TERMS AND CONDITIONS

1. SAAS SERVICES AND SUPPORT

1.1 These terms and conditions govern the use by you ("Customer") of the SaberisConnect service (the "Service") from SABERIS (the "Company"). Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services. As part of the registration process, Customer will identify an administrative user name and password for Customer's Company account. Company reserves the right to refuse registration of, or cancel passwords it deems inappropriate.

1.2 Subject to the terms hereof, Company will provide Customer with reasonable technical support services.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, application, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third; or remove any proprietary notices or labels.

2.2 Customer shall only use the Service for the number of Stores that it has subscribed and paid for. Customer may authorize an unlimited number of users at any store for which the Service has been subscribed and paid for. Customer shall not permit other stores, even if owned by Customer, to access the Service or share login information or credentials, nor shall Customer permit one store to use the Service for or on behalf of any other store for any purpose.

2.3 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Company's standard published policies then in effect (the "Policy") and all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from any violation of the foregoing or otherwise from Customer's use of Services. Although Company has no obligation to monitor Customer's use of the Services, Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

2.4 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers, FTP Servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent. Customer shall be liable for any breach of security arising from use of Customer's password or login credentials.

3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or

financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to Company to enable the provision of the Services ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

3.2 "Personal Information" means the "personal information" as such term is defined in the *Personal Information Protection and Electronic Documents Act* (Canada), S.C. 2000, c.5, *Personal Information Protection Act* (British Columbia), S.B.C. 2003, c.63, *Personal Information Protection Act* (Alberta), S.A. 2003, c. P-65, *An Act respecting the Protection of personal information in the private sector* (Quebec), R.S.W. c. P-39.1, and any other applicable law relating to the protection of personal information in the private sector, in each case as amended from time to time and including any successors thereto, as the case may be (collectively, "Privacy Legislation"), of Customer's employees, servants, agents, and customers. Company acknowledges that it has received or shall receive or have access to Personal Information that has been collected, used and/or disclosed by or on behalf of Customer or its affiliates during the Term. Company agrees that Personal Information is also Proprietary Information of Customer. "Representative" of a party means any director, officer, employee, agent, consultant or subcontractor of that party and those of any affiliate of such party. Company shall comply with all Privacy Legislation in the course of providing all Services. Without limiting the foregoing, Company shall: (i) notify Customer in writing immediately if Company is aware of, or suspects, any loss, theft, damage or unauthorized or unlawful access to Personal Information or any breach of this Section 3.2; (ii) in the event that disclosure by Company of Personal Information is required by law, promptly notify Customer in writing before complying with any such requirement for disclosure or transfer and comply with all reasonable directions of Customer relating thereto; (iii) only use Personal Information for the purpose of providing Services in accordance with this Agreement and as otherwise instructed by Customer in writing from time to time, and not use any Personal Information in any other manner without the express prior written consent of Customer; (iv) not disclose, or authorize any Representative to disclose, any Personal Information to any third party without the prior written consent of Customer; (v) immediately notify Customer in writing of any enquiry received from an individual relating to, among other things, the individual's right to access, modify or correct Personal Information, complaint received by Company relating to the processing of Personal Information, an order, demand, warrant or any other document purporting to compel the production of any Personal Information, and promptly comply and fully co-operate with all instructions of Customer with respect to any action taken with respect to such enquiry or complaint; (vi) to the extent that it has possession of Personal Information, provide reasonable assistance to Customer to allow Customer to comply with its obligations under Privacy Legislation to disclose, provide access, modify or correct such Personal Information; (vii) limit access to Personal Information only to those Representatives of Company who need to have access to the Personal Information solely for the purposes of Company providing Services under the Agreement; (viii) ensure or cause each of the Representatives of Company to agree, in writing, to protect the confidentiality and security of the Personal

Information in accordance with the terms of these paragraphs i to xii, and otherwise properly advise and train each of its Representatives of the requirements of Company under these paragraphs i to xii and Applicable Law; (ix) ensure that it takes all necessary steps to implement physical, technical and administrative and other organizational measures, including such measures as are consistent with general practices within its industry and such measures required under applicable Privacy Legislation to safeguard the Personal Information against loss, theft, damage or unauthorized or unlawful access or processing; (x) ensure that all Personal Information processed by Company in the course of performing the Services is securely segregated from any other information owned or managed by Company or other third parties, including implementing any necessary access barriers and password authorization procedures in connection therewith; (xi) except as otherwise agreed to in writing by Customer, only maintain and otherwise process the Personal Information in Canada; and (xii) provide Customer (or its Representatives) with access to the records for the purposes of auditing, inspecting, examining and otherwise verifying Company's compliance with these paragraphs i to xii, and in the event that any such audit, inspection or examination reveals that Company is non-compliant with its obligations under the foregoing provisions, to promptly bring itself into compliance

3.3 Customer shall own all right, title and interest in and to the Customer Data, as well as any data that is based on or derived from the Customer Data and provided to Customer as part of the Services. Company shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.

3.4 Notwithstanding anything to the contrary and provided Company otherwise acts in accordance with Canadian privacy laws (even if the information in question originated outside Canada), Company shall have the right collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

4. PAYMENT OF FEES

4.1 Customer will pay Company the then applicable fees described in the invoice for the Services and Implementation Services in accordance with the terms therein (respectively, the "Invoice" and the "Fees"). If Customer's use of the Services exceeds the Service Capacity set forth on the Invoice or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Company's customer support department.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses

of collection and may result in immediate termination of Service. Customer shall be responsible for all taxes associated with Services, including all sales and value-added taxes, but not including any ~~U.S.~~ taxes based on Company's net income.

5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Invoice and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, Company will make all Customer Data available to Customer for electronic retrieval for a period of thirty (30) days, but thereafter Company may, but is not obligated to, delete stored Customer Data. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. WARRANTY AND DISCLAIMER

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, COMPANY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

7. INDEMNITY

Company shall hold Customer harmless from liability to third parties resulting from infringement by the Service of any applicable patent or any copyright or misappropriation of any trade secret, provided Company is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Company will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the Service (i) not supplied by Company, (ii) made in whole or in part in accordance with Customer specifications, (iii) that are modified after delivery by Company, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of the Service is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by Company to be infringing, Company may, at its option and expense (a) replace or modify the Service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for Customer a license to continue using the Service, or (c) if neither of the foregoing is

commercially practicable, terminate this Agreement and Customer's rights hereunder and provide Customer a refund of any prepaid, unused fees for the Service.

8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO COMPANY FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. MISCELLANEOUS

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with Company's prior written consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the Province of Ontario without regard to its conflict of laws provisions.

EXHIBIT A

Support Terms

Company provides extensive help on the Company Web Site and will provide Technical Support to Customer via both telephone and electronic mail on weekdays during the hours of 9:00 am through 5:00 pm Eastern time, with the exclusion of Federal Holidays ("**Support Hours**").

Customer may initiate a helpdesk ticket during Support Hours by calling 800-387-7963 or any time by emailing support@saberis.com.

Company will use commercially reasonable efforts to respond to all Helpdesk tickets within one (1) business day.

Company will provide support to only one technical point of contact for each Customer, which shall be the designated "Administrator"), and will not provide support to individual users. Customers must provide support and training to their own staff.

The Company shall have no obligation to provide on line meetings , but the Company may provide them from time to time when the Company deems them necessary.

All support issues not addressed on the Company's web site should be directed to the Customer's Administrator. Company Support is not obliged to communicate with each user.

Company's Services interface with other software and services used by the Customer provided by third party vendors. The Customer is responsible for training their staff on the software and services used by Customer, including the export of data, and their Point-of-Sale/ERP system including the import process.

EXHIBIT B

Service Level Terms

The Services shall be available 99.9%, measured monthly, excluding holidays and weekends and scheduled maintenance. If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Company's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be that for each period of downtime lasting longer than 1 day, Company will credit Customer 5% of Service fees for each period of 1 day or more consecutive days of downtime; provided that no more than one such credit will accrue per day. Downtime shall begin to accrue as soon as Customer (with notice to Company) recognizes that downtime is taking place, and continues until the availability of the Services is restored. In order to receive downtime credit, Customer must notify Company in writing within 24 hours from the time of downtime, and failure to provide such notice will forfeit the right to receive downtime credit. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of Service Fees in any one (1) calendar month in any event. Company will only apply a credit to the month in which the incident occurred. Company's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Company to provide adequate service levels under this Agreement.