

## Gift Card Schedule Terms and Conditions

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This Schedule to your Moneris Merchant Agreement (the “**Agreement**”) contains the additional terms and conditions that apply if we provide Gift Card Service to you. Capitalized terms used and not defined herein will have the respective meanings given to such terms in the Agreement. Please ensure that you read carefully this Schedule, as your acceptance of its terms and conditions will occur when you first order Gift Cards and/or start using the Gift Card Service. For greater certainty, this Schedule is part of the Agreement and remains subject to all of the other applicable terms and conditions of the Agreement. To the extent of any inconsistency between the terms and conditions of this Schedule and any other provision of the Agreement, the terms and conditions of this Schedule will govern with respect to the Gift Card Service. We can change this Schedule at any time by giving you notice in accordance with the Agreement. Your continued use of the Gift Card Service after such notification constitutes acceptance of any amendment, restatement, supplement or any other modification to this Schedule.

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### DEFINITIONS

The following is a list of definitions that will assist you in understanding this Schedule.

“**Additional Location Set Up Fee**” means the fee for set-up of each additional location;

“**Applicable Law**” means any law, rule, statute, regulation, order, judgment, decree, treaty or other requirement having the force of law;

“**Gift Card**” means a gift card that you order from us for use in your gift card program;

“**Gift Card Equipment**” means all the hardware we provide to you in connection with the delivery of the Gift Card Service, including, but not limited to Gift Card Terminals;

“**Gift Card Service**” means the services provided by us pursuant to this Schedule to facilitate your gift card program;

“**Gift Card Terminal**” means a point-of-sale terminal that we certify for the Gift Card Service;

“**Enhanced Monthly Fee / Web Reporting Fee**” means the fee per month per location receiving the Gift Card Service as set out in the Card Acceptance Form, which is determined at the time of Gift Card Service set-up and is not modified if the number of locations changes after set-up;

“**Gift Transaction**” means any transaction between you and a customer in which a Gift Card is used and that includes, but is not limited to, an activation, de-activation, purchase, voiding or a balance inquiry;

“**Monthly Gift Fee**” means the monthly fee for the Gift Card Service charged to each of your locations where Gift Cards are accepted;

“**New Logo/Artwork Fee**” means the fee charged to design the appearance of your Gift Cards, including new text, logos, photographs or graphic artwork to be printed on Gift Cards;

“**Program Set Up Fee**” means the fee for initial set-up of locations;

“**Reload Monthly Fee**” means the monthly fee for reload of Gift Cards charged to each of your locations where Gift Cards are accepted;

“**Reload Set Up Fee**” means the fee charged for set up of reloading of Gift Cards; and

“**Total Card Fee**” means the fee to order Gift Cards. Rates vary based on number of Gift Cards ordered.

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## 1. GIFT CARDS

### 1.1. Eligibility

**In order to be eligible and maintain your eligibility for the Gift Card Service, you must have (a) a Gift**

Card Terminal and (b) a valid agreement with us, in good standing, for credit card and/or debit card processing services.

## 1.2. Ordering Gift Cards

Each time you order Gift Cards, you will do so in accordance with our procedures. You must order a minimum of two hundred (200) Gift Cards per order.

We will not be liable for any failure to deliver Gift Cards due to causes beyond our control.

## 1.3. Artwork

In the event you choose to personalize your Gift Cards with your artwork, you will deliver your artwork to us in accordance with our specifications and our procedures. We will not initiate Gift Card production until you have approved the Gift Card artwork proof.

We will not be responsible for any claims made by a third party for infringement of copyright, trademark or other intellectual property right in respect of any artwork that you provide to us for your Gift Card design. You will indemnify, defend and hold us harmless against any such claims.

## 1.4. Activation

A Gift Card will be activated when it is first swiped through a Gift Card Terminal and the card verification code (“CVC”) is entered and value is loaded on the Gift Card.

## 1.5. Loading Gift Cards and Gift Transaction Limits

The minimum value that can be loaded on a Gift Card is CDN\$1.00 and the maximum value that can be loaded on a Gift Card is CDN\$250.00.

You agree to keep a record of the value of each Gift Card you sell. We will not be responsible or liable for any errors made by you that may arise or relate to the loading of value on Gift Cards.

## 1.6. Expired, lost or stolen Gift Cards

Unless permitted under Applicable Law, Gift Cards activated under this Schedule will not expire. You agree to determine and communicate a reasonable policy for lost or stolen Gift Cards. For greater certainty, we will have no responsibility for any lost, stolen or expired Gift Cards

## 1.7. Using the Gift Cards

Please review your Gift Card quick reference guide for instructions on how to use the Gift Card Service, available online at [www.moneris.com](http://www.moneris.com).

## 1.8. Gift Card Equipment

If applicable and if necessary, we shall provide only the Gift Card Equipment necessary to provide the Gift Card Service. You are responsible for all shipping costs, fees and charges related to the Gift Card Equipment. You are responsible for any additional equipment, software, materials and services, including any costs, charges and fees related thereto that may be required to operate a complete point of sale data processing system. Before any Gift Card Equipment is installed in your place of business, you agree to ensure that the electrical, communication and other physical facilities comply with all Applicable Law that relate to the installation of the Gift Card Equipment. You shall obtain and maintain, at your sole cost and expense, all necessary legal, governmental and third-party consents, approvals, licenses, releases, clearances, and/or authorizations to allow us to provide the Gift Card Service.

If you have asked us to install any Gift Card Equipment, you shall cooperate with us, in a commercially reasonable manner, in the installation of all necessary connectivity devices and provide us with reasonable and timely access to your premises, facilities, equipment, data, information and personnel (subject to your applicable security and privacy policies) as required for us to perform the Gift Card Service hereunder.

You are responsible for obtaining and maintaining, including payment of any applicable fees, costs and charges, all applicable Gift Card identification

numbers obtained from the Standards Council of Canada, the American National Standards Institute and/or such other body or institution as may be required from time to time.

## 1.9. Representations, Warranties and Covenants

You represent and warrant to us as a present and ongoing affirmation of facts in existence at all times when this Schedule is in effect, and acknowledge that we are relying on such representations and warranties, that:

- (i) the delivery and performance of your obligations under this Schedule have been duly authorized by all necessary action;
- (ii) this Schedule is a valid and binding obligation of yours enforceable against you in accordance with its terms;
- (iii) you will comply with all Applicable Law;
- (iv) there are no pending actions or proceedings, or threatened actions or proceedings, which if adversely determined would impair your ability to perform your obligations hereunder; and
- (v) to the extent title or other rights may subsist in data comprising any database assembled or maintained by us for you in connection with the Gift Card Service (the “**Database Data**”), you hold title to, or all rights required to use, the Database Data as contemplated herein.

You grant to us a non-exclusive, royalty-free license to use the Database Data for the purpose of complying with our obligations under this Schedule.

During the term, we and our representatives shall have the right, from time to time and upon forty-eight (48) hours’ notice, to visit your premises and to conduct a review of your procedures and activities to ensure compliance with this Schedule. You shall fully co-operate with respect to any review conducted by us and any of our representatives.

## 2. FEES

You agree to pay us a Program Set Up Fee plus all of our other fees and charges applicable to you for the

Gift Card Service, including without limitation, Total Card Fees, Additional Location Set Up Fees, Monthly Gift Fees, Enhanced Monthly Fees / Web Reporting Fees, Reload Monthly Fees, New Logo/Artwork Fees, customizable gift card sleeves fees and any applicable taxes, and any other fees indicated in the Card Acceptance Form.

Each time you order Gift Cards from us, you agree to pay our applicable fees in effect at that time, which may change from time to time in our sole discretion.

You agree that we can debit your bank accounts or otherwise collect the fees, charges or other amounts described in this Schedule in accordance with the terms of the Agreement.

## 3. OTHER CONDITIONS YOU SHOULD KNOW ABOUT

### 3.1 Term

The initial term of this Schedule will commence on the date when you first order Gift Cards and/or start using the Gift Card Service and will continue for a period of three (3) years (the “Initial Term”), and will automatically renew for subsequent six (6) month renewal terms (each a “Renewal Term”) unless any party to this Schedule provides 90 days’ notice to the other party of its intention not to renew prior to the expiry of the Initial Term or any Renewal Term.

### 3.2 Exclusivity

You agree that we will be your sole and exclusive provider of Gift Cards, Gift Card Service and other similar products and services.

### 3.3 Canceling the Gift Card Service

We can cancel the provision of the Gift Card Service to you (a) immediately, if you are no longer eligible for the Gift Card Service and (b) at any time, upon prior notice to you. If cancellation occurs for any reason:

- (i) you will no longer be able to order Gift Cards from us;

- (ii) you will no longer be able to accept Gift Transactions with your Gift Card Terminal;
- (iii) you will return any Gift Card Equipment to Moneris
- (iv) we shall upon your prior written request, make available to you upon the date of termination and not thereafter, certain data contained in the Database Data in a form and in a format as determined by us in our sole discretion;
- (v) you will no longer be able to activate Gift Cards and load a Gift Card with value; and
- (vi) you are still responsible for any amounts you owe us according to this Schedule and any fees for any other mutually agreed upon services to be provided by us to facilitate the termination of the Gift Card Service including but not limited to fees relating to the provision of Database Data.

### 3.4 Privacy

You acknowledge that certain information collected, used and disclosed pursuant to this Schedule may constitute personal information pursuant to the Personal Information Protection and Electronic Documents Act (Canada), as amended (“**Personal Information**”) and may be regulated by such act and other Applicable Law. You agree that any such information will be collected, used, disposed, and disclosed by you in accordance with Applicable Law.

### 3.5 Limits on our responsibilities

In addition to any and all other rights that we have under the Agreement, you further agree and acknowledge that:

- (i) You will settle any claims or disputes relating to Gift Cards directly with your customers.
- (ii) You are responsible for any loss, theft, or damage to any Gift Card Equipment provided to you by us, except for normal wear and tear. We shall have the right to replace Gift Card Equipment provided to you, from time to time, at our sole discretion.
- (iii) We make no representations or warranties to you or any other person or entity, whether

express, implied or statutory, as to description, quality, merchantability, completeness or fitness for any purpose of any service provided under this Schedule or as to any other matter, all of which warranties by us are hereby excluded and disclaimed.

- (iv) In no event shall we be liable for any direct, indirect, special, incidental or consequential damages, business or economic loss, claims, costs, expenses or any other losses arising out of your use of or inability to use the Gift Cards Service or in any other way relating to this Schedule howsoever caused, even if we have been advised of the possibility thereof.
- (v) You will indemnify, defend and hold us harmless for claims made against us by a customer that arise from or are related to any Gift Card, and any loss, cost (including legal and court costs), chargebacks, damage, injury, liability, claim, penalty, fine, interest or any cause of action whatsoever or howsoever from, or in connection with, this Schedule, the provision of the Gift Card Service, any interruption of the Gift Card Service howsoever caused, any gift card service provided by a third party provider, any claims which arise from your failure to protect Personal Information in accordance with this Schedule and any and all Applicable Law, or a breach of Card Brand Rules and Regulations.

### 3.6 Gift Location Reconciliation Service

- (1) If you operate a Gift Card program and your locations are owned by more than one person, including but not limited to franchise or licensing systems, in addition to any other applicable fees described in the Agreement or this Schedule, if you choose to receive the Gift Card Reconciliation Service, you will pay us any applicable Gift Card Reconciliation fees set out in your CAF and the following terms and conditions apply:
  - a. You must select either Pool Reconciliation or Location to Location Reconciliation for each of your Gift Card programs.

b. You are solely responsible for:

- (i) ensuring the bank accounts of the Activation Location, Pool Account, Actual Proxy, Default Proxy and/or Redemption Location each have sufficient funds in their bank account;
- (ii) identifying the Pool Account, Actual Proxy and Default Proxy, as the case may be;
- (iii) advising us promptly of any changes to the Pool Account, Actual Proxy and Default Proxy or the opening or closures of any new locations; and
- (iv) reimbursing us for any fees or other charges assessed on us for not having sufficient funds in your Pool Account, Actual Proxy and Default Proxy or bank accounts of the Activation Location or Redemption Location.

c. For Location to Location Reconciliation,

- (i) if the Activation Location is the Redemption Location, we will not transfer any funds.
- (ii) if the Activation Location is different from the Redemption Location, we will transfer the amount of the Gift Card redeemed from the Activation Location to the Redemption Location only when redemptions occur.
- (iii) if an Activation Location ceases to participate in the Gift Card program due to closure or any other reason, we will transfer the amounts from the Actual Proxy or Default Proxy to the Redemption Location.
- (iv) if you have not identified a Proxy for the Activation Location that is no longer participating in the Gift Card program, redemption activity for cards activated at the Activation Location that is no longer participating will be excluded from the Gift Location Reconciliation Service until you assign a Proxy to the location, at which point, future redemptions will be debited from the Proxy. Any redemptions which occurred during the period when no Proxy was assigned to the location will remain excluded from the Gift Location

Reconciliation Service. We will provide reports to you or the Redemption Location to enable a manual reconciliation.

d. For Pool Reconciliation,

- (i) Funds from the sale of Gift Cards will be transferred from the Activation Location to the Pool Account.
- (ii) When the Gift Card is redeemed, the redeemed amount will be transferred from the Pool Account to the Redemption Location.

(2) If you are a franchisee, licensee or other third party independently owning or operating a location using the Gift Location Reconciliation Service at the request or direction of your franchisor, you acknowledge and agree that we may debit or credit your bank account depending on the daily volume of Gift Card activations and redemptions at your locations. By participating in the Gift Card Reconciliation Service, you provide us consent to share certain information about your business and locations you operate with your franchisor as well as other franchise locations participating in the Gift Card program as necessary in order for us to perform the Gift Card Reconciliation Service, including, but not limited to your business name, merchant number, Gift Card activation and redemption information, location information, and whether your location has closed or changed bank accounts.

(3) For the purposes of this Section 3.6, the following definitions apply:

“Activation Location” the location where the Gift Card is activated.

“Actual Proxy” means a Proxy assigned to a specific location participating in the Gift Location Reconciliation Service.

“Default Proxy” means a Proxy applicable to all locations in the Gift Card Reconciliation Service unless an Actual Proxy has been assigned.

“Gift Location Reconciliation Service” means the feature of the Gift Card Service where we automatically settle funds between your bank accounts from the sale and redemption of Gift Cards, either via Pool Reconciliation or Location to

Location Reconciliation from the Activation Location to the Redemption Location.

“Location to Location Reconciliation” means funds from completed Gift Card activations are kept in the bank account of the Activation Location until the Gift Cards are redeemed, at which point, funds are transferred to each Redemption Location.

“Pool Account” means the bank account that will receive funds from the Activation Location and transfer funds to the Redemption Location for Pool Reconciliation.

“Pool Reconciliation” means funds from completed Gift Card activations are transferred from the Activation Location to the Pool Account until the Gift Card is redeemed, at which point, funds are transferred from the Pool Account to the Redemption Location.

“Proxy” means the alternative location whose bank account will be used to debit funds in Location to Location Reconciliation if the original Activation Location is no longer participating to the Gift Card program.

“Redemption Location” means the location where the Gift Card is redeemed.