



Wireless Schedule Terms and Conditions

This Schedule to your Moneris Merchant Agreement (the “**Agreement**”) contains the additional terms and conditions that apply if we provide Wireless Services (as defined below) to you. Capitalized terms used and not defined herein will have the respective meanings given to such terms in the Moneris Merchant Agreement. Please ensure that you read carefully this Schedule, as your acceptance of its terms and conditions will occur when you first use the Wireless Services. 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 Wireless Services. We can change this Schedule at any time by giving you notice in accordance with the Agreement. Your continued use of the Wireless Services after such notification constitutes acceptance of any amendment, restatement, supplement or any other modification to this Schedule.

*“**Regulatory Requirement**” means any law, regulation, statute, code, order, directive, guideline, decision, ruling, award, rule, standard, requirement, policy or judgement applicable to us or our underlying carrier.*

*“**Service Areas**” means the geographic locations in which the Wireless Services are available from time to time.*

*“**Unauthorized Use**” means any abusive or fraudulent use or any use that has not been authorized by us or our underlying carrier.*

*“**Wireless Services**” means the wireless communication services provided by us and our underlying carrier to be used in connection with the Wireless Terminals.*

*“**Wireless Terminal**” means the long range point-of-sale payment processing device capable of communicating over the Network that you rent from us that derives power from a battery.*

DEFINITIONS

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

*“**Claims**” means any and all claims, demands, liability, damage, loss, suit, action, investigation, proceeding or cause of action and any and all related costs and expenses including but not limited to legal fees and expenses.*

*“**Network**” means the network for the Wireless Services operated by our underlying carrier. This includes: Global System for Mobile communications (GSM); General Packet Radio System (GPRS); Code Division Multiple Access (CDMA); High Speed Packet Access (HSPA); Enhanced Data Rates for GSM Evolution (EDGE); Second Generation Digital Cellular Network (2G); Third Generation Digital Cellular Network (3G); and Fourth Generation Digital Cellular Network, Long Term Evolution (4G LTE).*

1. GENERAL

1.1 Wireless Services

You agree that the Wireless Services are provided subject to the following:

- (a) Wireless Services are available only when the Wireless Terminals are in the operating range of the Network.
- (b) Wireless Services and/or data transmissions over the Network may be temporarily refused, interrupted, involuntarily delayed or limited at any time because of:
 - limitations to the Network;
 - transmission limitations caused by atmospheric, topographical or other factors reasonably outside of our underlying carrier’s control;



- equipment modifications, maintenance, upgrades, relocations, repairs and other similar activities necessary for the proper or improved operation of the Wireless Services; or
 - weak batteries, system over-capacity, movement outside of the Service Areas and gaps in coverage within the Service Areas.
- (c) We and our underlying carrier make no warranty, express or implied, as to the Wireless Services, including without limitation, any implied warranties as to merchantability or fitness for a particular purpose, nor do we or our underlying carrier warrant the uninterrupted working of any communications using the Wireless Services or the Network.
- (d) Our underlying carrier is not responsible for and does not warrant the security or privacy of any communications or data traffic over the Network or using the Wireless Services.
- (e) Our underlying carrier is not responsible or liable to you for any content, applications or services transmitted or made available to you through the Wireless Services or the Network.
- (f) Wireless Services shall be subject to such changes, modifications, additions and deletions as our underlying carrier may determine from time to time.
- (g) You shall only engage in roaming off our underlying carrier's Network as incidental to your use of the Wireless Services in Canada. Our underlying carrier shall, at its sole discretion, be entitled from time to time and at any time to restrict roaming services or to add, modify or remove territories where roaming is available. You will be responsible for all applicable roaming charges which shall be charged separately and will be subject to the limitations and conditions of service of the carrier(s) providing such roaming services.
- (h) You have no property right in any code or identifier issued by us or our underlying carrier to you or associated with you or any of the Wireless Terminals used by you. We or underlying carrier may change such codes and identifiers at any time.
- (i) Wireless Services do not include any voice services or any SMS messaging services.
- (j) The SIM card may only be used in the Wireless Terminal in which it is installed and in no other wireless device and may only be used in connection with the card processing services that we are providing to you.
- (k) The SIM card may work and incur charges in wireless devices other than the Wireless Terminal in which the SIM Card is installed and you are responsible for any and all charges and other fees incurred with respect to the SIM card, including but not limited to fees for unauthorized services such as voice services and SMS messaging services.
- (l) In the event that any governmental body or person issues or amends any Regulatory Requirement, then this Schedule shall be deemed modified in such a way that is consistent with the form, intent and purpose of this Schedule as is necessary to comply with such Regulatory Requirement.
- (m) In the event that our underlying carrier's costs of providing the Wireless Services increase as a result of any Regulatory Requirement, then we may upon notice to you, increase the Wireless Terminal rental fees in order to reflect such increased costs.
- (n) Our underlying carrier may disclose any information concerning you to:
- another telecommunications carrier or other person providing services to a telecommunications carrier, provided



that the information is to be used for the establishment of, or the efficient and cost effective provision of the Wireless Services and disclosure is made on a confidential basis with the information to be used solely for that purpose;

- an agent retained by our underlying carrier to collect outstanding balances owed to our underlying carrier by us, or to perform other administrative functions for our underlying carrier, provided that the information is released solely for those purposes;
- a company involved in supplying customers with telephone or telephone directory related services, provided the information is required for that purpose and disclosure is made on a confidential basis with the information only to be used for that purpose;
- a law enforcement agency if our underlying carrier has reasonable grounds to believe that you are involved in unlawful activities; or
- a public authority or agent of a public authority if in our underlying carrier's reasonable judgment, it appears that there is imminent danger to life and property which could be avoided or minimized by the disclosure of the information.

(o) The Wireless Services are being provided only to you. You are solely responsible for use of the Wireless Services. You agree at all times to comply with applicable laws and any terms, conditions, rules, policies, procedures and technical specifications as may be provided and updated by us or our underlying carrier from time to time that are associated with the Wireless Services.

(p) You may not use (or allow anyone else to use), directly or indirectly, the Wireless Services, the Network or the Wireless

Terminals for any Unauthorized Use including but not limited to:

- attempting or assisting another to access, alter or interfere with the communications of and/or information about another user of the Network or the Wireless Services;
- tampering with or making an unauthorized connection to the Network;
- using or assisting another to use any scheme, false representation or false credit device, or other fraudulent means or devices in connection with the Wireless Services;
- using the Wireless Services in such a manner so as to impair the quality of the Wireless Services or interfere with our underlying carrier's ability to provide the Wireless Services or interfere with the use of the Wireless Services by other users;
- using the Wireless Services to convey information that is obscene, salacious, abusive, prurient or unlawful;
- invading another person's privacy or collecting or storing personal data about other users, stalking or otherwise harassing another person or entity; harming minors; using, possessing, posting, uploading, transmitting, disseminating or otherwise making available obscene, profane or pornographic material or content that is unlawful, threatening, abusive, libellous, slanderous, defamatory, deceptive or otherwise offensive or objectionable or violates the copyright or other intellectual property rights of others; unlawfully promoting or inciting hatred; or posting, uploading, transmitting, disseminating or otherwise making available objectionable information



including but not limited to any transmissions constituting or encouraging conduct that would constitute a criminal offence, give rise to civil liability or otherwise violate any municipal, provincial, federal or international law, order or regulation;

- participating in any illegal activities;
- accessing any computer, software, data, or any other confidential, copyright protected or patent protected material of any other person, without the knowledge and consent of that person, or using any tools designed to facilitate access, such as "packet sniffers";
- uploading, posting, publishing, defacing, modifying, transmitting, reproducing, distributing in any way or otherwise making available information, software or other material protected by copyright or other proprietary or contractual right (such as a non-disclosure agreement), or related derivative works, without obtaining permission of the copyright owner or rightholder;
- copying, distributing, sublicensing or otherwise making available any software provided by us or our underlying carrier;
- altering, modifying, reproducing, tampering with the Wireless Services, the Network, the Wireless Terminals, identifiers of the Wireless Terminals or any function or component of the Wireless Services, the Network or the Wireless Terminals that is not meant to be altered, modified, reproduced or tampered with;
- restricting, inhibiting or interfering with the ability of any person to access, use or enjoy the Wireless Services, the Network or any device or equipment

used to connect to the Network or the Wireless Services, or creating an unusually large burden on the Network including but not limited to posting, uploading, transmitting or otherwise making available information or software containing a counter, virus, drop dead device, lock, key, bomb, worm, trojan-horse, trap door or other harmful, limiting destructive or debilitating feature; or generating levels of traffic sufficient to impede others' ability to send or receive information, or distributing mass or unsolicited email;

- disrupting any backbone Network nodes or Network service, or otherwise restricting, inhibiting, disrupting or impeding our underlying carrier's ability to monitor or deliver wireless services, transmissions or data;
- interfering with computer networking or telecommunications service to or from any Internet user, host, provider or network including but not limited to denial of service attacks, overloading a service, improper seizure or abuse of operator privileges or attempting to "crash" a host;
- using the Wireless Services, the Network and/or the Wireless Terminals for anything other than the purposes contemplated in this Schedule;
- reselling the Wireless Services, providing Internet access or any other feature of the Wireless Services to a third party or sharing or transferring the Wireless Services;
- forging headers or otherwise manipulating identifiers in order to disguise the origin of any content transmitted through the Network or the Wireless Services;
- accessing the Internet via the Wireless Services using IP addresses other than



the IP address(es) assigned by us or the underlying carrier;

- operating a server in connection with the Wireless Services including but not limited to mail, news, files, golpher, telnet, chat, web or host configuration servers, multimedia streamers or multi-user interactive forums; or
 - port scanning a person's computer without that person's consent, or using any tools designed to facilitate these scans.
- (q) In addition to any other termination rights set out elsewhere in this Schedule or the Agreement, we or our underlying carrier may suspend, cancel or permanently terminate the Wireless Services, without notice to you, if you engage in one or more activities that constitute an Unauthorized Use. Additionally, you may be charged for any costs incurred by us and/or our underlying carrier in connection with the breach of the terms of this section including but not limited to costs incurred to enforce your compliance with this section.
- (r) You are responsible for any use by third parties having direct or indirect access to the Network through you. Any such violations by a third party shall be deemed to be a violation by you, whether or not done with your knowledge or consent. You shall have the sole responsibility to cease such violations and shall be solely liable for any loss, damage or expense arising from use by a third party.
- (s) We and our underlying carrier reserve the right to restrict, change, suspend, cancel or permanently terminate your Wireless Services if your access, use or connection to the Wireless Services or the Network is impairing or adversely affecting the operations or the use of

the wireless services or the Network by others.

1.2 Confidentiality

Pursuant to the directives of Telecom Decisions CRTC 2003-33, 2004-27 and 2005-15 we will keep any information that you have provided to us solely in connection with the Wireless Services in accordance with this Schedule (the "Wireless Services Information") as confidential. Specifically, but without limiting the foregoing, we may only disclose your Wireless Services Information upon obtaining express consent from you by: (i) written confirmation; (ii) oral confirmation verified by an independent third-party; (iii) electronic confirmation through the use of a toll-free number; (iv) electronic confirmation via the internet; (v) oral consent, where an audio recording of the consent is retained by us; or (vi) consent through other methods, as long as an objective documented record of the consent is created by you or by an independent third party. Notwithstanding the foregoing, to the extent that any Wireless Services Information, or any part of it, is required to be provided to us pursuant to your CAF, the Agreement (or any of the other Schedules to it) or any other agreement between you and us, the applicable terms and conditions of such CAF or agreement with respect to the use of such Wireless Services Information will prevail and govern.

2. TERMINATION AND CHANGES TO THE WIRELESS SERVICES

2.1 Termination

We or our underlying carrier may terminate the Wireless Services immediately if:

- (a) our underlying carrier decides to no longer operate the Network or we are no longer provided Wireless Services by our underlying carrier;
- (b) necessary due to a Regulatory Requirement;
- (c) you engage in one or more activities that constitute an Unauthorized Use or you do



not observe or act according to the terms and conditions of this Schedule; or

- (d) the Wireless Services are no longer available to you due to a change, modification, addition or deletion by our underlying carrier to the Wireless Services, the Network, the operating range and/or the Service Areas.

2.2 Changes to the Wireless Services

We may, at our sole discretion, move your Wireless Services to a new technology and/or underlying carrier.

3. LIMITATION OF LIABILITY; INDEMNITY; NO WARRANTY

3.1 No Relationship

You expressly understand and agree that you have no contractual relationship whatsoever with our underlying carrier and that you are not a third party beneficiary of any agreement between us and our underlying carrier. In addition, you expressly understand and agree that we and our underlying carrier make no representations or warranties whatsoever and shall have no legal, equitable, or other liability of any kind to you, regardless of the form of the action, whether for breach of contract, warranty, negligence, strict liability in tort or otherwise.

3.2 Limitation of Liability

- (a) Neither us nor our underlying carrier shall be liable for any direct, indirect, special, incidental or consequential cost, loss, expense, damage or liability of any nature, loss of profits or revenue, loss of data, costs of capital, downtime costs, costs of substitute goods or services or loss of goodwill or business opportunities in connection with this Schedule, the Wireless Services, the Network or the Wireless Terminals including but not limited to:

- the failure of the Wireless Services to operate at any time; or
- a third party's unauthorized access to communications transmitted over the Network or the completeness or accuracy of such communications;

whether or not such damages were foreseeable.

- (b) We and our underlying carrier are not liable to you or any other person for any accident or injury resulting from the operation or failure of the Wireless Terminal or the Wireless Services.

3.3 Indemnity

- (a) You shall indemnify, defend and hold harmless us and our underlying carrier and each of our and our underlying carrier's respective officers, employees and agents against any Claims relating to:

- property damage, personal injury or death Claims caused by your negligence or wilful conduct;
- breach of your obligations set out herein; and
- libel, slander, infringement of copyright, or personal injury or death, arising in any way directly or indirectly in connection with this Schedule, the Network, the Wireless Services or the use, misuse, failure to use or inability to use the Wireless Terminals.

- (b) This indemnity shall survive termination of this Schedule, the Agreement or the Wireless Services.