

Moneris Terms of Use for the Apple Pay Enablement Service

These are the terms of use (the “**Terms of Use**”) pursuant to which Moneris Solutions Corporation (“**Moneris**” or “**us**”) agrees to enroll and register you for the Apple Pay Platform (as defined below) and to facilitate your online payment transactions on the Apple Pay Platform (the “**Apple Pay Enablement Service**”). By using the Apple Pay Enablement Service you are agreeing to comply and be bound by these Terms of Use and any other terms and conditions which are included in these Terms of Use by reference. Moneris may, at its sole discretion, update or revise these Terms of Use at any time and such updates or revisions will become binding on you once you receive notice of them. Your continued use of the Apple Pay Enablement Service or the Apple Pay Platform following such notice of any updates or revisions of the Terms of Use will constitute confirmation of your acceptance of the updates or revisions. If you do not agree with these Terms of Use, do not use the Apple Pay Enablement Service.

The Apple Pay Enablement Service is intended to be used only by Moneris merchants and these Terms of Use relate solely to your use of the Apple Pay Enablement Service. “**You**” or “**Merchant**” in these Terms of Use shall mean the Moneris merchant which uses the Apple Pay Enablement Service. Any other services offered by Moneris to you remain subject to their respective terms and conditions, including your Moneris merchant agreement (the “**Merchant Agreement**”) which remain in full force and effect. Any capitalized terms used and not defined in these Terms of Use shall have the meaning given to such terms in the Merchant Agreement. To the extent of any inconsistency between the Terms of Use and any provision of the Merchant Agreement, the Terms of Use shall prevail with respect to the Apple Pay Enablement Service.

1. DEFINITIONS

1.1. “**Apple**” means Apple Inc. and its affiliates.

1.2. “**Apple Terms and Conditions**” means all applicable terms and conditions, guidelines, guides, terms of use, or any other similar documents or agreements between you and Apple Inc., or any of its affiliates, made available to you by Moneris or Apple governing your rights and obligations to use the Apple Pay Web APIs, the Apple Pay Platform or the Apple Pay Enablement Service, including but not limited to: (i) the Apple Pay Web Merchant Terms and Conditions set forth at <https://developer.apple.com/terms/apple-pay-web/> (or any successor URL); (ii) the Apple Marketing Guidelines set forth at <https://www.apple.com/ca/legal/intellectual-property/guidelinesfor3rdparties.html> (or any successor URL); (iii) the Apple Pay Identity Guidelines for iOS Developers available at <https://developer.apple.com/apple-pay/marketing/> (or any successor URL); (iv) the Apple Pay Merchant Marketing Guide as provided to you by Apple or Moneris; and (v) the Apple Pay HI Guidelines set forth at <https://developer.apple.com/design/human-interface-guidelines/> (or any successor URL); including all amendments to any of the foregoing as may be furnished from time to time by Moneris or Apple to you.

1.3. “**Apple Pay Enablement Service**” has the meaning given to it in the Preamble to these Terms of Use.

- 1.4. **“Apple Pay Platform”** means the payment platform that utilizes Apple Technology to enable end users to make payments from or through a website using credit, debit, and prepaid cards and other physical, digital or virtual payment cards, credentials, or account access devices and access other related services using Apple products designated by Apple or its affiliates, as the same may be modified, rebranded or substituted from time to time by Apple.
- 1.5. **“Apple Pay Web APIs”** means the application programming interface(s) authored by Apple (including any updates to or subsequent versions thereof) that enable developers to register and integrate websites with Apple Pay for the purpose of enabling end users to facilitate online payment transactions using Apple Pay, and includes other payment-related functionality.
- 1.6. **“Apple Technology”** means technology (and all intellectual property therein or thereto) that Apple or any Apple affiliate owned, conceived, reduced to practice, authored, or otherwise created or developed, the foregoing occurring separately and independently of Merchant, including without limitation the Apple Pay Web APIs.
- 1.7. **“Comparable Platform”** means any software that enables the use of personal electronic devices to make contactless, mobile or online transactions (including transactions involving or accessing loyalty, rewards and stored value features) from a Website.
- 1.8. **“macOS”** means the macOS operating system software, including any successor versions thereof.
- 1.9. **“Merchant”** has the meaning given to it in the Preamble to these Terms of Use.
- 1.10. **“Merchant Agreement”** has the meaning given to it in the Preamble to these Terms of Use.
- 1.11. **“Moneris”** has the meaning given to it in the Preamble to these Terms of Use.
- 1.12. **“Nonprofit”** has the meaning given to it in Section 4.
- 1.13. **“Personal Data”** means any personally identifiable information or any personal financial information relating to an end user or other personal data obtained or disclosed through the use of the Apple Pay Platform.
- 1.14. **“Security Breach”** means any actual or suspected loss or unauthorized access, use, or disclosure of Personal Data in the possession, custody or control of you, your affiliate, or any of your authorized developers in connection with the Apple Pay Platform.
- 1.15. **“Terms of Use”** has the meaning given to it in the Preamble to these Terms of Use.
- 1.16. **“Us”** has the meaning given to it in the Preamble to these Terms of Use.

1.17. “Website” means an e-commerce website that (i) is branded under your name or trademark, (ii) is integrated with and accepts payments using Moneris and our services, and (iii) offers its end users the ability to transact on the Apple Pay Platform using Apple Technology.

1.18. “You” has the meaning given to it in the Preamble to these Terms of Use.

2. Compliance with Apple Terms and Conditions

You must comply with all applicable Apple Terms and Conditions made available to you by Moneris or Apple in connection with the Apple Pay Enablement Service, which are incorporated in these Terms of Use by reference. You must also comply with all applicable laws in connection with your use of the Apple Pay Enablement Service.

3. Registration for the Apple Pay Enablement Service

You acknowledge and agree that in order to provide you with the Apple Pay Enablement Service we have to register you and your Websites with Apple at your cost and you agree that you will provide us with all required documentation in order to facilitate such registration. You are responsible for the accuracy and completeness of any and all information and documents that you provide to us in connection with the registration. Apple and Moneris reserve the right at any time and in their sole discretion, to disable your registration and access to, or use of, the Apple Pay Platform or the Apple Pay Web APIs (or any part thereof), including without limitation, (i) in the event that you are in breach of these Terms of Use or the Apple Terms and Conditions, (ii) if you incur excessive fraud rates, as determined in the sole discretion of Moneris, or (iii) if you otherwise pose a level of risk to Moneris or Apple (including credit, operational, reputational, financial, technological, security and/or fraud risk or exposure) that we determine in our sole discretion to be unacceptable.

4. Eligible Non-Profits and Pass-Through Donations

If you are a non-profit organization or a charity (a “**Nonprofit**”) or if you are collecting donations on behalf of a Nonprofit, you shall advise Moneris of this before you apply for and start using the Apple Pay Enablement Service. You acknowledge and agree that Apple requires any Nonprofit using the Apple Pay Platform to be screened and approved prior to being allowed to use the Apple Pay Platform and you agree to provide Apple, or any of their agents or service providers appointed by them for this purpose, with all of the required information for you or for the Nonprofit for which you will be collecting donations to allow the completion of the required screening. If you are a Nonprofit or collecting donations on behalf of a Nonprofit, you will need to provide us with proof of Apple's approval of the applicable Nonprofit's right to use the Apple Pay Platform (which can be in the form of an email approval from Apple for the applicable Nonprofit or by a list of approved Nonprofits by Apple) before Moneris can provide you with the Apple Pay Enablement Service. If you breach this provision, Moneris has the right to immediately deregister you and discontinue your use of the Apple Pay Platform and the Apple Pay Enablement Service and you will be responsible for and will have to indemnify Moneris for any damages or losses which we may suffer as a result of your breach or non-compliance with this provision.

5. Non-Discrimination

Once you start using the Apple Pay Enablement Service, you shall not disadvantage or discriminate against Apple relative to other Comparable Platforms with respect to the display and availability of the Apple Pay Platform. For the avoidance of doubt, the “Apple Pay” button must be displayed as a payment option on your Website on parity with any other Comparable Platform. In addition, you will not discriminate as to the conditions of a sale if an end user uses Apple Pay as a form of payment. Examples of discrimination include, but are not limited to, setting a minimum or maximum value for accepting payment by way of Apple Pay.

6. Use of the Apple Pay Platform

- a) Your use of the Apple Pay Enablement Service or the Apple Pay Platform must not (i) interfere with the security, user interface, user experience, features or functionality of Safari, macOS, or other Apple-branded products, or (ii) disable, override or otherwise interfere with any Apple-implemented system alerts, warnings, display panels, consent panels and the like, including, but not limited to, those that are intended to notify the user that the user's location data, address book data, calendar, photos, audio data, and/or reminders are being collected, transmitted, maintained, processed or used, or intended to obtain consent for such use. If consent is denied or withdrawn, you may not collect, transmit, maintain, process or utilize such data or perform any other actions for which the user's consent has been denied or withdrawn.
- b) You shall use best efforts to comply with the Apple Pay HI Guidelines and Apple Pay Best Practices Guide in developing the user interface for your Website for purchases and/or donations made using the Apple Pay Web APIs. You shall not misrepresent, falsely claim, mislead or engage in any unfair or deceptive acts or practices regarding the promotion and sale of goods or services through your use of the Apple Pay Web APIs.
- c) Apple may at any time, and from time to time, with or without prior notice (i) modify the Apple Pay Web APIs, including without limitation adding new functionality or changing or removing any feature or functionality, or (ii) modify, deprecate, reissue or republish the Apple Pay Web APIs. You understands that any such modifications may require you to change or update your Website at your own expense in order to continue to use the Apple Pay Web APIs. Moneris and Apple have no express or implied obligation to provide, or continue to provide, the Apple Pay Enablement Service or the Apple Pay Web APIs or any services related thereto and may suspend or discontinue all or any portion thereof at any time. Moneris and Apple shall not be liable for any losses, damages or costs of any kind incurred by you or any other party arising out of or related to any suspension, discontinuation or modification of the Apple Pay Enablement Service or the Apple Pay Web APIs or any services related thereto.
- d) Moneris makes no guarantees to Merchant in relation to the availability or uptime of the Apple Pay Enablement Service or the Apple Pay Web APIs or any other services (including without limitation the Apple Pay Platform) that Moneris or Apple may provide in connection therewith, and Moneris is not obligated to provide any maintenance, technical or other support related thereto.

- e) If Apple makes available new versions of the Apple Pay Web APIs for any reason, including without limitation to address a security breach or security vulnerability regarding Personal Data, update the customer experience, or provide additional features or functionality, then you agree to update your Website, if necessary, to incorporate such new version within a reasonable time period.

7. Data Protection

Merchant shall (i) take appropriate steps to protect Personal Data from unauthorized access, use or disclosure; and (ii) comply with all applicable laws regarding privacy and data collection with respect to any collection, use or disclosure of Personal Data. If Merchant does not have the necessary consent from users to collect, use or disclose Personal Data in connection with the Apple Pay Platform, Merchant must promptly cease all such use. Furthermore, Merchant shall not transmit any Personal Data in connection with the Apple Pay Platform unless Merchant uses encryption to transmit such Personal Data.

8. Security Breach

Upon discovering a Security Breach, Merchant will (i) promptly notify Moneris thereof, (ii) investigate, remediate, and mitigate the effects of the Security Breach, and (iii) provide Moneris with assurances reasonably satisfactory to Moneris that such Security Breach will not recur.

9. Reporting to Apple

Merchant acknowledges and agrees that Moneris can share information with Apple regarding the Merchant's participation in the Apple Pay Enablement Service, including information about the Merchant's compliance with these Terms of Use and the Apple Terms and Conditions, information about the Merchant's use of the Apple Pay Platform, any Security Breaches, excessive fraud or other information related to the services provided to the Merchant pursuant to the Terms of Use. Apple can use this information (i) to ensure compliance by the Merchant with the Apple Terms and Conditions; (ii) to provide and improve the Apple Pay Platform or any related user experience; (iii) to provide or improve any other Apple products and services, and protecting the rights, property and safety of Apple and its end-users; and (iv) for any other purposes allowed under applicable laws, provided that the information is anonymized or aggregated with other information available to Apple.

10. Termination

Moneris may terminate the Merchant's access to and use of the Apple Pay Enablement Service and the Apple Pay Platform at any time by providing notice to Merchant. The Merchant can discontinue its use of the Apple Pay Enablement Service at any time by providing notice to Moneris.

11. No warranties. Limitation of Liability

The Apple Pay Enablement Service and the access to the Apple Pay Web APIs and the Apple Pay Platform is provided to you on an "as is" and "as available" basis. We do not provide any warranty with respect to and specifically disclaim any warranties and conditions with respect to the operation of the Apple Pay Enablement Service and the Apple Pay Web APIs and the Apple Pay Platform or any

particular application or use thereof, whether express, implied, statutory, or otherwise, including without limitation, the implied warranties and conditions of merchantability, fitness for a particular purpose, workmanlike service, non-infringement of third party rights, and any warranties that may arise from a course of dealing, course of performance or trade practice. We do not warrant that the Apple Pay Enablement Service and the Apple Pay Platform will be uninterrupted or error-free. For greater certainty, we are entitled at any time, and without prior notice, to interrupt Merchant's access to the Apple Pay Enablement Service and the Apple Pay Platform for any reason, including without limitation for security considerations or maintenance work.

IN ADDITION TO THE LIMITATIONS OF LIABILITY AND DISCLAIMERS SET FORTH IN THE MERCHANT AGREEMENT, MONERIS SHALL NOT BE LIABLE FOR ANY DAMAGES OR LOSSES ARISING FROM THE USE OF THE APPLE PAY ENABLEMENT SERVICE, THE APPLE PAY WEB APIS OR THE APPLE PAY PLATFORM, INCLUDING BUT NOT LIMITED TO, (I) ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, OR OTHER INTANGIBLE LOSS, (II) ANY CHANGES WHICH MONERIS OR APPLE MAY MAKE TO THE APPLE PAY ENABLEMENT SERVICE, THE APPLE PAY WEB APIS OR THE APPLE PAY PLATFORM, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE APPLE PAY ENABLEMENT SERVICE, THE APPLE PAY WEB APIS OR THE APPLE PAY PLATFORM, (OR ANY FEATURES WITHIN THE APPLES PAY PLATFORM), OR (III) THE DELETION OF, CORRUPTION OF, OR FAILURE TO PROVIDE ANY DATA TRANSMITTED BY OR THROUGH MERCHANT'S USE OF THE APPLE PAY ENABLEMENT SERVICE, THE APPLE PAY WEB APIS OR THE APPLE PAY PLATFORM.

NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY IN THESE TERMS OF USE TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT WILL MONERIS BE LIABLE FOR PERSONAL INJURY, OR INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO THESE TERMS OF USE, HOWEVER CAUSED, WHETHER UNDER A THEORY OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCTS LIABILITY, OR OTHERWISE, EVEN IF MONERIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.