

INTERAC DIRECT KONEK GATEWAY SERVICE SCHEDULE

This Interac Direct KONEK Gateway Service Schedule (the **“Schedule”**) to your Moneris Merchant Agreement (the **“Agreement”**) contains the additional terms and conditions that apply to the Interac Direct Service and the KONEK Gateway Service that we provide to you. 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 Service.

1. Definitions

Capitalized terms used and not defined herein will have the respective meanings given to such terms in the Agreement.

“Customer” means a person paying for goods and services purchased from the Merchant through the use of the Service, and who is a customer or client of a Financial Institution Participant;

“Customer Payment Consent” means a permission provided by the Customer to a Financial Institution Participant to pay an amount towards a specified purchase of goods or services, containing the applicable data elements as specified by Interac.

“Dispute” means an instance where any party (Customer, Merchant, Moneris or Issuer) disagrees with some aspect of a Transaction;

“Eligible Account” means a type of Customer account with a Financial Institution Participant which has been certified by Interac for payment processing through the Service;

“Financial Institution Participant” means a financial institution that has been approved by Interac to participate in the Service as an Issuer;

“Interac Trademark License” means the Interac trademark license and terms of use agreement or other similar documents provided to the Merchant by Moneris or Interac from time to time which specify the requirements which the Merchant must comply with for the use of all applicable Interac brands, trademarks or other protected marks;

“Interac Direct Service” means the service provided by Interac and facilitated by Moneris that is a payment processing service that enables the Merchant to provide its Customers with the ability to make payments directly from their Eligible Accounts with Financial Institution Participants, as further set out in this Schedule;

“Interac Direct Transaction” means a payment by a Customer to the Merchant that is digitally facilitated using the Interac Direct Service on the Merchant’s native application or website using an electronic device to purchase goods and/or services from the Merchant;

“Interac” means INTERAC Corp. and any of its respective predecessors, successors and assigns that facilitate the provisioning of the Service, and which, for greater certainty, shall be considered a Card Brand as defined in the Agreement;

“Issuer” means a Canadian financial institution which issues Cards to Customers;

“KONEK Gateway Service” means a service provided by Interac and facilitated by Moneris whereby Customers can use their Cards to pay for goods and services purchased from the Merchant through the KONEK Gateway in accordance with the terms and conditions set out in this Schedule;

“KONEK Gateway” means Interac’s credential gateway branded “KONEK” that is intended to be a multi-rail, multi-network, ubiquitous payment option enabling Customers to pay using the payment method of their choice, including processing of payments through the Interac Direct Service;

“KONEK Transaction” means any transaction between a Customer and the Merchant where Interac KONEK is used, including: (a) a Customer paying for goods and services, and (b) the Merchant refunding, in whole or in part, a Customer’s purchase of goods or services;

“Pre-authorized Transaction and Completion” means a Transaction that is completed in two or more stages: (1) the authorization stage (authorization request and authorization response), followed by (2) the completion stage (completion request and completion response). These types of Transactions may occur when the final amount is not known at the time of authorization or if the Merchant needs a level of guarantee from the Customer for the payment prior to processing the request for goods or services. Examples include Transactions where an item is not available at the time of payment authorization. The Transaction can be completed, once that item is available. Each Pre-authorized Transaction and Completion request may have one or more completions;

“Recurring Payment Transaction” means a Transaction made following an agreement between a Customer and the Merchant, whereby the Customer authorizes the Merchant to automatically charge the Customer’s specified Eligible Account periodically and on an ongoing basis for the purchase or delivery of goods or services, with or without a specified end date, as agreed to by the Customer with their Merchant;

“Refund Transaction” means a Transaction that arises from the return of goods or the non-fulfilment of goods or services, resulting in a credit of funds to the Customer’s Eligible Account;

“Reversal” means a Transaction which is cancelled in advance of completion by virtue of the inability to complete the Transaction as a result of a technical or system error;

“Service Rules and Regulations” means all applicable rules, regulations, by-laws, bulletins, guidelines, directives, manuals, policies, procedures, or any similar documents regarding the Service, as amended from time to time by Interac, as we may advise you of from time to time and which, for greater certainty, will form part of the Card Brand Rules and Regulations as defined under the Agreement;

“Service” means the Interac Direct Service and the KONEK Gateway Service; **“Transaction”** means an Interac Direct Transaction, a KONEK Transaction or both; and

“Unauthorized Transaction” means a Transaction that has not been initiated by the authorized owner of the Eligible Account.

2. Use of KONEK Gateway for Interac Direct

The Interac Direct Service may be accessed only through the KONEK Gateway. As such, to use the Interac Direct Service, the Merchant must also use and comply with all applicable Service Rules and Regulations and any additional documentation and manuals related to the KONEK Gateway Service. In the event any additional mode of access or a standalone access to the Interac Direct Service is ever made available by Interac, Moneris will provide the Merchant with notice and any applicable additional technical or other documents related thereto.

3. Interac Direct Payment Types

The following payment types described in this Section together with such other payment types made available through the KONEK Gateway are supported for the Service.

3.1. One-time Purchase Transaction (Single Payment)

3.1.1. This purchase is a single Transaction for the payment of goods or services by a Customer from the Merchant through an Eligible Account, and should conform to both of the following:

- (a) an Eligible Account must be accessed through an Issuer's digital banking service to be eligible for a Single Payment; and
- (b) the processing of these Single Payments should comply with all applicable Service Rules and Regulations.

3.2. One-time Purchase Transaction (Split Payment)

3.2.1. When a single purchase is split into multiple shipments, the Merchant may implement Split Payment in accordance with one (1) of the two (2) following models, depending on their business needs:

- (a) Pre-authorize for the full purchase amount within seven (7) days and conduct multiple captures to the initial Pre-authorized Transaction and Completion. In this case, the Merchants shall indicate in the Pre-authorized Transaction and Completion payment request whether the payment will have multiple captures to ensure that the Issuer continues to hold the remainder of the initial Pre-authorized Transaction and Completion amount.
- (b) Request a Single Payment for part of the Transaction amount and reference the applicable Customer Payment Consent from the KONEK Gateway for subsequent Single Payments that are requested for the balance of the Transaction amount. If the Merchant does not use a Pre-authorized Transaction and Completion payment request for Split Payments or does not indicate that additional captures are forthcoming, then subsequent authorizations by the Issuer will be as per the Issuer's discretion.

3.2.2. The Merchant must indicate the shipment number and the number of total shipments in the Transaction processing message and in any Customer notifications.

3.3. Recurring Payment Transaction

3.3.1. Recurring Payment Transactions may occur periodically, for example, weekly, monthly, quarterly, or annually, or as needed to "top up" the Customer's account with the Merchant. A Recurring Payment Transaction may be for a variable or a fixed amount, as agreed upon within the terms of the agreement

between the Customer and the Merchant. If Recurring Payment Transactions occur for a variable amount, the Merchant must ensure that the variance is notified to the Customer in advance and is agreed upon before initiating the recurring payment request.

3.3.2. Setting up of Recurring Payment Transactions. Where Customer has requested or agreed to recurring payments, the Merchant shall ensure that:

- (a) the Merchant enters into an agreement with the Customer whereby the Customer has agreed to set up recurring payments for the purchase of goods or services offered by the Merchant; and
- (b) the agreement is kept on file by the Merchant for the duration of the arrangement or as required by Applicable Law and provided to the Issuer upon request.

3.3.3. Minimizing risk for Recurring Payment Transactions. To minimize risk associated with Recurring Payments Transactions, the Merchants must:

- (a) clearly identify any Transaction that is a Recurring Payment Transaction;
- (b) notify the Customer at least ten (10) days in advance of each Recurring Payment Transaction to be charged to the Customer's Eligible Account, unless otherwise agreed upon within the terms of the agreement between the Customer and Merchant; and
- (c) alert Customers of any changes, unless otherwise contemplated within the terms of the agreement between the Customer and Merchant, to an existing Recurring Payment Transactions at least thirty (30) days in advance of implementing the change to the Recurring Payment Transaction. For clarity, notice will not required where the amount billed to the Customer changes due to updates to federal, municipal, or provincial taxes.

3.3.4. Cancelling or Closing Recurring Payment Transactions. To cancel or close a Recurring Payment Transaction, the Merchant must:

- (a) provide all Customers with the option to cancel a Recurring Payment Transaction directly with the Merchant in accordance with the terms of the agreement between the Merchant and the Customer, and ensure that all cancellation or non-renewal requests are complied with within a timely manner and in no event later than the next payment cycle;
- (b) ensure that Customers are notified once a Recurring Payment Transaction set-up has been cancelled or closed, providing all relevant details of the cancellation or closure; and
- (c) process any refunds or credits to the Customer account promptly, where applicable.

3.3.5. Handling Declined Recurring Payment Transactions. To properly handle a declined Recurring Payment Transaction, the Merchants must:

- (a) contact the Customer to request the details necessary to update the Merchant's systems and enable Merchant to perform necessary checks to confirm why Transaction was declined, update any requisite information, and if necessary, compare requirements for cancelation of the payment against decline information;
- (b) work with Moneris to determine if the Transaction has been reported as fraudulent; and
- (c) work with Moneris to determine any other reason for the decline and take the necessary corrective action.

3.3.6. Updates to Existing Recurring Payment Transactions Set Up

- (a) In instances of an update by a Customer or the Merchant to an existing Recurring Payment Transaction set-up as it relates to a change in the Interac Direct payment method, the Merchant is required to create a new Customer Payment Consent request via the KONEK Gateway to continue with the Recurring Payment Transaction.
- (b) For clarity, a new Customer Payment Consent is not required in instances when there is a change to the Recurring Payment Transaction amount or frequency. In such cases, the Merchant is responsible for providing appropriate notice to the Customer pursuant to s.3.3.3 (Minimizing risk for Recurring Payment Transactions) above.

3.4. Pre-authorized Transactions and Completions

- 3.4.1. Time Requirement. Completion requests must be sent within seven (7) days, following the pre-authorization approval response by the Issuer.
- 3.4.2. User Authorization. To preserve the sequence of when and where a Transaction took place, the Customer will be considered to have provided their confirmation at the time that the Merchant initiates a Customer Payment Consent request for the Interac Direct Service (providing authorization) at checkout. User authorization is not required for Merchant initiated transaction processes such as Refund Transactions, subsequent Recurring Payment Transactions as applicable, Reversals and pre-authorized completions.

3.5. Refund Transaction

- 3.5.1. Customers may return purchased goods or services to the Merchant resulting in a credit to the Customer's Eligible Account. All refund policies are proprietary between the Merchant and the Customer and according to the Merchant policy or terms and conditions made available to the Customer. It is not mandatory for Merchants to Refund Transactions originally made with the Interac Direct Service, through the Interac Direct Service.

3.6. Reversals

3.6.1. Reversals can be submitted by the Merchant, Moneris, or Issuers, where network or technical processing errors have occurred, as per the Service Rules and Regulations. Reversals must be accepted by the party who is the intended target for the Reversal.

4. Requirements for Use of the Service

4.1. As a condition for the use of the Service, the Merchant agrees to comply with all of the following requirements.

4.1.1. The Merchant shall:

- (a) disclose the Merchant's respective policies with regards to security, privacy, returns, and reimbursements to the Customer;
- (b) put in place privacy, returns, reimbursement, and security measures and controls that are consistent with latest industry standards to protect the privacy and confidentiality of the Transaction and any information provided by the Customer;
- (c) immediately investigate any suspicious transactional activity of a Customer and take action to remedy the situation as necessary; and
- (d) disclose to Moneris, upon request, the Merchant's records to verify compliance with this Schedule and the Service Rules and Regulations.

4.1.2. The Merchant acknowledges and agrees that before the Merchant is permitted to use the Service and during the term of this Schedule, Moneris is required to conduct certain due diligence on the Merchant to comply with the Service Rules and Regulations, which may include, but not be limited to:

- (a) conduct a review to ensure that the Merchant can comply with all applicable requirements specified within this Schedule, including the Service Rules and Regulations;
- (b) verify that processes are in place to ensure that the Merchant can comply with the applicable security and technical standard requirements set out in the Schedule and the Service Rules and Regulations; and
- (c) obtaining articles of incorporation or business license or registration number (as applicable) from the Merchant;
- (d) verifying any other names under which the Merchant carries on business;
- (e) obtaining names and addresses of directors and officers, and any party with a controlling interest;

- (f) obtaining business financial statements or tax returns, or personal financial statements of majority stakeholders;
- (g) performing a corporate credit check or, where the Merchant is unincorporated, perform a credit check on those individuals held out to be principals of the Merchant;
- (h) obtaining any other relevant documentation such as business plans, organizational charts, business models;
- (i) obtaining a criminal record check current within the past year on each of the officers and directors, or principals, as the case may be, of a Merchant, including a certification from each that there are no current charges outstanding or convictions against them in respect of any form of financial crime; and
- (j) obtaining valid photo identification for each of the officers and directors of the Merchant, or principals, as the case may be, for unincorporated Merchants.

Moneris may decline to offer the Service (or may terminate this Schedule and stop providing the Service), if Moneris, in its sole discretion acting reasonably, determines that the Merchant may pose a material risk to the security or integrity of the Service.

4.1.3. As a requirement to provide the Service, the Merchant acknowledges and agrees that Moneris is required to collect and provide to Interac information regarding the Merchant, including, but not limited to the following:

- (a) Merchant name - legal names and trade names;
- (b) addresses of the Merchant;
- (c) business start date;
- (d) alternate sub-brands;
- (e) Merchant Category Code (MCC);
- (f) industries Merchant operates in;
- (g) Merchant description of goods sold, services provided and general business operation details;
- (h) jurisdictions/locations operating in;
- (i) channels where the Service is to be implemented;
- (j) desktop – URL;
- (k) mobile browser – URL;

- (l) stand-alone Merchant application;
- (m) estimated average Transaction sales value;
- (n) estimated monthly Transaction sales value;
- (o) sample customer experience; and
- (p) connectivity requirements:

The Merchant is responsible for ensuring that the above Merchant details are correct at all times and will notify Moneris of any updates or changes to the above information within three (3) Business Days of any update. The Merchant details to be collected pursuant to this Section is the minimum information that must be provided to Moneris and Interac in advance of a Merchant being onboarded to the Service. Additional Merchant details may be requested by Interac in accordance with the Service Rules and Regulations and the Merchant agrees to promptly provide such additional information if so requested.

4.2. Additional Merchant Obligations

4.2.1. The Merchant further agrees that:

- (a) The Merchant agrees that in addition to the terms and conditions set out in this Schedule and elsewhere in the Agreement, the Merchant must also comply with all applicable laws, the Service Rules and Regulations, and any other policies and procedures, including any user manuals, quick reference guides, or any other directive, guideline, security standard, manual or policy of Interac or Moneris related to the Service or the processing of Transactions that may be published by Interac or that Moneris may provide to the Merchant from time to time;
- (b) The Merchant shall execute and comply with the Trademark License;
- (c) the Merchant shall provide Moneris with all necessary assistance and cooperation to verify that the Merchant is in compliance with the requirements referred to in this Schedule at all times during the term of this Schedule;
- (d) Moneris may terminate this Schedule and the right of the Merchant to use the Service for any material breach of the requirements of this Schedule;
- (e) Moneris has the right to share with Interac, Financial Institution Participants and other participants of the KONEK Gateway or the Interac Direct Service information pertaining to any termination, suspension or other action taken against the Merchant for reasons of non-compliance with the requirements of this Schedule;
- (f) the Merchant shall provide Moneris, Interac or their agents with all necessary assistance and cooperation with the investigation of any suspected fraud related to the Service;
- (g) the Merchant must have appropriate processes and procedures in place to protect Customer Information in accordance with all applicable Canadian federal and provincial privacy legislation;

- (h) the Merchant shall display the Issuer confirmation number generated by the Issuer on the Transaction confirmation screen to the Customer;
- (i) the Merchant shall not discriminate as to the conditions of a sale if a Customer uses the Service as a form of payment (examples of discrimination include setting a minimum or maximum value for accepting payment by way of the Service);
- (j) the Merchant will offer choice of payment method to Customers in accordance with the Service Rules and Regulations;
- (k) the Merchant will clearly disclose Transaction details such as amount, currency, shipping information, applicable taxes and such other details before requesting Customer Payment Consent;
- (l) the Merchant will charge the Customer for each Transaction only upon obtaining the applicable Customer Payment Consent and in compliance with the applicable Service Rules and Regulations;
- (m) in the event a Customer Payment Consent for a Recurring Payment is rejected by Interac, the Merchant will not submit a request for Payment Consent to another acquirer, payment processor or anyone else other than Moneris;
- (n) the Merchant will not sell, purchase, expose, or exchange any sensitive Transaction information nor sell, purchase, expose, exchange, or store shipping address information, collected through the Service and belonging to the Customer in any manner with any person or entity other than Moneris for the purposes of payment processing;
- (o) the Merchant will not use the Customer-provided shipping address provided by the Service for any purposes other than to provide products and services paid using the Service and not store such shipping address after completing the Transaction and shipping any related goods;
- (p) the Merchant will comply with applicable law and will not access or use the Service contrary to applicable law, for illegal, dishonest or fraudulent purposes or to process Prohibited Transactions;
- (q) the Merchant will maintain a clear and robust process to handle Disputes raised by the Customers with respect to goods and services sold;
- (r) the Merchant will follow a fair policy for exchanging, returning and adjusting the price of goods or services paid for by Customers using the Service and will communicate this policy clearly to Customers. The Merchant will settle any Disputes directly with Customers and will indemnify and compensate Moneris and Interac for any claims made against us by a Customer that arise from any Transaction;
- (s) If a purchase made using the Service is returned, the Merchant must issue a credit to the Customer. If the Merchant has a “no refund” or “no exchange” policy, this must be clearly communicated to Customers, including referencing, at a minimum, such policy on the Merchant’s website or application;

- (t) If the Customer has chosen to receive a payment receipt in a manner that is agreed upon between the Customer and Merchant, the Merchant shall, at a minimum, include the following information on the payment receipt:
 - i. Customer's local time and date of the Transaction;
 - ii. Payment Type;
 - iii. Transaction amount;
 - iv. Merchant details (e.g., Merchant name, address, and contact information, inclusive of Customer support information);
 - v. Payment method;
 - vi. Transaction details – description of good or service; and
 - vii. Transaction reference number.

- (u) In the event the Transaction is a pre-authorization, the Merchant shall include a statement on the payment receipt indicating the implications of the pre-authorization, including that the final settlement amount may be higher or lower;

- (v) In the event the Transaction is a Recurring Payment Transaction, the Merchant shall include the following additional information on the payment receipt:
 - i. when the Merchant will advise the Customer in advance of the next payments; and
 - ii. instructions as to how a Customer may change its instructions (including cancellation of recurring payment) in respect of a Recurring Payment Transaction; and

- (w) As a best practice, it is recommended that Merchants display a payment receipt upon checkout within the Customer experience and provide a record to the Customer for reference at a later date.

4.2.2. The Merchant is prohibited from and agrees that it will not engage in any practices which could have a negative impact on the Interac Direct brand or introduce material risk to the Service, such as:

- (a) the Merchant failing to honor a Customer's request to pay using the Service, provided all other eligibility criteria are met;

- (b) if the Merchant chooses to advertise Interac Direct or the Service, separate and apart from the KONEK Gateway, or to otherwise use the Interac marks or brand, the Merchant does not adequately display the Interac trademarks to indicate acceptance and availability of the Service when compared to other ecommerce payment solutions as set out in the Interac Trademark License made available to the Merchant by Moneris;

- (c) the Merchant requires a Customer to pay a surcharge if a Customer wishes to pay using the KONEK Gateway or the Interac Direct Service;

- (d) the Merchant is otherwise non-compliant with its obligations related to the Service as set forth in this Schedule;

- (e) the Merchant using or disclosing any Personal Information in its possession in relation to the Service for any purposes not authorized in this Schedule; and
- (f) the Merchant failing to promptly delete Customer information which is transmitted to the Merchant related to a Transaction that is not completed through the Service.

If the Merchant is provided with notice by Moneris or Interac that the Merchant is engaged in a practice or activity which is considered to be prohibited pursuant to this section, then the Merchant must discontinue the relevant practice or activity within twenty (20) Business Days from the date of such notice, otherwise this Schedule and the Merchant's right to use the Service may be terminated and the Merchant shall be responsible for any Card Brand Fines or other liabilities which Interac may impose on Moneris in connection with such practice or activity.

4.3. Certification and Registration

4.3.1. The Merchant acknowledges and agree that in order to enable the Merchant to use the Service Moneris has to certify the Merchant's implementation from a functional and a user interface perspective in a non-production environment. Moneris is also required to register the Merchant with Interac. The Merchant agrees to provide Moneris with all required information, documents and any other required assistance and cooperation in order to facilitate such registration and to cover the applicable registration costs. The Merchant is responsible for the accuracy and completeness of any and all information and documents provided to Moneris in connection with the certification and registration. The Merchant will need to re-certify its user interfaces if updates impacting the Service are made.

4.4. Dispute Resolution and Errors Handling

4.4.1. The Merchant must have a process to resolve Disputes with Customers (e.g., damaged items, item not as described, goods/services being significantly different than expected, based on your description of the goods/services sold; unauthorized or alleged Unauthorized Transaction, etc.).

4.4.2. Any Dispute that may arise related to Transactions must be resolved between the Merchant, the Customers, and the Card Brands by following the Dispute resolution process applicable to and required by each Card Brand. The Merchant acknowledges and agrees that the Merchant is responsible for all Disputes, including any related adjustments or reversals of Transactions or debits for payments related to such Transactions, in accordance with the Service Rules and Regulations. Moneris does not determine the outcome of Disputes and is not liable to the Merchant for the outcome or financial consequences of Disputes.

4.5. Information Security

4.5.1. The Merchant must ensure that the technology it uses to accept payments through the Service meets the security standards required by Interac and Moneris, as they may be amended from time to time. The Merchant will provide Moneris from time to time with any information that Moneris or Interac request for the purposes of verifying that the Merchant is complying with such standards and the Merchant will bear all costs associated with demonstrating such compliance.

4.6. Adherence to the Canadian Code of Practice for Consumer Protection in Electronic Commerce and Provincial Consumer Protection Legislation

4.6.1. The Merchant agrees that in connection with its use of the Service the Merchant shall comply with the Canadian Code of Practice for Consumer Protection in Electronic Commerce (“**e-Commerce Code of Practice**”) and applicable provincial consumer protection legislation.

4.6.2. The Merchants agrees not to hold Customers liable for any charges related to a Transaction that falls under the circumstances outlined in the e-Commerce Code of Practice and, including, but not limited to the following:

- (a) the good or service delivered was materially different from that described by the Merchant;
- (b) the Merchant failed to provide material information about the good or service;
- (c) the good or service was not delivered in the time specified, or under the conditions stated in the original offer; and
- (d) there was no adequate opportunity for the Customer to cancel an inadvertent Transaction when the Customer acted reasonably.

4.7. Fraud Management

4.7.1. The Merchant acknowledges and agrees that Interac has implemented and manages a fraud management program which includes classification of certain merchants as High-Risk Merchants, based on certain criteria (such as MCC or certain thresholds related to fraudulent Transactions, sale of prohibited items or services, etc.), as set out in the Service Rules and Regulations.

4.7.2. If the Merchant is identified as a High-Risk Merchant, the Merchant may be required to provide additional information to Moneris and Interac, complete questionnaires and other documents, comply with the requirements of Interac’s fraud management programs, and any additional requirements set out in the Service Rules and Regulations.

- 4.7.3. In the event an Issuer or Interac determines that the Merchant is beyond the Issuer's risk tolerance and such Merchant poses fraud, reputational or operational risk in relation to the Service, the Issuer may request that (i) the Merchant be blocked for that Issuer; and/or (ii) the Merchant be suspended from the Service, in accordance with the terms of the Service Rules and Regulations.
- 4.7.4. Interac maintains a list of Merchants suspended from the Service (the "Suspended Merchant List"). Merchants on the Suspended Merchant List will be prohibited from participating in or onboarding to the Services. The Merchant acknowledges and agrees that Moneris is required and will share information with Interac and the other participants in the Service related to the Merchant's use of the Service as required in connection with Interac's fraud management program, including information which may lead to the Merchant being placed on the Suspended Merchant List, as more specifically provided in the Service Rules and Regulations

5. Fees

- 5.1. In consideration for use of the Services, the Merchant agrees to pay to Moneris all of the applicable Interac Direct fees and any other Service fees set out in your Agreement, as well as any other applicable interchange fees, assessment fees, or any other fees or charges that Interac or other Card Brands apply to the Services or Transactions from time to time. If Interac or any other Card Brand increases any of the fees or charges we are required to pay to provide you with the Service under this Schedule or if they change the existing fee structure or implement a new fee structure, we will have the right, upon providing you with prior written notice, to: (a) modify our fees and charges by the amount of the increase imposed by Interac or the other Card Brands; and/or (b) make corresponding changes to your fee structure. You will also pay us any Card Brand Fines or any other fees or charges, which may be imposed on Moneris in connection with your use of the Service or the Transactions that we process for you, including in connection with any Disputes.
- 5.2. You acknowledge that the applicable fees for the Service and Transactions depend on your classification into the different categories of merchants established by Interac (i.e. Regular Merchant, Special Merchant or High-Risk Merchant). The determination and criteria for each merchant category and the assessment of the appropriate category that each merchant falls under is determined based on the rules established by Interac as set out in the Service Rules and Regulations. The applicable fees for each merchant category have been disclosed to the Merchant by Moneris and the Merchant agrees that if the Merchant is reclassified into another merchant category for the Service, the applicable fees for such merchant category will become effective immediately without the need for any prior notice by Moneris or Interac.

6. Other Conditions

6.1. Term and Termination

- (a) Unless terminated in accordance with subsections (b) or (c) below, the term of this Schedule (the “**Term**”) will continue for the duration of the term of the Agreement.
- (b) In the event that Interac suspends or terminates the KONEK Gateway Service or the Interac Direct Service Moneris may promptly suspend or terminate this Schedule.
- (c) Each of the Parties may terminate this Schedule upon providing the other Party with at least 60 days’ prior written notice.

6.2. Indemnification

- 6.2.1. The Merchant will defend, indemnify, and hold harmless Moneris and its employees, directors, officers, affiliates, subcontractors, service provider and agents from and against any damages, losses, liabilities, obligations, fines, penalties, assessments, fees, costs or expenses, including reasonable attorneys’ fees and costs relating to any third party action, claim, demand, dispute, suit, investigation, governmental action, judgment, or any other legal proceeding against any of them, to the extent arising from or relating to your Transactions, your use of the Service, Disputes related to your Transactions or any breach by you of this Schedule or the Agreement.

6.3. No Warranties. Limitation of Liability

- (a) Notwithstanding anything else to the contrary in the Agreement, the Service is provided to you by us on an “as is” and “as available” basis. Moneris does not provide any warranty with respect to and specifically disclaims any warranties and conditions with respect to the operation of the Service 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, and any warranties that may arise from a course of dealing, course of performance or trade practice. Moneris does not warrant that the Service will be uninterrupted or error-free. For greater certainty, Moneris is entitled at any time, and without prior notice, to interrupt Merchant’s access to the Service for any reason, including without limitation for security considerations or maintenance work.
- (b) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SCHEDULE OR IN THE AGREEMENT, IN NO EVENT WILL MONERIS’ TOTAL LIABILITY FOR ANY AND ALL DAMAGES ARISING UNDER THIS SCHEDULE FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY EXCEED THE TOTAL SERVICE TRANSACTION FEES (EXCLUSIVE OF ALL CARD BRANDS INTERCHANGE, SERVICE OR OTHER APPLICABLE FEES THAT CARD BRANDS APPLY TO YOU OR YOUR TRANSACTIONS) PAID BY MERCHANT TO MONERIS PURSUANT TO THIS SCHEDULE DURING THE THREE MONTHS IMMEDIATELY PRIOR TO THE DATE OF THE EVENT GIVING RISE TO SUCH LIABILITY. FOR GREATER CERTAINTY, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SCHEDULE OR THE AGREEMENT, IN NO EVENT WILL MONERIS BE LIABLE

FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFIT, LOST REVENUES, COST OF PROCUREMENT OF SUBSTITUTE SERVICES, LOST BUSINESS OPPORTUNITIES OR LOSS OF GOODWILL, FOR ANY MATTER ARISING OUT OF OR RELATING TO THIS SCHEDULE OR ITS SUBJECT MATTER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- (c) The Parties have agreed that each provision of this Schedule that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages represents an agreed allocation of the risks between the Parties. This allocation is reflected in the pricing offered by Moneris to Merchant for the Service provided by Moneris and is an essential element of the basis of the bargain between the Parties. Each of these provisions is severable and independent of all other provisions of this Schedule and each of these provisions will survive termination of this Schedule and will apply even if any limited remedy specified in this Schedule is found to have failed in its essential purpose.

6.4. Right to Inspect

During the Term, we and any of our representatives (including representatives of Interac) will have the right, from time to time, upon forty-eight hours' notice and at your cost, to inspect your procedures and activities to ensure compliance with this Schedule. You will fully co-operate with respect to any audit conducted by us and any of our representatives.

6.5. Confidentiality

You acknowledge that this Schedule and any information provided to you by us or Interac in connection with this Schedule, including any Interac KONEK Rules and Regulations, is Confidential Information subject to the applicable provisions of the Agreement.