



KUBRA ENTERPRISE SERVICES AGREEMENT

THIS AGREEMENT made this 19 day of June, 2017. ("Effective Date")

BETWEEN:

KUBRA Data Transfer Ltd, a corporation incorporated under the laws of the State of New York, (the "**Provider**")

- AND -

City of Clearwater, a City organized under the laws of the State of Florida, (the "**Customer**")

WHEREAS the Customer wishes to engage the Services (as hereinafter defined) of the Provider and the Provider wishes to provide the Services to the Customer, and in furtherance of same the parties hereto are hereby entering into this enterprise services agreement (the "**Agreement**");

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1 SERVICES

Provider agrees, subject to the terms and conditions set forth in this Agreement, to provide to the Customer the electronic presentment and payment services (the "**EPP Services**") to Customer on the terms and conditions set forth in Schedule A to this Agreement and such other products, services and equipment as may be agreed to from time to time by the parties in writing during the Term of this Agreement (collectively the "**Services**")

2 TITLE

Title and all ownership rights in and to the documentation describing or relating to the Services, including, but not limited to, any and all formats, computer programs, specifications and user guides (the "**Documentation**") shall remain at all times solely with Provider. The Services and the Documentation are agreed to be the proprietary, confidential and trade secret information of Provider. Customer shall have no right, title or interest in or to the Documentation, whether or not such Documentation has been developed specifically for performance of this Agreement. Customer shall have the right to make a reasonable number of copies of the Documentation for the sole purpose of accessing and utilizing the Services.

3 TERM AND TERMINATION

3.1 Term.

This Agreement shall be for an initial term (the "**Initial Term**") commencing on the Effective Date and continuing for a period of thirty-six (36) consecutive months following the date of execution (the "**Acceptance Date**") of the Project Live Document in a form similar to the form attached hereto as Schedule C. At the end of the Initial Term of this Agreement, the City may request renewal(s) as provided herein. The City will give written notice of its intention to renew the contract no later than ninety (90) days prior to the expiration. Two (2) twenty-four (24) month renewal terms are possible at the City's option subject to the mutual consent of the Provider.

3.2 Termination with Cause.

Either party hereto shall have the right to terminate this Agreement upon delivery of written notice to the other party in the event that such other party:

- (a) ceases to do business or otherwise terminates business operations;

- (b) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other; or
- (c) is in breach of any material representation, warranty, obligation or other provision of this Agreement and fails to fully cure such breach within forty-five (45) days of receiving written notice of such breach from the terminating party. For greater certainty, for the purposes of this agreement, the following shall be considered breaches of material representation, warranty or obligation: Customer's failure to pay a delinquent balance (as hereinafter defined); Provider's material failure to adhere to the Service Level Agreement; Provider's inability to perform all functions per original RFP requirements; and Provider's use of subcontractors which do not meet Customer requirements set forth in this agreement, shall be considered breaches of a material obligation.

3.3 Suspension of Cayenta Customer Information System (CIS or UMS) use.

Customer shall have the right to terminate this agreement at any time If Customer no longer uses Cayenta for their UMS / CIS needs and Provider is unable to integrate with Customer's new CIS provider.

3.4 Termination for Convenience.

Customer shall have the right to terminate this agreement at any time by providing written notice at least ninety (90) days' in advance of intention to separate.

3.5 Termination Due To Force Majeure.

This agreement may be terminated if a Force Majeure event prevents the obligations of this contract to be exercised for greater than sixty (60 days).

3.6 Termination by Mutual Agreement

This agreement may be terminated at any time during its term by mutual agreement by both parties.

3.7 Termination Fee.

In the event Provider terminates this Agreement pursuant to Section 3.2(c) due to Customer's non-payment or the Customer ceases to use the Services or terminates the Agreement for Convenience, and the contract is within 24 (twenty-four) months of the originating contract's "Effective Date", Customer agrees to pay Provider an early termination fee (the "**Termination Fee**") equalling (i) \$45,000 if the contract is terminated during months 1-12 or (ii) \$20,000 if the contract is terminated during months 13 - 24. Customer agrees that said Termination Fee shall be invoiced and governed by Section 6 of this Agreement. The Termination Fee shall be in addition to all other rights held by the Provider at law, equity or under this Agreement. The Termination Fee is an estimate of the liquidated damages entitled to Provider for the Customer's termination of this Agreement pursuant to this Section 3.7, and shall in no way be construed as a penalty for such termination.

3.8 Payment and Disabling of Customer Accounts on Termination or Expiration.

Upon termination or expiration of this Agreement:

- (a) Customer shall pay Provider all amounts due and owing under this Agreement to Provider, including without limitation, any and all amounts owing in respect of Charges and Additional

Charges, (as those terms are defined below) and any applicable Termination Fee, and such payment shall be invoiced and governed in accordance with Section 6 of this Agreement; and

- (b) Provider may disable all accounts and passwords which allow Customer access to the Services.

3.9 Disposition of Materials on Termination or Expiration.

Within thirty (30) days following the date of expiration or termination under this Agreement, the Customer shall furnish Provider with specific written instructions for the disposition of its supplies, material and data then in the possession of Provider. If said written instructions are not received by Provider within the aforementioned time period, Provider may dispose of such supplies, material and data in any reasonable manner which complies with the most secure method of data destruction, as well as adhering to PCI compliance, to ensure security of customer data and minimize data risk. Such supplies, material and data may not be transferred to a third party. Disposition and transfer costs to be mutually agreed to by the parties.

4 EXCLUSIVITY

During the entire Term of this Agreement, Customer shall make every reasonable effort to solely and exclusively utilize the Provider as its sole provider of the Services as they relate to Cayenta CIS/UMS or its replacement. This excludes payments received by and or for departments other than Utility Customer Service, in person at Customer owned and operated locations, as well as payments received via existing agreements unrelated to the Cayenta CIS/UMS.

5 CHARGES

5.1 Charges.

The Customer agrees to pay the Provider for the Services and any equipment or products related thereto, in accordance with the charges set out in the attached Schedule A (the "**Charges**"). Except as otherwise provided in the Schedules, the Charges shall remain fixed during the Initial Term. Following the expiration of the Initial Term, except as otherwise provided in the Schedules, the Charges may be increased per RFP terms, but by no more than three (3%) percent per Renewal Term, and the Customer shall be provided with written notice of such an increase at least ninety (90) days prior to the implementation of same.

5.2 Additional Charges.

In addition to the Charges, the Customer further agrees to pay such additional charges (the "**Additional Charges**") as may arise in connection with the supply by Provider or by any third party of the Services or any products related thereto, provided such Additional Charges are authorized by the Customer in writing. In the event Additional Charges are payable in advance by the Customer and the amount of such Additional Charges cannot be precisely ascertained in advance, the amount of such Additional Charges shall be estimated by Provider in advance and shall be subsequently reconciled with the actual amount of such Additional Charges.

6 INVOICING AND PAYMENT

6.1 Monthly Invoice.

All Charges, and any applicable Additional Charges, and other charges, costs or expenses incurred pursuant to this Agreement, payable by the Customer to Provider, and all applicable taxes in respect thereof (collectively, the "**Monthly Charges**"), shall be billed by Provider to Customer by monthly invoice on the first day of each month in respect of Monthly Charges incurred in the preceding month. Monthly Charges shall be payable within forty-five (45) days from the date the invoice is received by Customer in accordance with Florida Statute 218.70, et. Seq., the Local Government Prompt Payment Act, and, if unpaid within such forty-five (45) day period, shall be considered a delinquent balance ("**Delinquent Balance**").

- Invoice shall be sent to city of Clearwater at:
- City of Clearwater
- Attention: Gail Rini
- Utility Customer Service
- 100 S. Myrtle Ave
- Clearwater, FL 33756

6.2 Interest on Delinquent Balance.

A Delinquent Balance shall be payable with interest calculated at twelve percent (12%) per annum (one percent (1%) per month or part thereof) in accordance with Florida Statute 218.70, et. Seq., the Local Government Prompt Payment Act, Provider's failure to charge interest on any Delinquent Balance shall not constitute a waiver of its right to do so in the future.

6.3 Ceasing Services on Delinquent Balance.

In the event of a Delinquent Balance, Provider is entitled to cease providing the Services until such time as the Delinquent Balance and any interest accrued thereon is paid in full, and such a stoppage by Provider shall not be considered a breach by Provider under this Agreement. Provider's decision not to cease Services pursuant to this subsection shall not constitute a waiver of Provider's right to terminate this Agreement in accordance with subsection 3.2(c) hereof, or to exercise any other rights to recover for defaults under this Agreement, whether at law or in equity.

7 TAXES

Prior to commencement of the Initial Term, Customer shall provide Provider with a properly executed Certificate of Exemption, if applicable, for all foreign, Federal, State, Provincial and local taxes and fees. Customer shall be responsible for the collection of all applicable end-user taxes and fees and the remittance of such taxes and fees to the relevant governmental authorities.

8 ADJUSTMENTS

Requests by Customer for any billing adjustments must be made within one hundred and twenty (120) days of the invoice date. Any amounts which are determined to be in error will be credited against the next month's invoice. Such request for adjustment shall not be cause for delay in payment of the undisputed remaining balance due.

9 RELIANCE ON INFORMATION PROVIDED

9.1 Customer Responsible for Data.

The Customer is solely responsible for the adequacy and accuracy of the Customer's data and the instructions, programs and procedures supplied by it. The Customer shall provide its own audit controls, operating methods and checkpoints necessary to satisfy the Customer's requirements with respect to detection of machine errors, security and adequacy of the data provided by the Customer to Provider and necessary to enable recommencement and recovery in the event of any malfunction. Provider shall rely on the accuracy of all data and information provided to it by Customer.

9.2 Incorrect Data.

Customer shall promptly inform Provider of any incorrect data or information provided by the Customer. Customer shall bear the cost of any correction of data or information if such a correction results in additional costs to Provider and such costs exceed those which are incurred in the process of routinely receiving and preparing correct data for normal usage. Such additional costs shall be billed on the Customer's monthly invoice for Services and shall be subject to all relevant provisions of this Agreement, including without limitation, Section 6 hereof.

10 DATA TRANSMISSION

10.1 Data Transmission from Customer to Provider.

The Customer agrees to transmit its data to Provider electronically in such manner as may be mutually agreed upon by the Customer and Provider from time to time; such data transmission shall be effected by the Customer in a timely manner in order to enable Provider to satisfy its obligations to the Customer under this Agreement.

Any data supplied by the Customer to Provider must be compatible with Provider's equipment and processing filters, and the Customer's programs necessary to accomplish transmission of its data in useable form must comply with reasonable industry standards. If the data submitted by the Customer to Provider for processing is not in the required format for processing, Customer agrees to pay Provider such reasonable charges as may be necessarily incurred by Provider to prepare such data for processing or reprocessing.

10.2 Data Transmission from Provider to Customer.

Provider shall use all commercially reasonable means to ensure the safe and prompt transfer of data from Provider to Customer. Customer understands that Provider utilizes various third party providers of online payment systems and that these third parties act as wholly independent entities. Provider will use reasonable care to select and utilize competent third party providers of online payment services provided they adhere to the security and privacy provisions of this contract. Provider is responsible for any damages resulting from use of subcontractors. The use of a subcontractor which does not meet the minimum requirements for data security provisions herein may constitute breach of material obligation.

11 UPGRADES

If required, Provider shall support Customer when CIS system upgrades are performed, as it relates to provided services. Provider will maintain connections to environments and confirm data transactions during periodic testing and maintenance windows between the Customer's CIS system and Provider's systems, per a mutually agreed upon schedule per mutually agreed upon cost for required Professional Services work as detailed in a Statement of Work which is approved by Customer prior to work being commenced.

12 ADDITIONAL SERVICES AT CUSTOMER'S REQUEST

In addition to the special services and third party products, services or equipment contemplated in Section 5.2 hereof, further special services or third party supplied products, services or equipment may be provided by Provider at the Customer's request provided that the Customer executes and delivers to Provider a Provider Supply Request Form detailing the special services, or third party products, services or equipment required by the Customer and the charges payable by the Customer for provision of such special services and/or equipment. Provider shall arrange on behalf of the Customer for the supply of such special services and/or equipment, subject to payment in advance by the Customer, or subject to payment in such other manner as may be provided in the Provider Statement of Work (SOW).

13 MODIFICATIONS TO THE SERVICES

Upon giving reasonable advance notice to Customer, Provider may make any modifications, changes, adjustments or enhancements to the Services which may be necessary to continue agreed upon levels of service or which are required by law or governmental regulation or any guidelines, directives or policies issued by any regulatory authority.

14 TECHNICAL PROBLEM RESOLUTION

14.1 Erroneous Work-Product.

Provider agrees to reprocess any work-product containing erroneous results due to a malfunction of Provider's equipment or operating system or error on the part of Provider's operators. The Customer shall implement Providers' recommended model for data security procedures and checkpoints necessary to avoid excessive rerun times to restore a file to its required status.

14.2 Service Interruptions.

If the Services are partially or wholly interrupted owing to a malfunction in Provider's equipment, operating system or the telecommunication channels, the party detecting the interruption shall forthwith notify in writing, and Provider shall forthwith remedy the malfunction, with the assistance, if necessary, of the Customer's suppliers of maintenance services for the remote terminal equipment or the telecommunications channels. Direct costs incurred by the Customer for the restoration of the Providers' equipment, operating system or telecommunication channels shall be paid or reimbursed by Provider. Failure to restore services in a reasonable period of time may be considered a breach of material obligation.

15 BACK-UP PROCEDURES

15.1 Customer to Back-Up Data.

The Customer shall maintain adequate back-up material that will enable the regeneration of Customer data, computer files, printer output and other data in the event of loss, damage or destruction of such data. Accordingly, Customer shall produce and keep copies of the source documents of the information delivered to Provider and shall maintain a backup procedure for reconstruction of lost or altered Customer computerized files and records to the extent deemed necessary by Customer.

15.2 Lost, Damaged or Destroyed Data.

Provider shall use commercially reasonable measures to prevent the loss, damage or destruction of the Customer's data. If Customer's data is lost, damaged or destroyed after its transmission to Provider, Provider shall notify the Customer forthwith and the Customer shall retransmit the data to Provider for processing. Both Provider and Customer agree to co-operate reasonably to remedy any such loss, damage or destruction and to enable the processing of the Customer's data by Provider as quickly as reasonably possible.

16 FILE SECURITY

Provider shall take all reasonable steps to ensure that access to Customer's computerized files and records are available only to Provider, Customer and Customer's users. Provider reserves the right, at its own expense, to issue and change procedures from time-to-time to improve or protect file security.

17 DISCLAIMER

Customer acknowledges and agrees that the Services are provided on an "as-is, as available basis" and Provider does not warrant that the Services will operate uninterrupted or error-free. OTHER THAN AS EXPRESSLY STATED IN THIS AGREEMENT, PROVIDER SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR FUNCTION, UNLESS SUCH WARRANTIES ARE LEGALLY INCAPABLE OF EXCLUSION.

18 LIMITATIONS OF LIABILITY/INSURANCE REQUIREMENT

18.1 Limitations of Liability

Provider shall not be liable for any indirect, consequential, special, incidental, punitive or other damages of any kind or nature whatsoever, whether claimed by Customer or any other person, which arise out of the provision of the Services or Customer's use of or reliance on them, unless such damages are a result of the Provider's gross negligence or willful misconduct.

Customer acknowledges and agrees that Provider's total liability to Customer, including any obligations to indemnify Customer in accordance with this Agreement, and the sum of all of Customer's remedies against Provider will in all events not exceed, in the aggregate, the amount Customer actually paid to Provider on account of Charges under this Agreement for the three (3) month period preceding the occurrence in respect of which the claim arose.

18.2 Insurance Requirement

The Vendor shall, at its own cost and expense, acquire and maintain (and cause any subcontractors, representatives or agents to acquire and maintain) during the term with the City, sufficient insurance to adequately protect the respective interest of the parties. Coverage shall be obtained with a carrier having an AM Best Rating of A-VII or better. In addition, the City has the right to review the Contractor's deductible or self-insured retention and to require that it be reduced or eliminated.

Specifically the Vendor must carry the following minimum types and amounts of insurance on an occurrence basis or in the case of coverage that cannot be obtained on an occurrence basis, then coverage can be obtained on a claims-made basis with a minimum three (3) year tail following the termination or expiration of this Agreement:

- a. **Commercial General Liability Insurance** coverage, including but not limited to, premises operations, products/completed operations, products liability, contractual liability, advertising injury, personal injury, death, and property damage in the minimum amount of \$1,000,000 (one million dollars) per occurrence and \$2,000,000 (two million dollars) general aggregate.
- b. **Commercial Automobile Liability Insurance** coverage for any owned, non-owned, hired or borrowed automobile is required in the minimum amount of \$1,000,000 (one million dollars) combined single limit.
- c. **Professional Liability/Malpractice/Errors or Omissions Insurance** coverage appropriate for the type of business engaged in by the Respondent with minimum limits of \$2,000,000 (two million dollars) per occurrence. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the inception date of claims made coverage, unless the prior policy was extended indefinitely to cover prior acts. Coverage shall be extended beyond the policy year either by a supplemental extended reporting period (SERP) of as great a duration as available, and with no less coverage and with reinstated aggregate limits, or by requiring that any new policy provide a retroactive date no later than the inception date of claims made coverage.
- d. **Cyber Liability** coverage in an adequate amount to meet or exceed the requirements, including notification and monitoring, under Florida Statute 501.171.
- e. **Theft or Loss** coverage shall be maintained with minimum limits of \$1,000,000 (one million dollars) per occurrence. Coverage shall be provided using ISO form CR 00 01 Employee Dishonestly Coverage Form or its equivalent and shall include ISO endorsement CR 04 01 Clients' Property or its equivalent.
- f. Unless waived by the State of Florida and proof of waiver is provided to the City, statutory **Workers' Compensation Insurance** coverage in accordance with the laws of the State of Florida, and **Employer's Liability Insurance** in the minimum amount of \$500,000 (five hundred thousand dollars) each employee each accident, \$500,000 (five hundred thousand dollars) each employee by disease, and \$500,000 (five hundred thousand dollars) disease policy limit. Coverage should include Voluntary Compensation, Jones Act, and U.S. Longshoremen's and Harbor Worker's Act coverage where applicable. Coverage must be applicable to employees, contractors, subcontractors, and volunteers, if any.

The above insurance limits may be achieved by a combination of primary and umbrella/excess liability policies.

Other Insurance Provisions.

a. Prior to the execution of this Agreement, and then annually upon the anniversary date(s) of the insurance policy's renewal date(s) for as long as this Agreement remains in effect, the

b. Vendor will furnish the City with a Certificate of Insurance(s) (using appropriate ACORD certificate, SIGNED by the Issuer, and with applicable endorsements) evidencing all of the coverage set forth above and naming the City as an "Additional Insured" on the Commercial General Liability Insurance and the Commercial Automobile Liability Insurance. In addition when requested in writing from the City, Vendor will provide the City with certified copies of all applicable policies. The address where such certificates and certified policies shall be sent or delivered is as follows:

**City of Clearwater
Attn: Gail Rini Customer Service
100 S Myrtle Ave
Clearwater, FL 33756**

c. Vendor shall provide thirty (30) days written notice of any cancellation, non-renewal, termination, material change or reduction in coverage.

d. Vendor's insurance as outlined above shall be primary and non-contributory coverage for Vendor's negligence.

e. Vendor reserves the right to appoint legal counsel to provide for the Vendor's defense, for any and all claims that may arise related to Agreement, work performed under this Agreement, or to Vendor's design, equipment, or service. Vendor agrees that the City shall not be liable to reimburse Vendor for any legal fees or costs as a result of Vendor providing its defense as contemplated herein.

The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to the City, and City's failure to request evidence of this insurance shall not be construed as a waiver of Vendor's (or any contractors', subcontractors', representatives' or agents') obligation to provide the insurance coverage specified.

19 INDEMNITIES

19.1 Provider's Indemnity of Customer.

Subject to the limitations set out in Section 17 above, Provider agrees to defend, indemnify, and hold Customer, its directors, officers, employees, agents, suppliers and vendors harmless from all liabilities, claims and expenses, including without limitation reasonable attorneys' fees, arising from any breach by Provider of its representations, warranties, covenants or obligations under this Agreement.

19.2 Customer's Indemnity of Provider.

To the extent permitted by law and subject to the monetary limitations set forth in 768.28 Florida Statute, Customer agrees to defend, indemnify, and hold Provider, its directors, officers, employees, agents, affiliates, suppliers and vendors harmless from all liabilities, claims and expenses, including without limitation reasonable attorneys' fees, arising from:

- (a) the Services provided by Provider under this Agreement;
- (b) any breach by Customer of its representations, warranties, covenants or obligations under this Agreement; and
- (c) any action, suit or proceeding, on account of any personal injury or damage to property occasioned by the Customer's use of the Services.

Notwithstanding the foregoing, the Customer is not obligated to indemnify the Provider pursuant to subparagraphs (a) and (c) above in the event that the claim against Provider is due to the Provider's breach of this Agreement, gross negligence or willful misconduct.

Customer also agrees that Provider has the right, but not the obligation, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Customer pursuant to this Section. In such event, Customer shall have no further obligations to defend Provider pursuant to this Section. By assuming control over its own defense pursuant to the terms hereof, the Provider is in no way waiving its rights to indemnification under the terms of this Agreement.

20 NO AGENCY

Neither party is authorized to act as an agent for, or legal representative of, the other party, and neither party shall have the authority to assume or create any obligation on behalf of, in the name of, or binding upon the other party.

21 CONFIDENTIALITY AND PRIVACY

21.1 Confidential Information.

For the purposes of this Section, "**Confidential Information**" includes:

- (a) non-public financial information concerning either party;
- (b) information about either party's product line (both current and planned), research, development, customer data, and pricing and marketing plans, unless and until publicly announced;
- (c) customer's billing information;
- (d) any information designated as confidential in writing at or prior to disclosure; and
- (e) any information otherwise disclosed in a manner consistent with its confidential nature.

For the purposes of this Section, "**Confidential Information**" specifically excludes information that:

- (a) has become publicly known without breach of this Agreement or any other confidentiality obligation by the receiving party;
- (b) has been given to the receiving party by a third party with a legal right to so disclose;
- (c) was known to the receiving party at the time of disclosure as evidenced by its written records;
- (d) was independently developed by the receiving party; or
- (e) is required to be disclosed by applicable law.

Each party agrees to use good faith efforts, and at least the same care that it uses to protect its own Confidential Information of like importance, to prevent unauthorized dissemination or disclosure of the other party's Confidential Information both during and after the Term of this Agreement. In addition, each party shall use the other party's Confidential Information solely as necessary for the performance of this Agreement.

21.2 Privacy of Customer's Clients.

Provider's Privacy Policy, attached hereto as Schedule B, applies to all data received by Provider from Customer pursuant to this Agreement. Except as provided herein, Provider will comply with all applicable laws relating to

personal, confidential and/or financial information and will not share any such information with any other companies, the government or any third party without the express written consent of the owner of the information, unless required to do so by law or court order. Provider shall not sell or distribute information it receives from Customer or Customer's clients to any party.

21.3 Security of Cardholder Data.

Provider confirms that it will maintain all applicable PCI DSS requirements to the extent that it handles, has access to or otherwise stores, processes or transmits the Customer's cardholder data or sensitive authentication data or manages the Customer's cardholder data environment on behalf of the Customer.

In the event that Provider experiences a breach of information which is not due to the actions or omissions of Customer, Provider agrees to provide, at its own expense, credit monitoring services for all impacted enrolled Customer accounts for twelve (12) months.

21.4 Use of Aggregated Data.

Customer agrees that Provider may aggregate data it receives from or on behalf of the Customer with data gathered from other Provider customers to create non-customer specific metrics and statistics (e.g. benchmarking, response analysis and modeling). In no event shall such aggregated data identify Customer or Customer's Customers.

22 PUBLIC RECORDS

In addition to all other contract requirements as provided by law, Provider agrees to comply with all public records laws.

Provider's agreement to comply with public records law applies specifically to:

- a) Keep and maintain public records required by the Customer to perform the service being provided.
- b) Upon request from the Customer's custodian of public records, provide the Customer with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, as may be amended from time to time, or as otherwise provided by law.
- c) Ensure that the public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if Provider does not transfer the records to the Customer.
- d) Upon completion of the contract, transfer in a mutually agreed format for a mutually agreed cost, to the Customer all public records in possession of the Provider or keep and maintain public records required by the Customer to perform the service. If Provider transfers all public records to the Customer upon completion of the contract, Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Provider keeps and maintains public records upon completion of the contract, Provider shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Customer, upon request from the Customer's custodian of public records, in a format that is compatible with the information technology systems of the Customer.

23 PUBLICITY

Neither party shall refer to the other party directly or indirectly in any media release, public announcement or public disclosure relating to this Agreement or its subject matter, in any promotional or marketing materials, lists or business presentations, without consent from the other party for each such use or release in accordance with this section, provided that Provider may include Customer's name in Provider's customer list and may identify Customer as its customer in its sales presentations without obtaining Customer's prior consent. Notwithstanding the foregoing, at

Provider's request Customer agrees to issue a joint press release prepared by Provider to announce the relationship established by the parties hereunder. Customer agrees that such press release shall be deemed approved by Customer in the event that, within ten (10) Business Days of receiving Provider's proposed press release, Customer does not provide written notice to Provider describing in reasonable detail Customer's objections to the press release. All other media releases, public announcements, and public disclosures by either party relating to this Agreement or the subject matter of this Agreement (each a "Disclosure"), including promotional or marketing material, but not including (i) announcements intended solely for internal distribution, or (ii) disclosures to the extent required to meet legal or regulatory requirements beyond the reasonable control of the disclosing party, shall be subject to review and approval, which approval shall not be unreasonably withheld, by the other party prior to release.

24 BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns. Neither party shall voluntarily, or by operation of law, assign, transfer, license, or otherwise transfer (collectively, "Assignment") all or any part of its rights, obligations or other interests in or under this Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld. Any attempt to make an Assignment in violation of this provision shall be null and void. Notwithstanding anything else contained herein, Provider shall have the right to assign this Agreement or any rights hereunder without the consent of Customer, in the event of a merger, sale of assets or business or other transfer of control by operation of law or otherwise, provided that the assignee shall assume all obligations and rights hereunder.

25 CHANGES TO AGREEMENT

Except as otherwise provided for herein, this Agreement may not be amended or modified in any respect except by written instrument executed by both Customer and Provider.

26 DELAYS AND FORCE MAJEURE

(a) If a Force Majeure Event occurs, the party that is prevented by that Force Majeure Event from performing any one or more obligations under this agreement (the "Nonperforming Party") will be excused from performing those obligations, on condition that it complies with its obligations under section 26(c).

(b) For purposes of this agreement, "Force Majeure Event" means, with respect to a party, any event or circumstance, regardless of whether it was foreseeable, that was not caused by that party and that prevents a party from complying with any of its obligations under this agreement [(other than an obligation to pay money)], on condition that that party that uses reasonable efforts to do so.

(c) Upon occurrence of a Force Majeure Event, the Nonperforming Party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long that party expects it to last. Thereafter the Nonperforming Party shall update that information as reasonably necessary. During a Force Majeure Event, the Nonperforming Party shall use reasonable efforts to limit damages to the Performing Party and to resume its performance under this agreement. In the event either party is prevented from performing its obligations hereunder for a period of sixty (60) days or longer, this Agreement shall terminate without further penalty or expense to either party.

27 ENTIRE AGREEMENT

This Agreement (including its schedules) supersedes and merges all prior agreements, promises, understandings, statements, representations, warranties, indemnities and covenants and all inducements to the making of this Agreement relied upon by either party, whether written or oral, and embodies the parties' complete and entire agreement with respect to the subject matter hereof. No statement or agreement, oral or written, made before the execution of this Agreement shall vary or modify the written terms hereof in any way whatsoever.

28 INTERPRETATION

This Agreement shall be construed in accordance with its meaning and not for or against either party on account of which party drafted this Agreement.

29 THIRD PARTY BENEFICIARIES

Except as expressly provided herein, nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any third party.

30 SEVERABILITY

If any term or provision of this Agreement is determined to be illegal, unenforceable or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part(s) thereof shall be stricken from this Agreement and such provision shall not affect the legality, enforceability or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this Section, then the stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as shall be agreed by the parties.

31 REPRESENTATION OF AUTHORITY

Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such parties and enforceable in accordance with its terms.

32 FURTHER ASSURANCES

The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

33 LEGAL COMPLIANCE

This Agreement is made expressly subject to all present and future valid orders, rules, regulations and laws of any regulatory body having jurisdiction over the subject matter hereof. In the event this Agreement, or any of its provisions, shall be found contrary to or in conflict with any such order, rule, regulation or law, this Agreement shall be deemed modified to the extent necessary to comply with any such order, rule, regulation or law and shall be modified in such a way as is consistent with the form, intent and purpose of this Agreement.

34 GOVERNING LAW

THIS AGREEMENT SHALL BE IN ALL ASPECTS GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE. THE PARTIES HEREBY ATTORN TO THE JURISDICTION OF THE COURTS OF THE STATE OF FLORIDA.

35 MEDIATION

Any dispute, controversy or claim between or among the parties hereto arising out of or relating to this Agreement or any related agreements or instruments, including any claim based on or arising from an alleged tort, shall be determined by mediation. Each of the parties agrees to give up their right to a jury trial and to have the dispute determined by mediation in accordance with the following:

- (a) The mediation shall be heard by a single mediator, who is qualified and has the expertise necessary to hear the matter, as mutually agreed to by the parties. If the parties are unable to agree upon a single mediator, either party may apply to a court of competent jurisdiction for the appointment of a single mediator;
- (b) The mediation shall take place in the City of Clearwater, in the State of Florida, or in such other place as the Provider and Customer shall agree upon in writing;
- (c) All meetings and hearings will be in private, unless the Parties otherwise agree in writing;
- (d) The mediation will be conducted in accordance with the Florida Rules of Civil Procedure;
- (e) Judgment on the award rendered by the mediator may be entered in a court of competent jurisdiction.

36 COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall constitute an original, but all of which shall constitute one and the same instrument. The reproduction of signatures by facsimile or such similar device will be treated as binding as if original and each party hereto undertakes to provide each and every other party hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

37 NOTICES

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be given by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the business day following the sending, or if delivered by hand shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this Section. Notices and other communications shall be addressed as follows:

For the Provider:

5050 Tomken Road
Mississauga ON
Canada L4W 5B1

Attention: Rick Watkin
President and CEO

Fax 905-624-2886
E-Mail: rick.watkin@kubra.com

For the Customer:

City of Clearwater
100 S Myrtle Ave
Clearwater FL 33756-5520
PO Box 4748

Attention: Cynthia Boyd
Director, Utility Customer Service



E-Mail: Cynthia.boyd@myclearwater.com

38 EXECUTION OF SEPARATE AGREEMENTS

The Customer is aware that Provider utilizes third party consolidators, distribution partners and electronic payment service providers (including but not limited to the United States and Canadian Postal Services and Paymentech). Customer agrees to execute separate agreements and contracts with these third parties as necessary to facilitate Provider's provision of Services. Provider will incur all direct costs associated with a change in a subcontractor which is due to a change which is required by Provider and specific to Provider and not a result of a change caused by Customer.

39 PAYMENT PROCESSING SERVICES

The parties hereby agree to the terms relating to the payment processing component of the Services, as set out in the attached Schedule E, and hereby acknowledge and agree that such Schedule and the terms set out therein are binding terms of this Agreement.

40 THE FOLLOWING ATTACHMENTS SHOULD BE CONSIDERED PART OF THIS AGREEMENT

- (a) Services and Charges
- (b) KUBRA's Privacy Policy
- (c) Project Live Document
- (d) Service Level Agreement
- (e) Payment Processing Terms

IN WITNESS WHEREOF, the parties have executed this Agreement, as of the date first above written.

PROVIDER: KUBRA Data Transfer Ltd.

By: _____
 Printed Name: Rick Watkin
 Title: President & CEO
 Date:

CUSTOMER: City of Clearwater, Florida

By: _____
 Printed Name: _____
 Title: _____
 Date: _____



KUBRA ENTERPRISE SERVICES AGREEMENT

Countersigned: CITY OF CLEARWATER, FLORIDA

George N. Cretekos

Mayor

By: _____

William B. Horne II

City Manager

Approved as to form:

Assistant City Attorney

Attest:

Rosemarie Call

City Clerk

SCHEDULE A

SERVICES AND CHARGES

ELECTRONIC BILL PRESENTMENT AND PAYMENT

Module Overview:

i-doxs Platform

The i-doxs Platform represents the core and foundation of the i-doxs Suite delivering a comprehensive and scalable infrastructure that allows for the transformation of legacy transactional data into rich, interactive and intuitive online bills, invoices and statements. It is an open and modular platform supporting core data extraction, composition, system administration, configuration, application infrastructure, user community management, customer support, archival/retrieval, and general management functions. The Document archival/retrieval engine supports a comprehensive and dynamic document indexing, archival, and retrieval solution.

Services include:

- Data receipt & routing - Receipt of your core data extract billing files in a flat file format from your billing system via Internet FTP communication vehicle using PGP encryption software, for data parsing extraction and composition applications. After a series of validation, balance acknowledgement/reconciliation and quality control applications the data files are routed to the parsing and extraction engine.
- Data extraction & parsing - Data extraction and parsing tools split, parse and route the identified data fields into a relational database for further processing and eventual document composition. PDF/PNG presentment of source content via a Web browser.
- Composition & Presentment – Upon a request from an authorized internal user, data elements along with the associated document templates are mapped to PNG pages utilizing a robust set of APIs and presented to the Customer in the form of a dynamic web page.
- Storage & Hosting – Storage and archival of all documents loaded within our redundant and secure data centers. Support of up to 8 search criteria for internal access across each document catalog or type.
- Administration – Access to the Admin and User Consoles for enterprise tracking, management, and support tools.

i-Direct Module

The i-Direct module serves as the foundation for the entire online account management and electronic document presentment offering by providing your customers and trading partners with intuitive and dynamic access to their bills and supporting documents online. This module supports our enrollment, e-mail notification, presentment, and our self-service/analytics Cartridges. Also contained within the i-Direct module is our Secure E-mail Delivery and Payment solution that supports an alternative PUSH e-billing model. The i-Direct Module houses our Notification Manager with a design console that allows you to build and manage 25+ e-mail notification templates including 2-way SMS messaging with payment and outbound IVR.

Services include:

- Enrollment Processing – Support of a customized enrollment, validation, activation and de-activation program on a biller-direct site. KUBRA standard Single Sign On (SSO) support.
- Composition and Presentment - Validation, composition and dynamic rendition of legacy Bill data files into an interactive branded summary and detailed electronic formats allowing for the granular presentment, customer self-service, and online account management support applications upon request from the Customer.
- Summary register – supports an actionable summary register (sortable fields with bill date, amount due, account number, etc) with options to view, pay, download, and get current balance information with links to payment details, filed bills, profile information, and historical payments.
- Decision Support – Display of data in multiple formats with options for downloads and navigation on-demand

- Notification - e-mail notification/reminders of e-bills availability, forgotten passwords, and new enrollments
- Self-service – capture and routing of on-line customer inquiries/issues
- User Interface Design – support of a customized User Interface with regards to framing, navigation, and all associated cosmetic elements
- Responsive Web Design for Mobile eBilling

i-Pay Module

The i-Pay module provides a complete payment enrollment, scheduling, management, warehousing and settlement application with real-time and batch connections to ACH originators, Credit Card Processors, and ATM networks. The i-Pay module supports e-bill activated [one-time/recurring], one-time [IVR, Call Center, Internet], and legacy EFT payment configurations.

Services include:

- Real-time payment enrollment and validation for ACH, credit card, debit card and ATM PIN-less Debit payment accounts
- The capture and construction of consolidated, recurring, one-time [Internet/IVR/CSR assisted], future and e-bill integrated payment instruction file creation and delivery.
- Warehousing of payment accounts, profiles, preferences, and payment transactional history
- Support of a payment scheduling interface [one-time, recurring variable, recurring fixed] and a payment profile and history interface with varying levels of detail.
- Delivery of the payment instruction files to the noted ACH originators and credit/debit card processors for settlement
- Capture and processing of the remittance advice from the processors for A/R posting and reconciliation
- Integrated reporting and management tools
- Warehousing and display of transactional payment history, forecasting data and payment profile information in the form of reports and online records.
- EFT engine supports the processing of payment files and warehousing of payment profiles along with management tools for new users.

i-Market Module

The i-Market module supports personalization, campaign and content management applications that enable organizations to increase revenue and improve customer satisfaction. On-site marketing tools include e-inserts, pop-up ads, email, and banner ads. The i-Market module is fully integrated with the DocWeb™ platform allowing for 'flow through' deployment of 'e-serts' from the mail piece to the online document.

i-Message Module

The i-Message Module is a feature rich set of interactive outbound messaging applications that allow you to proactively communicate with enrolled or non-enrolled customers via SMS, IVR and Email channels with integrated support functionality.

i-Mobile Module

The i-Mobile Modules supports a suite of leading edge mobile account management and billing applications leveraging responsive web design. All presentment, payment, notifications, transactions etc are agnostic across Desktop, tablet, and mobile platforms

Investment Summary

E-Billing and Self Service

Upfront Fees

Functional Modules:

- The i-doxs Suite Utility Edition™
 - i-doxs Platform™
 - DoxsDirect™ [Data receipt, extraction/parsing, composition, indexing, release]
 - Virtual Repository™ [Document archival/retrieval, hosting, technical support, system infrastructure]
 - User Console™ [Customer management, document management, customer support]
 - Admin Console™ [System configuration, monitoring, user management, administration, reporting]
 - i-Direct™ Module [Enrollment, presentment, account/process management, Push E-mail, Analytics]
 - i-Pay™ Module [Electronic payment scheduling, warehousing, management and settlement]
 - i-Market™ Module [On-site Targeted marketing and customer service messaging]
 - i-Connect™ Module [Content distribution enrollment, formatting, delivery and tracking]
 - i-Message™ Module [Interactive Outbound Messaging – Phone, E-mail, text]
 - i-Mobile™ Module [SMS, Mobile Browser and Mobile Apps]

Upfront Fees include:

- Project Management
- Business Requirements Gathering
- Statement of Work Development
- Programming
- System Testing
- User Training

Upfront Fee Summary	
i-doxs Platform	Waived
i-Direct Module	- Waived
i-Direct / Secure E-mail	Waived
i-Direct / Notification Manager/SMS	Waived
i-Direct / Notification Manager/Voice	Waived
i-Pay Module	- Waived
i-Market Module	Waived
i-Mobile Module	Waived
i-Message Module	Waived
KUBRA EZ-PAY	Waived
Customization Fees / Hour estimate	Kubra to provide a one time 40 hours of professional service at no charge post implementation [\$165.00/hour] – post implementation
Customization Fees	\$0.00
Adoption Marketing Creative Services	Request Proposal
Configuration Specifications	
# of Billing systems / Files	
Number of Application/Form Templates	1

Transactional Fees

Transactional Fee Summary	
<i>i-doxs Platform / Cloud based Document repository</i>	\$0.00
<i>i-Direct / BD Presentment [Mobile/Desktop/Tablet]</i>	\$0.00
<i>i-Direct / Secure E-mail Delivery and Payment</i>	\$0.00
i-Direct / Notification Manager [EMAIL]	\$0.00
i-Direct / Notification Manager [Voice/SMS] - optional	\$0.00
i-Pay BD Payment [Mobile/Traditional/SMS/E-mail/IVR]	\$1.95 customer convenience fee (with AmEx)
Fee Definitions	
Document Repository	Applied per impression stored for 36 months
Presentment	Applied per original view by external customer. Presentment may be at a traditional website, Responsive browser, mobile app or delivered via secure email.
Secure E-mail	Applied per email sent out regardless of image count
BD Payment	Applied per payment settled

Notes:

- The service fee is applied up-

to \$1,000 threshold (assumes an average ticket price between \$140-\$170. If the average ticket price exceeds the range, the provider reserves the right to adjust the service fee on a go forward basis. The average ticket price is reviewed on an annual basis. The average ticket price is defined as the average amount processed via the service fee application. .

- The ACH percentage of total service fee payments is noted at 18%+. If the ACH percentage falls below 18%, the provider reserves the right to adjust the service fee on a go forward basis. The ACH percentage is reviewed on a semi-annual basis.
- In the event that the Provider needs to adjust the service fee it will provide reasonable advance notice to Customer of such change and will provide back-up documentation supporting the increased costs to Provider which necessitated the change. In no event will Provider increase costs beyond additional costs incurred by Provider.
- KUBRA requires the Biller to apply for the Discover and MasterCard Utility program as part of the set-up process.
- All ACH returns (e.g., NSF) or CC charge-backs will be billed back to the biller based on the service fee per return or chargeback (e.g., If you have 5 returns in March, you will receive an invoice from KUBRA equal to 5 times the current service fee being applied to the end customer.).
- The threshold for the Service is set at \$1000 for credit and debit cards and \$10,000 for ACH. This threshold limits individual payments in excess of the threshold as well as a combination of payments for the same account over 30 days which exceed the threshold.
- The KUBRA EZ-PAY Service is not intended for third party payments. In order to use the Service, Users must be the legal owner of the accounts associated with the payments (or legal representative or employee in the case of commercial or industrial accounts).





On Demand Payments – KUBRA EZ-PAY

Upfront Fee Summary	
On Demand Payments (KUBRA EZ-PAY)	Waived
Profile / Set-up	
Supported Channels	IVR
	Internet/Web
	Pay By Text
	Mobile App
	Mobile Browser
IVR Languages	Spanish / English
IVR Configuration	TBD
API integration	Real time Payment Posting
Customer Authentication	Summary data
Remittance file	Standard
Timelines / Funds availability	8:00 PM EST / Next business Day
Payment Processor	Chase Paymentech
Payment Types	
Payment Types	ACH
	Credit Card [Visa/MasterCard/Discover/AmEX]
	Signature debit [Visa/MasterCard/Discover]
	ATM PIN-less debit [Star, NYCE, Pulse, Accel]
KUBRA EZ-PAY Payment [Mobile/Traditional/SMS/E-mail/IVR]	\$1.95 customer convenience fee (w AmEX)
Payment Limit	\$1,000.00

Includes

- The ability for your customer to make one-time convenience payment via ACH/Credit Card/Debit Card/ATM PIN-less payment types via automated digital IVR, via a biller-branded web page, Mobile App, Mobile Browser, in a self-serving capacity or via a live CSR (Biller), KUBRA CSR Assisted Payments (optional) in a call center in an assisted manner.
- The daily gathering of payment order transactions from the application, the creation of payment order files in the specified format and the consolidation of all remittance data into one pre-defined format for A/R posting
- Real-time payment validation for Credit Cards, ATM Debit Cards and ACH payment accounts

Notes:

- The service fee is applied up-to \$1,000 threshold (assumes an average ticket price between \$140-\$170 . If the average ticket price exceeds the range, the provider reserves the right to adjust the service fee on a go forward basis. The average ticket price is reviewed on an annual basis. The average ticket price is defined as the average amount processed via the service fee application. .
- The ACH percentage of total service fee payments is noted at 18%+. If the ACH percentage falls below 18%, the provider reserves the right to adjust the service fee on a go forward basis. The ACH percentage is reviewed

on a semi-annual basis.

- In the event that the Provider needs to adjust the service fee it will provide reasonable advance notice to Customer of such change and will provide back-up documentation supporting the increased costs to Provider which necessitated the change. In no event will Provider increase costs beyond additional costs incurred by Provider.
- KUBRA requires the Biller to apply for the Discover and MasterCard Utility program as part of the set-up process.
- All ACH returns (e.g., NSF) or CC charge-backs will be billed back to the biller based on the service fee per return or chargeback (e.g., If you have 5 returns in March, you will receive an invoice from KUBRA equal to 5 times the current service fee being applied to the end customer.).
- The threshold for the Service is set at \$1000 for credit and debit cards and \$10,000 for ACH. . This threshold limits individual payments in excess of the threshold as well as a combination of payments for the same account over 30 days which exceed the threshold.
- The KUBRA EZ-PAY Service is not intended for third party payments. In order to use the Service, Users must be the legal owner of the accounts associated with the payments (or legal representative or employee in the case of commercial or industrial accounts).



KUBRA EZ-PAY Retail Cash Payment

KUBRA EZ-PAY Retail Cash Payment (RCP) provides a convenient and secure option to pay bills with cash payments at participating merchant locations throughout the United States. KUBRA EZ-PAY Retail Cash Payment is an electronic cash payment solution that permits the end customers to easily, safely and conveniently pay their printed or electronic bill with cash while in the aisle at one of 50,000 KUBRA participating Tier 1 retail stores located close to them.

The KUBRA EZ-PAY Retail Cash Payment satisfies the unbanked, underbanked, and cash preference market segment which prefers to pay their bills with cash. Retail cash payments provide these customers with a convenient way to pay their bills with cash while at the checkout counter of their local retail store.

Billers can expand their bill payment locations without any cost to add another 70,000 potential locations. For this technology savvy segment, billers can engage these customers in real-time through the web and mobile interaction to initiate, make bill payments and confirm payment. The KUBRA EZ-PAY Retail Cash Payment solution will enhance the customer service experience you currently offer.

Upfront Processes

- Project management
- Business requirement gathering
- Statement of Work development
- Programming
- System testing
- User training
- KUBRA EZ-PAY RCP Marketing (Free Integration Playbook)

Total one-time installation cost: - waived

Profile and Setup	
Supported Channels	Mobile Internet
API Integration	CRM Integration
Map Tool	Online Interactive Map Service
Customer Authentication	Summary Data
Remittance File	Standard – Next Business Day
Timelines and Funds Availability	Between 2 and 4* Banking Business Day
Payment Processor	KUBRA EZ-PAY Retail Cash Payment
KUBRA EZ-PAY RCP Convenience Fee*	\$1.99
Payment Types	Cash



KUBRA ENTERPRISE SERVICES AGREEMENT

*KUBRA EZ-PAY RCP convenience fee can be biller absorbed or customer-funded. If customer-funded, the fee will be added to each cash payment on top of the bill amount being paid.

Financial Review

KIOSK

The Customer may opt-in for the following kiosk services with written request, Customer is not under obligation to utilize kiosk services during any portion of the term. Once initiated opt-in kiosk term will follow Agreement term, prorated as needed. Tender acceptance type and number of locations is at the discretion of the Customer.

Upfront Processes

- Project management
- Business requirement gathering
- Statement of Work development
- Programming
- System testing
- QA testing
- User training
- Installation
- KUBRA EZ-PAY RCP Marketing (Free Integration Playbook)

Kiosk Fee Schedule for Managed Self-Service Kiosk Solution

Kiosk Managed Service	
Up-front costs*	None
Kiosk Hardware Location	Location 1 – TBD Location 2 – TBD Location 3 - TBD
Database Integration	Included
Custom Software Development	Included
QR Statement Design and Optional Mobile Interface	Included
Installation and Staff Training	Included
Electronic Receipting	Included
Telecom service	Included



Software and Hardware Support and Maintenance	Included
Communications	Included

Maintenance and Support				
Maintenance and Support	Included			
Transaction				
Tender Type	Cash	Check	Credit	PIN-less Debit
Kiosk Payment Fee plus	\$1.50	\$1.50	\$1.50	\$1.50
Payment Convenience Fee	\$0.00	\$0.00	KUBRA EZ-PAY Payment Convenience fee	KUBRA EZ-PAY Payment Convenience fee
Fee Funding (customer or biller-funded)**	Customer	Customer	Customer	Customer
Transaction Monthly Minimum***	1500 transactions for the first kiosk per month, 1000 per month for each additional Kiosk			
Armor Car Service	Provided by the City			
Term				
Term				

Please Note:

PIN-less debit - Visa/MasterCard - some cards may have restriction on PIN-less use as defined by issuer and network.

Excludes armored car services. Customer responsible for armor services and is quoted separately.

Kiosk hardware is maintained through life of agreement.

* Customer is responsible for any construction charges to prepare site for kiosk installation.

** Biller-funded or Consumer convenience fee supported. The transaction payment fee is applied on each bill payment at the kiosk regardless of tender type.



KUBRA ENTERPRISE SERVICES AGREEMENT

*** Transaction Payment Monthly Minimum each Kiosk calculated at 1500 times \$1.50 payment.

If Minimum is not attained Customer is responsible for shortfall calculated as follows; - 1,500 payment transaction min per Kiosk minus 1000 payment transaction (actual total payment on Kiosk for the month) = 500 payment transaction short fall

Customer responsible for 500 payment transaction short fall X \$1.50/payment = \$750.00

In the event that the Customer opts to receive the Kiosk Services during the Term, an addendum will need to be mutually agreed to by the parties to provide for a three year term for the Kiosk Services.

SCHEDULE B

KUBRA PRIVACY POLICY

At **KUBRA DATA TRANSFER LTD.** (“Kubra”, “we”, “our” or “us”), we are committed to protecting the privacy and the confidentiality of personal information of our customers and our customer’s Customers (collectively, “Customers”) and employees (“Employees”). In order to comply with applicable privacy legislation and to instill confidence in our Customers and Employees that the personal information they entrust to us is safe, we have developed this Privacy Policy. We want our Customers and Employees to know why we ask for their personal information, how we use it, what safeguards we employ and how to contact us with privacy-related questions.

In this Privacy Policy, “Personal Information” means information that specifically identifies a Customer or Employee as an individual and is provided to or collected by Kubra. The type of personal information Kubra collects, uses and discloses may include a Customer’s or Employee’s name, age, gender, residential mailing address, residential phone numbers or email addresses, financial, credit and banking information, social insurance number (and other identification numbers), employment experience (past and present) and records, health information and tax records. Personal Information does not, however, include a Customer’s or Employee’s business title, business address or business telephone number in such individual’s capacity as an employee of an organization or enterprise.

In this Privacy Policy, “Personal Health Information” includes information concerning an Employee’s physical or mental health collected or generated in the course of Kubra providing an Employee with health services or benefits. In the case of Employees, Personal Information will also include Personal Health Information and all applicable information contained in the Employee’s personnel file.

I. IDENTIFYING THE PURPOSES AND USE OF PERSONAL INFORMATION

Before collecting any Personal Information, Kubra will identify why the Personal Information is required and how it will be used. This Personal Information is documented and kept on file at Kubra’s offices at [5050 Tomken Road, Mississauga Ontario, Canada L4W 5B1](#). Kubra will obtain the Customer’s or Employee’s consent before using or disclosing Personal Information for purposes other than the original reasons given.

Kubra collects and uses Customer’s Personal Information for the following purposes:

- Administration, recording and using Personal Information relevant to the relationship between the Customer and Kubra;
- Protecting against fraud and error;
- Communicating with a Customer generally;
- Communicating Personal Information to an agent, intermediary or other third party during the course of a contract or mandate for the performance of any of the purposes listed in this Privacy Policy;
- Complying with all applicable laws; and
- Such other specific purposes which are communicated to the Customer by Kubra and its representatives before collection of the Personal Information.

Kubra collects and uses an Employee’s Personal Information for the following purposes:

- Decision-making regarding an Employee's hiring, duties, transfer, training, discipline, promotion and retention;
- Recording and determining an Employee's eligibility for participation in various Kubra benefit plans, including health and dental benefits;
- Compliance with all municipal, provincial, federal and other applicable laws regarding an Employee;
- Recording and maintaining an Employee's attendance record, service award and bonuses record, performance evaluations, performance improvement plans, remuneration details, or maintaining any other necessary information for establishing, managing or terminating the employment relationship (including its related benefits), as well as the determination of the applicable income and benefits; and
- Such other specific purposes which are communicated to the Employee by Kubra and its representatives before collection of the Personal Information.

We may use, share and disclose a Customer's or Employee's Personal Information to our affiliates, associates, agents, suppliers and such other third parties as Kubra, acting reasonably, may deem necessary for the fulfillment of the purposes noted above or where otherwise required by law. In the unlikely event that Kubra or substantially all of its assets are acquired by a third party, a Customer's and Employee's Personal Information may be one of the assets transferred to such third party and Kubra may reasonably disclose such Personal Information to a prospective third party purchaser.

II. CONSENT

Except in certain extraordinary circumstances, Kubra does not collect, use or disclose a Customer's or Employee's Personal Information without their knowledge and consent. Such extraordinary circumstances may include, without limitation, when legal, medical or security reasons make it impossible or impractical to obtain consent.

The Customer's and Employee's consent will be obtained at the time of collection of the Personal Information, or when a new use for the Personal Information is identified. A Customer or Employee may withdraw their consent at any time, subject to any legal or contractual restrictions and on the provision of reasonable notice to Kubra. If a Customer or Employee chooses to withdraw his or her consent, he or she is required to do so in writing to the Chief Compliance Officer (please see section VII of this Privacy Policy). Any implications to withdrawing consent will be explained to the Customer or Employee at the time written notice of such withdrawal is received by Kubra. Such implications may include, but are not limited to, a breakdown, interruption or cessation of Kubra's relationship with the Customer or Employee.

By becoming an employee of Kubra, Employees have consented to the disclosure of their Personal Information to a third party in the circumstances, or for the purposes, set out in this Privacy Policy.

III. LIMITING COLLECTION

Kubra limits the collection of a Customer's or Employee's Personal Information to that which is necessary for the purposes identified in this Privacy Policy, or for any additional purpose identified to the Customer or Employee before collection of the Personal Information.

IV. LIMITING USE, DISCLOSURE AND RETENTION

Personal Information is not used or disclosed for purposes other than those for which it was originally collected, except with the consent of the Customer or Employee, or as permitted by law. Personal Information is only retained as long as may be necessary for the fulfillment of these purposes, or to meet government requirements, whichever is longer, following which it is destroyed, erased, or rendered anonymous.

V. ACCURACY

Kubra strives to ensure that Customer's or Employee's Personal Information is as accurate, complete and up to date as necessary for the purposes for which it is used. Information is updated only when necessary to fulfill specified purposes. Employees are required to notify Kubra of a change of Personal Information as soon as possible for payroll and tax purposes.

VI. SAFEGUARDS

Kubra has security safeguards in place designed to protect against loss, theft, unauthorized access, disclosure, copying, use or modification of Personal Information under the care of Kubra. The nature of the safeguards depends on the sensitivity, format, location and storage of the Personal Information. These security measures may from time to time include locked cabinets, computer passwords, software firewalls to stop hackers, encryption software, restricting access to Personal Information to only those employees or representatives who have a need to know and, if deemed necessary by Kubra in its sole discretion, confidentiality covenants from third parties to whom Personal Information has been disclosed.

E-mail is not a 100% secure medium, and Customers and Employees should be aware of this when contacting us to send Personal Information.

VII. ACCOUNTABILITY AND OPENNESS

Kubra is responsible for the Personal Information under its control and has appointed a Chief Compliance Officer to ensure that we comply with all applicable privacy legislation and the terms of this Privacy Policy. All employees involved in maintaining or collecting Personal Information are trained via this Privacy Policy. Personal Information provided to third party service providers with whom Kubra has a contractual agreement will have levels of protection comparable to the internal protection of Personal Information maintained at Kubra.

The Chief Compliance Officer addresses and investigates questions or concerns regarding Customer's or Employee's Personal Information. The Chief Compliance Officer may be reached by mail at Kubra Data Transfer Ltd, 5050 Tomken Road, Mississauga Ontario, Canada L4W 5B1, Attention: Chief Compliance Officer, or by telephone at (905) 624-2220. Copies of this Privacy Policy and any future updates or amendments hereto are available at www.kubra.com and upon request from Kubra.

VIII. INDIVIDUAL ACCESS

Upon written request of a Customer or Employee, Kubra will provide such Customer or Employee with access to his or her Personal Information. Kubra will correct or amend any inaccuracies in the Customer's or Employee's Personal Information, and such amended information will be forwarded to any third parties who require access to the information. Kubra has the right to refuse a request for access to Personal Information:

- If the information is protected by legal privilege;
- If granting access would reveal confidential commercial or financial information;
- If doing so would reasonably be expected to threaten the life or security of another individual;
- If the information was collected for purposes related to the detection and prevention of fraud;
- If the information was generated in the course of a formal dispute resolution process;
- If the information would likely reveal Personal Information about another Customer or Employee, as the case may be;

- To protect Kubra's rights and property.

If the request of a Customer or Employee for such individual's Personal Information is denied, the individual will be informed in writing of the reasons for the denial, as well as any recourse available to such individual.

Access to Customer's or Employee's Personal Information will be at no cost to such Customer or Employee. Minimal charges may apply, however, for the transcription, reproduction or transmission of documents containing Personal Information.

This section concerning individual access is superseded by section 22, Public Records.

IX. CHALLENGING COMPLIANCE

If a complaint ("Complaint") regarding Kubra's handling of Personal Information is received, an individual (the "Investigator") with the skills necessary to conduct an investigation fairly and impartially will be assigned. The Investigator will have access to all relevant records and will be permitted to speak with the Employee(s) who handled the Personal Information access request. The complainant will receive notification of the outcome of the investigation clearly and promptly. Any inaccurate Personal Information or policy/procedure changes will be modified, if necessary, based on the outcome of the Complaint.

X. CURRENCY OF THIS PRIVACY POLICY

Kubra reserves the right to change this Privacy Policy at any time and from time to time. Any changes or additions to section I of this Privacy Policy regarding those situations where Kubra will collect, use or disclose Personal Information will not apply to a Customer or Employee without the prior consent of such Customer or Employee. All Customers and Employees are encouraged to contact Kubra to determine if any updates have been made to this Privacy Policy.

SCHEDULE C- Sample Project Live Document



CUSTOMER

Name [enter]
 Contact [enter]
 Phone [enter]
 Email [enter]

 Reference Number [if available]

PROJECT

Name [3lettertype:Customername:projname]
 Type **Choose an item.**
 Leader [enter]
 [enter]
 Programmer

LIVE

Original [date]
 Actual [date]

LIVE Scheduling Consideration(s)

[provide a high-level description of what is being moved into production, and include any special requirements, considerations, and/or circumstances]



Important – Please initial and/or check all of the following

- | Agree | Disagree | Read Carefully |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | All changes have been made as specified in the Business Requirements (BRd); including any Scope Changes (SCd) that may have been approved during the life of this project |
| <input type="checkbox"/> | <input type="checkbox"/> | User Acceptance Testing (UAT) has yielded expected and accurate results |
| <input type="checkbox"/> | <input type="checkbox"/> | Approval is granted to move this project into production on [date] |
| <input type="checkbox"/> | <input type="checkbox"/> | The individual executing the PLd on behalf of [Customer name] does hereby represent and warrant that they are duly authorized by all necessary action to execute this PLd on behalf of their respective principals |
| <input type="checkbox"/> | <input type="checkbox"/> | Day 2 (post-implementation) and/or out-of-scope items has been communicated, documented, and approved |

Stakeholder	Action*	Name (Print)	Signature	Date
KUBRA PMO	Authorization and Approval	[enter]		

Title	Name (Print)	Signature	Date
[PL to Enter Customer Name]			

SCHEDULE D

SERVICE LEVEL AGREEMENT

General:

PROVIDER shall provide reports of its performance against the Service Levels on a monthly basis. Service Levels shall be applicable 90 days after the Production-Ready Date.

Provider will use commercially reasonable efforts to provide the Services in accordance with the performance standards ("Service Levels") set forth in the Service Level Schedule. Performance at or above a Service Level shall constitute satisfactory performance by Provider. In the event that, at any time, a monthly Service Level report shows any material failure by Provider to meet any of the Service Levels, Provider shall: (i) within thirty (30) days after the date of delivery of such report, deliver to Customer a remedial plan showing in reasonable specificity and detail (A) Provider's findings regarding the causes for such failure to meet Service Levels and (B) a remedial plan of actions reasonably designed to eliminate, prevent or reduce the future likelihood of recurrence of such causes; and (ii) diligently proceed to carry out such plan. Provider has ninety (90) days to produce a report showing no material failure following the delivery of the remedial plan. Except for Customer's right to terminate for material breach in accordance with Section 3 hereof the foregoing shall constitute the sole and complete remedy for Customer with respect to the corresponding failures by Provider to meet Service Levels.

Timeliness of Implementation

The implementation time line starts from the date of contract signing (Effective Date) and is primarily based on the number of print streams to be parsed, the number of templates to be created, as well as the number of non-standard features required. Once the Customer implementation documentation is completed, the number of print streams is known, and the number of bill templates is known, then PROVIDER can calculate how long the implementation will take. PROVIDER will present a draft project plan during the kick-off meeting and Customer will then have the opportunity to determine if it will meet the time estimates PROVIDER has identified for the Customer's tasks. Once both the Customer and PROVIDER have agreed on the project plan, every effort on both parties part must be made to meet this time line. Potential delays must be identified at least as soon as known, so that both parties can make suitable adjustments to the time line.

If PROVIDER is the cause of the project's delay, PROVIDER will make every reasonable effort to resolve the issue (s), including applicable internal escalation procedures, in order to ensure that the issue(s) will be resolved and new completion times will be estimated.

If the Customer is the cause of the project's delay, the Customer will make every effort to resolve the issue (s). Failure to resolve the issue(s) in a timely manner (fifteen (15) business days), which causes PROVIDER assets to be idle, will result in the reassignment of said assets to other projects and the Customer's project will be moved to the PROVIDER project queue to be rescheduled as soon as the above mentioned resources become available.

Management Reporting Frequency and Content

PROVIDER will supply daily, weekly and monthly reporting, as needed, to the Customer accessible via the Admin Console. A complete list of all reports accessible via this application is available in the i-Direct product user guide.

Replacement Systems

In the event that any applicable system or function used by PROVIDER to provide a Service is replaced during the Term by a comparable system or function, the Service Level shall, to the extent reasonably practicable, be defined during the first sixty (60) days of operation of such replacement system or function, provided that such Service Level shall be established at a level intended to achieve performance at least the same as or better than performance under the Service Level associated with the replaced system or function.

Storage

Standard retention period for bill images is thirty-six (36) months and thirty-six (36) months for payment history. Historical bill images and payment history may be loaded into the Service at the election of Customer; such election will be noted in the Services Fee Schedule, if applicable. Purging of Customer data, beyond the selected retention period described in the Services Fee Schedule, will be at the election of PROVIDER. Provider is not the system of record and the Customer has the obligation to retain customer data on a permanent basis, or for any other Customer need, and agrees that the loss or destruction of any such data will not result in any liability to PROVIDER.

Additional Storage

PROVIDER may provide storage services for Customer Data beyond the standard period included in the Services, at the election of Customer, which will be invoiced at the then-current Additional Storage Fee rate and described in the Services Fee Schedule.

Account Volume Growth

Batch windows and service levels are based on current account volumes as of the Commencement Date. Batch windows and service levels may be adjusted by PROVIDER in consultation with Customer should account volumes exceed 20% growth in a given month.

Commitment to Data Security

PROVIDER will keep its security practices current by performing independent third party audits. Requests for audit results will be made through the Team Leader during the implementation process and to the assigned Project leader once the system is in full production.

Commitment to Continuous Application and Technology Upgrades

PROVIDER will upgrade systems and application technology regularly in order to provide the most efficient servicing for our Customers. Planned system upgrades will be reported to the Customer via an e-mail notice. Upon giving reasonable advance notice to Customer, PROVIDER at its expense may make any modifications, changes, adjustments or enhancements to the Services, which it considers being suitable or which are required by law or governmental regulation.

Documentation of Changes

Any additions or modifications to Service Levels shall be documented in a written amendment to the Agreement.

Customer Support:

Support Hours

Post Production, PROVIDER will provide Customer support weekdays 8:00 am ET to 6:00 pm ET, excluding holidays. Customer support required at another time will be based upon the severity of the problem. Contact will be made in accordance with the support defined below.

Telephone support services, available Monday to Friday 8:00 am ET to 6:00 pm ET excluding holidays, will include assistance related to routine questions regarding use of the i-doxs Suite system (i-doxs Suite), assistance in identifying and verifying the causes of suspected errors or malfunctions in the i-doxs Suite system, advice on detours for identified errors or malfunctions, where reasonably available and correction of reproducible errors of the i-doxs Suite system that cause the applicable i-doxs Suite system to deviate materially from the applicable documentation.

After Hours Support

PROVIDER will provide support outside of regular business hours as needed. Although your dedicated support team will be unavailable, general support will still be available for any Production related issue. With that in mind please attempt to make solution specific requests for changes during business hours and use after hours support for service interruptions and issues.

On-site Support

On-site services will be provided at the Customer's reasonable request. PROVIDER shall charge Customer for such on-site services at PROVIDER's then-current rates, plus reasonable travel costs and other out-of-pocket expenses directly incurred in performing such services, provided Customer has agreed to pay for on-site services in advance. However, Customer shall have no obligation to pay for services rendered as a result of a failure of the PROVIDER solution to satisfy the Service Level Agreement set forth herein, where PROVIDER determines in its sole discretion, that such services must be performed on-site at Customers premises.

Escalation Procedures

In order to properly track and monitor, all issues must be reported to PROVIDER Support via the dedicated 800 telephone number and / or to Customersupport@KUBRA.com Customer may also elect to escalate an issue directly to your dedicated Customer Relationship Manager.

Service Levels:

System Availability

PROVIDER shall make access available to the Services twenty-four hours per day, seven days per week, less (a) scheduled maintenance; and (b) excusable downtime resulting from events beyond PROVIDER's reasonable control (the "Availability Period"). PROVIDER will conduct proactive monitoring of all servers, including monitoring disk space, CPU utilization, memory utilization and critical error messages. PROVIDER will take commercially reasonable efforts to notify Customer in advance of any potential server outages or equipment failures that would prevent Customer from using the Services. PROVIDER will provide support 24 hours per day, 7 days per week, to all servers. PROVIDER will maintain at least 99.9 percent (99.9%) server availability during the Availability Period, which availability shall be measured monthly and based on a system-wide average. Events that are beyond the control of PROVIDER, such as web brownouts, consolidator/payment processor unscheduled downtime, and scheduled maintenance are not included

Scheduled Maintenance

PROVIDER will schedule all routine system maintenance, hardware and software upgrades, and network changes from 2AM ET to 6AM ET each Sunday. The scheduled maintenance window will not apply towards the Availability Period.

Notice for Changes

PROVIDER will take commercially reasonable efforts to provide 72 hours advance notice for any unscheduled system maintenance.

Response Time

PROVIDER will take commercially reasonable efforts to maintain an internal response time of five (5) seconds or less for all transactions from the time they arrive at the PROVIDER firewall until they are delivered back to the firewall.

Parsing and Presentment

Upon PROVIDER's receipt of the document data from Customer, PROVIDER will process and load the customer documents, no later than the time frame mutually agreed to after receipt. All regularly scheduled files received for parsing and presentment will be processed within twenty four (24) hours of receipt by PROVIDER unless otherwise specified and agreed upon with Customer. Receipt of the file is identified as the successful completion of the transmission of the file and the relevant return code confirming successful transmission. In the event of exceptionally large, additional, missed, or the reprocessing of files, special arrangements must be made with PROVIDER Customer support to determine a mutually agreeable schedule for delivery.

E-mail Delivery

E-mail messages will be made available to applicable customers within eight hours of the event that triggers the message. Events that are beyond the control of PROVIDER, such as web brownouts and scheduled maintenance are not included in this time commitment.

Payment Processing and Posting

If Customer elects to accept ACH payments, PROVIDER shall create (a) a daily ACH file to be electronically transmitted to the designated financial institution on each business day (Monday through Friday, excluding Bank holidays), for the total amount of the transactions processed, in accordance with the terms and conditions set forth herein; and (b) a separate Accounts Receivable file that is consistent with the ACH file and (c) that PROVIDER will post the Accounts Receivable (A/R) file each day on a specified FTP server for Customer at a mutually agreed-upon time.

If Customer elects to accept Credit / Debit cards, PROVIDER shall authorize those transactions on a real time basis with the chosen credit card processor and provide a nightly settlement file to the credit card processor for verification. The Credit Card Processor will be responsible for depositing the funds to you designated bank account.

Transactions received before the daily cut-off of 4:00pm will be posted in real time in the Customer Account Receivable accounts with the same date that the transaction was received. (Example Transaction received at 3:45 pm on 2/23/2017 will be posted with the date 2/23/2017. Transactions completed after the cut-off time of 4:00pm on a business day, or on a Saturday, Sunday, or city of Clearwater holiday, will be posted on the next business day.

Services Level Failures:

Excused Performance Problems

PROVIDER shall not be liable to Customer for any failure to meet a Service Level to the extent that such failure is attributable to: (i) a Force Majeure event; or (ii) acts or omissions of Customer; or (iii) breaches of the Agreement by Customer. The foregoing is referred to herein collectively as an "Excused Performance Problem."

Single Point of Contact

Regardless of whether any failure by PROVIDER to meet a Service Level is attributable to PROVIDER or an Excused Performance Problem, and without limitation on PROVIDER's obligations to address such failure as otherwise

specified in this Agreement, PROVIDER shall provide a single point of contact in the form of a toll-free number to address resolution of such failure and shall act promptly to address the problem causing the failure.

Incident Management:

All incidents that occur and affect Customer directly and/or indirectly will be managed to resolution by your Support Team with ongoing communication to Customer. Resolution of incidents at PROVIDER is facilitated through:

- Provider incident management 7 X 24 based on the severity of the issue defined hereto.
- PROVIDER analysts will track incidents to ensure that they are resolved in a timely manner. Resolution may be in the form of a transfer to the Customer's own support service where appropriate.
- Escalation of any incident to PROVIDER management at any time.
- Communication to all necessary parties as detailed in the contact lists agreed with the Customer.
- Classification of the severity level of each incident in accordance with PROVIDER's Incident Classification Standard
- Integrity and completeness of Incident records.

Incident Classification Standard

Provider shall use all commercially reasonable efforts to respond to incident reports according to the following schedule:

Incident Classification	Action 1	Action 2	Action 3
Severity Level 1	1 hour	1 business day	15 business days
Severity Level 2	1 hour	1 business day	30 business days
Severity Level 3	1 hour	15 business days	45 business days
Severity Level 4	1 hour	45 business days	as appropriate

Incident Classification Definition

Severity Level 1	<u>Fatal</u> : Errors preventing all useful work from being done as reasonably determined by Customer and Provider.
Severity Level 2	<u>Severe Impact</u> : Errors, which disable major functions from being performed as reasonably determined by Customer and Provider.
Severity Level 3	<u>Degraded Operations</u> : Errors disabling only certain nonessential functions as reasonably determined by Customer and Provider.
Severity Level 4	<u>Minimal Impact</u> : Minor and cosmetic issues as reasonably determined by Customer and PROVIDER.

Action Classification

Action 1	Acknowledgement of receipt of reported issue or error
Action 2	Provide patch, workaround, temporary fix and document corrective action
Action 3	Official object code fix, update or major release and/or updated documentation



KUBRA ENTERPRISE SERVICES AGREEMENT

Incidents are tracked via a work request “ticket” that documents all correspondence through its entire “life cycle”. The ticket is also used to collect vital information for the change management logs which detail all issues and the subsequent adjustments and revisions to the solution in question.

Note: Business days are Monday to Friday, excluding national holidays.

Schedule E – Payment Processing Terms

- 1.1 **Transactions.** In furtherance of the provision of the Services, Customer shall submit certain data to Provider which is the evidence and electronic record of sale or lease transactions (“**Transactions**”) between Customer and purchasers/lessees of Customer’s goods and/or services (“**Purchasers**”) representing payment by the Purchasers by (i) credit or debit cards (“**Cards**”) or (ii) electronic check processing, through either ACH or facsimile draft transactions (“**ECP**”), which Customer accepts from Purchasers as payment for their purchases from Customer, and for which Provider agrees to submit to a third party electronic payment service provider (“**Payment Processor**”) on Customer’s behalf for payment processing.
- 1.2 **Certain Card Acceptance Policies.** Each sale Customer makes involving a Card shall be evidenced by a Transaction record completed with the sale date and the sale amount, and other information as required by (i) Payment Processor, or (ii) the group of Card issuer banks or debit networks that facilitate the use of payment cards (the “**Associations**”), such as the systems operated by MasterCard International, Inc., Visa, Inc. and NYCE, Pulse, Star, and Interlink debit networks. With respect to any Transaction for which a Card is not physically presented, such as in any on-line, mail, telephone or pre-authorized transaction, Customer must have notified Provider in writing of its intention to conduct such Transactions and Provider has agreed to accept them. Notwithstanding the foregoing, Customer acknowledges that under the bylaws, rules and regulations of the Association, as they exist from time to time (the “**Association Rules**”), Customer cannot rebut a reversal of a Card sale it previously presented (a “**Chargeback**”) where the Purchaser disputes making the purchase without an electronic record or physical imprint of the Card.
- 1.3 **ECP Transactions.** Each ECP Transaction shall be evidenced by a Transaction record completed with the sale date and the sale amount, and other information as required by (i) Payment Processor, or (ii) the National Automated Clearing House Association (“**NACHA**”). Customer warrants that the content of the sales data submitted to Provider in respect of each ECP Transaction is accurate, including the fact that the amount of the Transaction is correct, that the account number and financial institution’s ABA number are correct, and that the entry is timely. Customer will not reinitiate ECP Transactions once they have received a “Payment Stopped” as a reason for an ECP Return (as hereinafter defined), unless an authorization from the Purchaser overriding the “Payment Stopped” has been received. For the purposes of this Agreement, “ECP Return” means the reversal of an amount for which Customer has previously presented as an ECP Transaction, as the result of (i) a non dollar transaction sent to Payment Processor by the receiving institution which advises that the data contained in the original transaction is either incorrect or has been changed (“**Notification of Change**”), and the Notification of Change provides the correct data allowing for the processing of the transaction; (ii) being initiated by the Purchaser’s bank at the request of the Purchaser or may be caused due to invalid account data or insufficient funds at the receiving institution; or (iii) any reason allowed by Federal Reserve Regulations pertaining to the ACH system.
- 1.4 **Requirements for Transactions.** As to each Transaction Customer tenders to Provider for processing, Customer represents and warrants that:
- (a) The Transaction represents payment or refund of payment, for the bona fide sale or lease of the goods, services or both;
 - (b) The Transaction does not involve any element of credit for any purpose other than payment for a current transaction (including payment of a previously-dishonoured check) and, except in the case of approved installment or pre-payment plans, the goods have been shipped or services actually rendered to the Purchaser;
 - (c) The Transaction is free from any material alteration not authorized by the Purchaser;
 - (d) Neither the Customer nor a Customer employee has advanced any cash to the Purchaser or to the Customer or to any of Customer’s representatives, agents or employees in connection with the Transaction, nor has Customer accepted payment for effecting credits to a Purchaser’s account;

- (e) Customer has made no representations or agreements for the issuance of refunds except as it states in the Customer's return/cancellation policy, which has been previously submitted to us in writing as provided below;
 - (f) Customer has no knowledge or notice of information that would lead Customer to believe that the enforceability or collectibility of the subject Transaction is in any manner impaired, and the Transaction is in compliance with all applicable laws, ordinances, and regulations;
 - (g) all Transactions have been originated in compliance with this Agreement and the Association Rules; and
 - (h) For a sale where the Purchaser pays in installments or on a deferred payment plan, a Transaction record has been prepared separately for each installment transaction or deferred payment, as applicable, on the date(s) the Purchaser agreed to be charged. All installments and deferred payments, whether or not they have been submitted to Provider for processing, shall be deemed to be a part of the original sale.
- 1.5 **Lack of Authorization.** Provider reserves the right to refuse to process any Transaction presented by Customer (i) unless a proper authorization/approval code is recorded, (ii) if Provider reasonably determines that the Transaction is or will become uncollectible from the Purchaser to which the Transaction would otherwise be charged, or (iii) if Provider determines that the Transaction was prepared in violation of any provision of this Agreement.
- 1.6 **Refunds and Adjustments.** Customer is required to maintain a fair policy with regard to the return/cancellation of goods or services and adjustment of sales. Customer is required to disclose to its customers, and to Provider, Customer's return/cancellation policy. The amount of the refund/adjustment cannot exceed the amount shown as the total on the original Transaction except by the exact amount required to reimburse the Purchaser for postage that the Purchaser paid to return the goods. Customer is not allowed to accept cash or any other payment or consideration from a Purchaser in return for preparing a refund to be deposited to the Purchaser's account nor to give cash refunds to a Purchaser in connection with a sale, unless required by law.
- 1.7 **Authorized Bank Accounts.** In order to receive funds from Payment Processor and/or Provider, Customer must maintain one or more bank accounts at a bank that is a member of the Automated Clearing House system (the "**Customer Accounts**"). Customer agrees that it shall not close a Customer Account without giving Provider at least four (4) days' prior written notice and substituting another bank account, if necessary. Customer is solely liable for all fees and costs associated with the Customer Accounts and for all overdrafts. Provider acknowledges that Payment Processor will initiate electronic credit and debit entries and adjustments to the Customer Accounts at any time without respect to the source of any monies in the Customer Accounts, and such will be the case until Provider and/or Payment Processor notifies Customer's bank that all monies due from Customer under this Agreement have been paid in full. Provider will not be liable for any delays in receipt of funds or errors in bank account entries caused by third parties, including but not limited to delays or errors by the Associations or Customer's bank.
- 1.8 **Travel and Entertainment Cards.** Customer cannot submit any Transaction through a travel and entertainment Card issued by American Express, or any other travel and entertainment Card for which Provider may agree to accept submissions in the future ("**T&E Card**"), for processing, unless Customer has in effect a valid agreement with the respective T&E Card company. Upon transmission of a T&E Card Transaction by Customer, Payment Processor will forward the Transaction to the appropriate T&E Card company. Except to the extent that Payment Processor may provide funds settlement services for American Express, payment of the proceeds due to Customer will be governed by whatever agreement Customer has with that T&E Card company, and Provider does not bear any responsibility for a T&E Card company's performance. If Customer's agreement with a T&E Card company requires the T&E Card company's consent for Provider or for Payment Processor to perform the Services, Customer is responsible for obtaining that consent.

- 1.9 **Negative Amounts.** To the extent Transactions do not represent sufficient credits or the Customer Accounts do not have a sufficient balance to pay amounts due from Customer under this Agreement, Provider may pursue one or more of the following options: (i) demand and receive immediate payment for such amounts; (ii) debit the Customer Accounts for the amount of the negative balance; (iii) withhold Customer's settlement payments until all amounts are paid; (iv) delay presentation of Customer's refunds until Customer makes a payment to Provider of a sufficient amount to cover the negative balance; or (v) pursue any remedies Provider may have at law or in equity. Furthermore, if the amount represented by the Transactions in any day is negative due to refunds/customer credits being submitted by Customer in excess of Customer's sales, Customer is required to provide Provider with sufficient funds prior to the submission of the Transactions so as to prevent the occurrence of a negative balance.
- 1.10 **Delinquency/Customer Fraud.** If (i) there is a material, adverse change in Customer's financial condition or payment record with creditors, or if Customer is in material default of this Agreement; (ii) Customer is receiving excessive Chargebacks or ECP Returns; (iii) Customer significantly alters the nature of Customer's business or product lines; or (iv) if Provider has reasonable grounds to believe that Provider or Payment Processor may be liable to third parties for the provisional credit extended to Customer, or that Customer may be liable to its Purchasers, Card issuing banks, NACHA or the Associations, Provider may temporarily suspend payments to Customer (or direct Payment Processor to temporarily suspend payments to Customer), during an investigation of the issue and/or designate an amount of funds that Provider must maintain in order to protect Provider against the risk of existing or anticipated Chargebacks or ECP Returns and to satisfy Customer's other obligations under this Agreement (the "**Reserve Account**"), which may be funded in the same manner as provided for negative balances in Section 1.9. The Reserve Account will contain sufficient funds to cover any unbilled processing costs plus Provider's estimated exposure based on reasonable criteria for Chargebacks/ECP Returns, returns and unshipped merchandise and/or unfulfilled services. Provider may apply funds in the Reserve Account toward, and may set off any funds that would otherwise be payable to the Customer's Accounts against, the satisfaction of any amounts which are or become due from Customer pursuant to this Agreement. The Reserve Account will not bear interest, and Customer will have no right or interest in the funds in the Reserve Account; provided that upon satisfaction of all of Customer's obligations under this Agreement, Provider will pay (or direct Payment Processor to pay) to Customer any funds then remaining in the Reserve Account. Any funds in the Reserve Account may be commingled with other funds, and need not be maintained in a separate account. Effective upon the establishment of a Reserve Account, Customer irrevocably grants to Provider a security interest in any and all funds, together with the proceeds thereof, that may at any time be in Provider or Payment Processor's possession and would otherwise be payable to Customer pursuant to the terms of this Agreement. Customer agrees to execute and deliver to Provider such instruments and documents that Provider may reasonably request to perfect and confirm the security interest and right of setoff set forth in this Agreement. Customer's obligations and Provider's rights under this Section survive termination of this Agreement.
- 1.11 **Response to Retrieval Requests.** Provider will send Customer any request for information by a Purchaser, Card issuer or financial institution relating to a claim or complaint concerning a sale Customer has made ("**Retrieval Request**"), that Provider cannot satisfy with the information Provider has on file concerning such sale. In response, Customer must provide Provider in writing by certified or overnight mail or by confirmed fax (or by other means as agreed by Provider) the resolution of Customer's investigation of such Retrieval Request and include legible copies of any documentation required by the Retrieval Request within seven business days after Provider sends it to Customer (or such shorter time as the NACHA or Association Rules may require and of which Provider notifies Customer). Once Provider receives Customer's response, Provider will take the appropriate steps in a timely manner to reduce the probability of the Purchaser's bank sending an unjustified Chargeback or ECP Return. Customer acknowledges that Customer's failure to fulfill a Retrieval Request in accordance with NACHA or Association Rules may result in an irreversible ECP Return or Chargeback.
- 1.12 **Chargebacks and ECP Returns.** If Provider determines that the Customer is receiving an excessive amount of Chargebacks or ECP Returns, in addition to Provider's other remedies under this Agreement, Provider may take the following actions: (1) review Customer's internal procedures relating to acceptance of Cards or ECP Transactions, as applicable, and notify Customer of new procedures Customer should adopt in order to avoid future Chargebacks or ECP Returns, as applicable; (2) notify Customer of a new rate

Provider will charge Customer to process Customer's Chargebacks or ECP Returns; or (3) collect from Customer (pursuant to Section 1.10) an amount reasonably determined by Provider to be sufficient to cover anticipated Chargebacks or ECP Returns and related fees and fines; or (4) terminate all payment processing services under this Agreement. For purposes of this Agreement, an excessive number of Chargebacks means one Chargeback per 100 Transaction records or the total dollar amount of Chargebacks is greater than or equal to three (3%) percent of the total dollar amount of Transactions for any 30-day period. The foregoing percentages are subject to change in accordance with the Association Rules. Customer also agrees to pay any and all Association or NACHA fees and fines assessed against Customer, Provider or Payment Processor relating to Customer's violation of this Agreement, the Association Rules or NACHA rules with respect to Customer's Transactions or with respect to excessive Chargebacks or ECP Returns under this Section.

- 1.13 **Claims of Purchasers.** Customer has full liability if any Transactions for which Provider has given (or directed Payment Processor to give) the Customer Accounts provisional credit is the subject of a Chargeback or ECP Return. Subsequently, Customer is allowed to resubmit applicable Transactions for a second presentation, but only in accordance with Association or NACHA Rules, as applicable. To the extent that Provider or Payment Processor has paid or may be called upon to pay a Chargeback, ECP Return or refund/adjustment for or on the account of a Purchaser and Customer does not reimburse Provider as provided in this Agreement, then for the purpose of Provider obtaining reimbursement of such sums paid or anticipated to be paid, Provider has all of the rights and remedies of such Purchaser under applicable federal, state or local law and Customer authorizes Provider to assert any and all such claims in Provider's own name for and on behalf of any such Purchaser individually or all such Purchasers as a class.
- 1.14 **Card Advertising.** Wherever Customer accepts Cards, Customer will inform the public of the Cards that it honours. However, Customer may not indicate that any of the Associations endorses its goods or services.
- 1.15 **Price Changes.** To the extent Customer's actual volume of Transactions, method of processing, type of business and interchange qualification criteria differ from the information provided to Provider and/or Payment Processor, Provider may modify the pricing for the payment processing Services with 60 days' prior written notice. In addition, by giving written notice to Customer, Provider may change Customer's fees, charges and discounts resulting from (i) changes in Association fees (such as interchange, assessments and other charges) or (ii) changes in pricing by any third party provider of a product or service used by Customer. Such new prices will be applicable to Customer as of the effective date established by the Association or third party provider, or as of any later date specified in Provider's notice to Customer.
- 1.16 **Termination.** Provider may terminate this Agreement if an Association or NACHA notifies Provider that it is unwilling to continue accepting Customer's Transactions. Provider may also terminate this Agreement at any time upon written notice to Customer as a result of any of the following events: (i) any non-compliance with this Agreement, the Association Rules, NACHA Rules or the Operating Procedures, which is not cured within thirty (30) days of Provider's notice to Customer; except that no cure period is allowed for termination based on Customer's fraud or failure to fund a Reserve Account; (ii) Provider reasonably deems Customer to be financially insecure, (iii) Customer or any person owning or controlling Customer's business is or becomes listed in the MATCH file (Member Alert to Control High-Risk Merchants) maintained by Visa and MasterCard or any Association or NACHA notifies Provider or Payment Processor that it is no longer willing to accept Customer's Transactions, or (iv) for a period of more than 60 consecutive days, Customer does not transmit Transactions to Provider. Upon notice of any termination of this Agreement, Provider may notify Customer of the estimated aggregate dollar amount of Chargebacks, ECP Returns and other obligations and liabilities that Provider reasonably anticipates subsequent to termination, and Customer agrees to immediately deposit such amount, or Provider (or Payment Processor) may withhold such amounts from Customer's credits, in order to establish a Reserve Account pursuant to and governed by the terms and conditions of Section 1.10.
- 1.17 **Indemnification.** The indemnity provided under this Section 1.17 shall survive the termination of this Agreement. Customer agrees to indemnify Provider and its affiliates, officers, directors, employees, agents, the Associations and NACHA, from any losses, liabilities, and damages of any and every kind (including, without limitation, any costs, expenses and reasonable attorneys' fees) arising out of any claim, complaint,

Chargeback or ECP Return: (i) made or claimed by a Purchaser with respect to any Transactions submitted by Customer, or (ii) caused by Customer's non-compliance with this Agreement, the Association Rules or NACHA Rules, including any breach of a representation or warranty made by Customer, or (iii) any voluntary or involuntary bankruptcy or insolvency proceeding by or against Customer. The indemnification provided for in this Section does not apply to any claim or complaint to the extent it is caused by Provider's own negligence or willful misconduct.

- 1.18 **Disclosure of Purchaser Information.** Customer shall exercise reasonable care to prevent disclosure of Card information or Purchaser account information, other than to Customer's employees, agents and contractors for the purpose of assisting Customer in completing a Transaction, or to the applicable Association or NACHA, or as specifically required by law. If at any time Customer determines that Card account or bank account number information has been compromised, Customer will notify Provider immediately and assist in providing notification to the proper parties as Provider deems necessary.
- 1.19 **Additional Financial Information.** To the extent not available from public sources, both parties agree to furnish within ten (10) business days of request (i) their most recently prepared financial statements and credit information or (ii) if applicable, their three most recent filings with the SEC or any other securities commission in respect of which party must file financial disclosure documents.
- 1.20 **Other Information.** With prior notice and during Customer's normal business hours, a Provider or Payment Processor duly authorized representative may visit Customer's business premises and may examine only that part of Customer's books and records that pertain to Transactions. Customer agrees to provide Provider at least twenty (20) days' prior written notice of Customer's intent to change its product line or services, or Customer's trade name, or the manner in which Customer accepts Cards or ECP Transactions. If Provider determines such a change is material to the relationship between Provider and Customer, Provider may refuse to process Transactions made pursuant to the change. Both parties agree to provide other party with prompt written notice if party is the subject of any voluntary or involuntary bankruptcy or insolvency petition or proceeding.
- 1.21 **Application and Credit Check.** All statements made on Customer's application for payment processing Services are true as of the date of Customer's application. Customer's signature on this Agreement authorizes Provider and/or Payment Processor to perform any credit check deemed necessary.
- 1.22 **Payment Processing Guidelines.** Customer agrees to execute the Submitter Merchant Agreement with Chase Paymentech.