimate customer or Cardholder that is presented to you as a form of payment, according to the terms and conditions of this agreement and in accordance with the Card Association Rules and Regulations that we advise you about from time to time.

#### **3.2 Non-discrimination**

You agree that you will not discriminate as to the conditions of a sale if a Card is presented as a form of payment. Examples of discrimination include charging a fee or surcharge, or setting a minimum or maximum value for accepting Cards.

Notwithstanding the foregoing, you are not restricted from imposing fees or surcharges on Transactions in the ordinary course of your business, as long as such fees or charges are:

- (i) applied to a product or service regardless of the method of payment used by your customers, including whether or not a Card is used or the type of Card; and
- (ii) the fee or surcharge is not connected in any respect to your acceptance of Cards.

#### **3.3 Requesting additional customer information**

You agree not to request additional identification or information from a person who presents a Card for the purposes of accepting payment for the Transaction, unless it is reasonably necessary to complete the Transaction or if you find the circumstances of the Transaction questionable.

#### **3.4 Exchanges, refunds and adjustments**

You agree to follow a fair policy for exchanging, returning and adjusting the price of goods or services that we're paid for with a Card, and to communicate this policy clearly to your customers. You also agree to settle any claims or disputes directly with your customers.

#### **3.5 Confidentiality of Cardholder information**

All Cardholder information including the information encoded on a Card and a Cardholder's PIN is confidential personal information, which may only be collected, used and disclosed to authorized parties to the Transaction and only for the purpose of completing the Transaction. You are required to take reasonable steps to ensure that a Cardholder's PIN is not disclosed and is protected at all times. You agree that you will not require nor ask a Cardholder to disclose their PIN. You must ensure that a Cardholder can enter their PIN without the PIN being seen by others and if the PIN pad is immovable, you must ensure that the proper privacy shields are in place or the Cardholder can otherwise shield the PIN pad with their body.

You agree to provide us with any information from time to time for the purposes of verifying that you and any authorized third party are complying with our security standards as well as the security standards of the Card Association.

#### **3.6 Providing information and assistance**

You agree to provide us with assistance us in the investigation of fraud, Card compromise or Card skimming incidents including without limitation the timely provision of employee shift logs or other reasonable information related to you and the services provided under this agreement.

#### **3.7 Advertising**

You agree to display prominently the promotional material we provide that tells the public that Cards are honoured at your place of business.

### **3.8 Procedures, Security Standards and Card Association Rules and Regulations**

You agree that you and members of your staff will follow the procedures and security standards that we provide to you dealing with Transactions and Cardholder information. We or the Card Association may change the procedures and/or security standards from time to time and you agree to implement these changes as required by the Card Association or the manner in which we advise.

You are responsible for any fines, fees, assessments, costs, and charges levied by the Card Associations and/or us as a result of the security standards and all other Card Association Rules and Regulations.

In addition, you will adhere to the Card Association Rules and Regulations from time to time in effect. You must obtain all publicly available Card Association Rules and Regulations. In the event that certain Card Association Rules and Regulations are not publicly available, we will advise you of these certain Card Association Rules and Regulations.

### **3.9 Forgotten Card**

If a Cardholder inadvertently leaves a Card with you and does not claim it within 24 hours, you agree to cut it into 2 pieces and deliver it to us.

### **3.10 Exclusivity**

You agree not to enter into an agreement with anyone else regarding the acceptance of Cards except that we acknowledge and agree that you have an existing agreement with TD Merchant Services and you may process up to fifteen percent (15%) of the cumulative Transaction volume in Dollars listed in Schedule B of the Moneris VISA and MasterCard National Account Merchant Agreements for the various Card Brands with TD Merchant Services without breaching the exclusivity requirement.

## **4 Processing your Transactions**

### **4.1 How to process Transactions**

The steps to be followed for processing Transactions are outlined below.

To process Transactions, you should:

- (a) use your Terminal to read the information contained in the Card's magnetic stripe by Swiping the Card
- (b) obtain an Authorization from the issuer of the Card
- (c) provide the Cardholder a copy of the Transaction Record (whether approved or declined)
- (d) if the Transaction is declined by the issuer or cannot be processed through your Terminal, you will need to accept another means of payment.

You are responsible for all Transactions processed through your Terminal. You also agree to follow the instructions displayed by your Terminal and user manual.

### **4.2 Your Transactions must be legitimate**

You agree that each Transaction you forward to us through your Terminal will:

- (a) be a legitimate Transaction in the ordinary course of your business; and
- (b) comply with the terms and conditions of this Agreement, our procedures, instructions and all applicable laws.

## **5 Banking arrangements**

### **5.1 Your bank accounts**

We will have your Transaction proceeds and your share of any convenience fees, if applicable, deposited to the account you have specified with a Canadian financial institution.

You agree that we may debit your bank account for the amount of any:

- (a) fees and charges, including Terminal rental fees, Transaction fees, Card Association assessments, fees or fines,

- maintenance and support fees, Terminal purchase fees and fixed fees;
- (b) adjustments;
  - (c) refunds and purchase corrections;
  - (d) other credits or debits described in this Agreement;
  - (e) costs relating to equipment that is lost, stolen or damaged; and
  - (f) any applicable taxes.

## **5.2 Your financial institution's responsibility**

We will have all funds transferred to your bank account electronically. You acknowledge that it is the responsibility of your financial institution to credit your account after receiving our electronic transfer of funds. It is your responsibility to pay any fees the other financial institution may charge for accepting these deposits or for any processing any other credit or debits described in this Agreement.

## **5.3 Processing and Retaining your Transaction Records**

You agree to transmit your Transaction Records through Draft Capture. We require you to keep and maintain copies of all Transaction Records for a period of at least 12 months.

## **5.4 Your monthly statements**

If we provide you with a merchant monthly statement, you agree to review all of the Transactions listed in your statements and to tell us in writing, within 30 days of your statement date, about suspected omissions, incorrect debits or inaccurate Transactions.

You also agree to tell us if you do not receive a statement or if you are unable to retrieve it electronically, if you have this capability.

You agree to tell us in writing, within 30 days of your statement date, about any concerns. Otherwise, you agree that:

- (a) all the Transactions listed in the statements are correct
- (b) you will release us from any claim relating to any item listed in your statements and to items suspected to be missing from the statements.

# **6 Retaining records**

## **6.1 Required retention periods**

You agree to keep a Transaction Log for at least one year after the date of the Transaction.

## **6.2 Providing records**

If we request you to provide us a copy of a Transaction Log within 1 year after the Transaction, you agree to provide it to us within 8 days after our request. If you do not provide us with a Transaction Log that we have requested – or the Transaction Log you provide does not correspond in all respects to the electronic record you sent to us of the same Transaction – we will regard the amount of the Transaction as a debt payable to us on demand and deduct it from your bank account.

# **7 Equipment**

## **7.1 If we do not provide your Terminals**

If you use Terminals that are not provided by us, it is your responsibility to ensure that they comply with Card Association requirements, including security requirements, at all times.

## **7.2 Your pre-installation responsibilities**

If we provide you with a Terminal, we will arrange for your Terminal to be delivered and prior to it being installed in your place of business, you agree to be responsible for ensuring that:

- (a) the electrical, communication, and other physical facilities comply with all applicable laws, regulations and building codes that apply to the installation and functioning of a Terminal; and

- (b) all consents, authorizations and approvals that apply to the installation of a Terminal have been obtained from the relevant parties.

### **7.3 Installing your Terminal**

You agree to install each Wired Terminal and to deploy and activate each Wireless Terminal in accordance with our procedures. We (or our designated service provider) will tell you what these procedures are. On-site installation assistance is also available and there is a fee for each location that we visit.

Unless we tell you that we are ordering telecommunications facilities or you have made some other arrangement with us for them, you will make arrangements and order the telecommunications facilities needed to link each Terminal with our network(s). You will pay all costs associated with this.

### **7.4 Using your Terminal**

#### **(a) You agree to use your Terminal according to our procedures**

You acknowledge that a Terminal can be used for Transactions and services that are not included in this Agreement or in any other agreements you have with us such as communicating with issuers of other types of cards. You agree that we are not responsible for such Transactions or for any failure of a Terminal to communicate with other persons, including other Card issuers.

#### **(b) Wired Terminals**

If you need to move a wired Terminal to another location after it has been installed, or if multiple Terminals are being moved or exchanged, you agree to get our permission in advance and pay any expenses to have it moved.

#### **(c) Wireless Terminals**

You will keep and use each Wireless Terminal only at locations (or within conveyances) which are necessary for your business. If we ask you, you will tell us where each Wireless Terminal is at any time and who is in possession of it.

### **7.5 Supervisor Personal Account Card and PIN**

If we provide you with a Personal Account Card and a Supervisor Admin Card for use when completing returns or reversals, you will ensure that these are kept in a secure place for your protection. You will be liable for any use of the cards, unless you tell us that it has been lost or stolen, or that you suspect it has been.

We are the owner of each Personal Account Card, Supervisor Admin Card or any other tools we issue to you. No one but you and your personnel are permitted to use these cards or tools and you do not have the right to assign or transfer them to anyone else.

### **7.6 Terminal security**

You will secure and protect each Terminal just like a prudent owner would. You will follow our procedures that deal with care and operation of Terminals.

You will tell us right away about any errors, malfunctions or other operational problems involving a Terminal.

You are responsible for any loss, theft or damage to any Terminal we have provided to you, except for normal wear and tear. You agree to provide timely access to allow us to inspect any Terminal that is connected to our network to verify the integrity of the associated software, firmware and/or hardware and make any necessary repairs or changes. We may, at your expense, take reasonable steps to ensure that your Terminals meet our standards.

You agree to reimburse us for any loss, damage or expense we incur because you did not use a Terminal according to our procedures, or that result from providing point of sale services unless the loss, damage or expense is caused by our negligence.

### **7.7 Terminals are our property**

The Terminals we provide are our property and will not become a fixture under any circumstances. You agree to reimburse us for any loss, damage or expense resulting from another person obtaining a right or an interest in any of our Terminals. You do not have the right to sub-lease a Terminal. Any repairs to the Terminals that we provide must be performed by us or our designated service provider.

#### **7.8 If your Terminal is lost or stolen**

You agree to tell us immediately if your Terminal is stolen, lost, damaged or used without your authorization or if a Terminal experiences any malfunctions, errors or other operational problems. If you have purchased your own Terminal, you agree to: i) tell us when your Terminal is going to be sold, destroyed or put under repair; and ii) destroy the cryptographic keys in your Terminal prior to having your Terminal repaired or selling or destroying your Terminal.

#### **7.9 Terminal fees**

For each Terminal you rent from us, you will pay our monthly Terminal rental fee and any applicable taxes in advance, calculated from the date on which we ship your Terminal to you.

You will owe us Terminal rental fees until you return your Terminal to us and we receive it.

You may upgrade one or more of the Terminals you rent from us to another type during the term of this Agreement. You may have to pay a fee to do so and pay a higher monthly rental fee.

#### **7.10 Cancelling your Terminal rental**

You can stop renting a Terminal from us at any time by returning the Terminal we sent to you at your cost. If you stop renting a Terminal less than 12 months after the date we shipped it to you, you agree to pay us a Terminal service charge, unless you have negotiated seasonal pricing. The amount of this service charge is equal to 18 months' rent on your Terminal, including applicable taxes, minus the rent you have paid to us.

#### **7.11 Wireless airtime**

This Section applies to you if you obtain airtime from us for the Wireless Terminals we rent to you.

You agree that you have a contract with us, not with the underlying carrier, or any other third party involved in the provision of airtime, and that you are not a third party beneficiary of any agreement between us, the underlying carrier or any other third party. You agree that we and the underlying carrier will have no liability to you for any failure or disruption of service.

### **8 Fees**

You agree to pay our fees and charges for the services we provide you, including our Transaction fees, Terminal rental fees, airtime fees and any other applicable fees and taxes, as indicated in Schedule A.

If the Card Association increases any of the fees or charges we are required to pay to provide you the services under this Agreement or if the Card Association changes the existing fee structure or implements a new fee structure, we will have the right upon at least 30 days notice to: (a) modify our fees and charges by the amount of the increase; and/or (b) make corresponding changes to your fee structure. You are also responsible for any fees, fines penalties or assessments levied by the Card Association on us in connection with the processing of your Transactions.

We have the right to increase the fees and charges applicable to you by the amount of any other cost increases that we incur if the manner in which you process Transactions with us changes or if there is a change in the way you carry on business.

### **9 Term and termination**

#### **9.1 Term**

The first term of this Agreement will end on **November 30, 2018**. After the first term, this Agreement will automatically renew for further 1 year terms unless either party notifies the other, at least 60 days before the end of the first term or a renewal term, that it wishes to cancel this Agreement.

#### **9.2 Termination for Cause**

##### **(a) Default by you**

We may terminate this Agreement by giving you 10 days notice and/or may immediately suspend operation of this Agreement if:

- (i) you do not observe or act according to the terms and conditions of this agreement, and fail to correct that default within 30 days after we send you a notice to do so;

- (ii) you start bankruptcy or insolvency proceedings, or do something that allows them to be started; or
- (iii) the continued provision of services to you would pose a level of direct or indirect risk or exposure to us (including, without limitation, credit, operational, reputational, financial, technological, security and/or fraud risk or exposure) that we consider in our sole discretion, to be unacceptable.

**(b) Default by us**

You may terminate this Agreement by giving us 10 days notice if we do not observe or act according to the terms and conditions of this Agreement and fail to correct that default within 30 days after you send us written notice to do so.

**9.3 Effects of termination**

When this Agreement ends:

- (a) you are still responsible for repaying any amount you owe us according to the terms and conditions of this Agreement
- (b) the terms will remain in effect for any Transactions delivered to us before the cancellation date
- (c) your rights to accept Transactions and to use advertising, displays and other items associated with Transactions will end
- (d) you will return to us any Terminal and other equipment you rent from us.

## **10 Other conditions**

**10.1 Changing this Agreement**

This Agreement can be amended only with the written agreement of both parties.

**10.2 Assigning this agreement**

This Agreement is binding on the parties and their successors and assigns. You will not assign this Agreement without our prior written consent, which we will not unreasonably withhold.

**10.3 Confidential information about the parties**

You acknowledge that Confidential Information will be disclosed to you during the term of this Agreement. You agree not to disclose, or use other than in connection with the Transactions described in this agreement any Confidential Information that it receives from the other party including for greater certainty, Card Association Rules and Regulations. You agree that upon the termination of this Agreement and upon our reasonable request, you will return all Confidential Information to us.

**10.4 Limitation of liability**

We will not be liable for any claims, losses, costs, damages caused by the unavailability or performance failure of our authorization system or any Terminals, nor for any indirect or consequential claims, losses, damages or expenses from any other associated services.

**10.5 Entire agreement**

This Agreement replaces all previous agreements, arrangements and understandings between you and us concerning the Card and Terminal services we provide.

**10.6 Enforcing this Agreement**

A party's conduct, actions or failure to enforce any of the terms and conditions of this agreement do not:

- (a) waive any of its rights under this agreement, or
- (b) change the other party's obligations under this agreement, unless both parties agree to an amendment in writing.

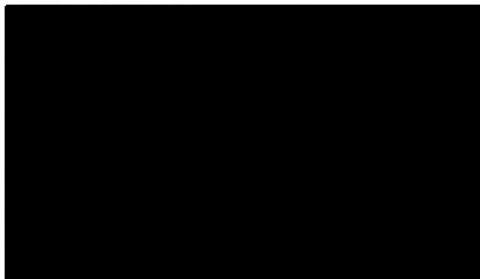
**10.7 Providing notice**

Any notice given under this Agreement, either by you or by us, will be delivered personally or sent by regular mail, prepaid registered mail or fax. If there is a postal service disruption, notices will either be hand-delivered or faxed.

Notice will be given to us at:

Moneris Solutions Corporation  
3300 Bloor Street West  
7<sup>th</sup> floor, West Tower  
Toronto, ON M8X 2X2

Attention: Chief Sales & Relationship Officer  
Fax number: (416) 734-1245



Notices delivered personally will be deemed to be received on that day. Notices delivered by fax will be deemed to be received on the next Business Day. Notices sent by registered or prepaid mail will be deemed to be received 5 Business Days after mailing.

#### **10.8 For residents of Quebec**

It is agreed that it is the express wish of the parties that this Agreement and any related documents be drawn up and executed in English. *Il est la volonté expresse des parties que cette convention et tous les documents s'y rattachant soient rédigés en anglais.*

#### **10.9 Governing law**

This Agreement will be governed by the laws of the province of Ontario. The parties agree that the courts of the province of Ontario will have exclusive jurisdiction over any matters arising from this Agreement.

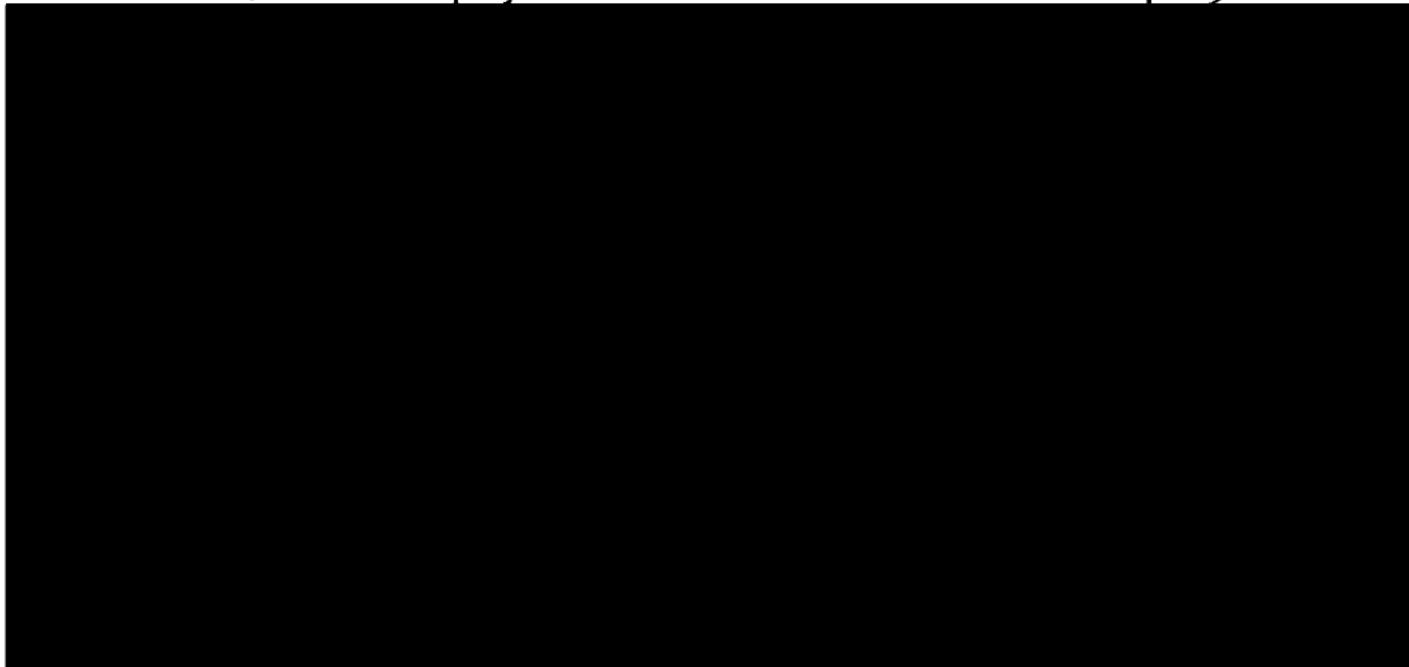
#### **10.10 Privacy**

The parties acknowledge that certain information collected, used, disclosed and disposed pursuant to this Agreement may constitute personal information pursuant to the *Personal Information Protection and Electronic Documents Act* (the "Act") any may be regulated by the Act and other applicable law. The parties agree that any such information will be collected, used, disclosed and disposed in accordance with applicable law and will only be collected, used, disclosed and disposed in connection with the services provided hereunder.

**Signatures:**

**Federated Insurance Company of Canada**

**Moneris Solutions Corporation**



## **SCHEDULE A**

We are providing Card services to you.

### **FEES**

Transaction fee:	\$0.05
Card Association Fee	\$0.0070
American Express transaction fee:	\$0.05
Other card transaction fee:	\$0.05