# CITY OF MILPITAS

## PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____ ("Effective Date") by and between the City of Milpitas, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 ("City" or "Biller"), and **Invoice Cloud Inc**., a Delaware corporation with its principal place of business at **30 Braintree Hill Office Park, Suite 101 Braintree, MA 02184** (hereinafter referred to as "Consultant" or "Invoice Cloud"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

## RECITALS

A.      City is a public agency of the State of California and is in need of professional services for the following project:

**Milpitas Utility Electronic Bill Presentment and Payment**
 (hereinafter referred to as "the Project").

B.      Consultant is duly licensed and has the necessary qualifications to provide such services.

C.      The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

## AGREEMENT

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

1.      Exhibits.

This Agreement is comprised of this Professional Services Agreement and the following listed Exhibits attached hereto and incorporated herein by reference:
   **A.** Exhibit A – Statement of Work, with Appendices A, B, C, and D
   **B.** Exhibit B – Schedule of Charges
   **C.** Exhibit C – Activity Schedule
   **D.** Exhibit D – Insurance Requirements
   **E.** Exhibit E – Invoice Cloud Biller Agreement
   **F**. Exhibit F- Confirmation of Critical Terms of Service on the Cash Transaction Network

To the fullest extent possible, the terms and conditions of this Agreement, the Exhibits and the RFP shall be construed in the manner that avoids inconsistency with any other part of the Agreement. In the case of a conflict among the parts of this Agreement, the order of precedence shall be as follows:

   i.   The Agreement without any Exhibits along with Exhibit F
   ii.  Exhibit D – Insurance Requirements
   iii. Exhibit B – Schedule of Charges
   iv.  Exhibit E – Invoice Cloud Biller Agreement
   v.   Exhibit A – Statement of Work with Appendices A, B, C, and D
   vi.  Exhibit C – Activity Schedule

2.       <u>Services; Compensation</u>.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit A.

      a.       Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit B.

      b.       In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Two Hundred Seven Thousand One Hundred Nine Dollars and Fifty-Nine Cents ($207,109.59)** . This amount is to cover all printing and related costs, and the City will <u>not</u> pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3.       <u>Additional Work</u>.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4.       <u>Maintenance of Records</u>.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the Agreement term and for four (4) years from the date of final payment under the Agreement for inspection by City.

5.       <u>Term</u>

The term of this Agreement shall be from **July 1, 2020 to June 30, 2025** (the "Initial Term"), unless earlier terminated as provided herein.

6.       <u>Delays in Performance</u>.

      a.       Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

      b.       Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7.       <u>Compliance with Law</u>.

      a.       Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b.      If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c.      If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

d.      Consultant expressly understands that City is a public agency subject to the California Public Records Act (Cal. Government Code § 6250 et seq.).  In the event that City receives a public records request seeking the disclosure of information that Consultant has designated as its confidential proprietary information, City shall notify Consultant, and Consultant shall be allowed to take any reasonable action to preserve the confidentiality of such information at its own expense.  City's obligation shall only extend to notifying Consultant of the request, and City shall have no obligation to preserve the confidentiality unless doing so is in full compliance with the law.  This section shall prevail over any conflicting obligation in Section 4 of Exhibit E.

8.      Standard of Care

Consultant's services will be performed in accordance with generally accepted practices and principles in a manner consistent with the  Agreement  and Exhibits.

9.      Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10.     Independent Contractor

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11.     Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under Exhibit D (Insurance Requirements), attached hereto and incorporated herein by this reference. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required therein.

12.     Indemnification.

a.      To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of

the Consultant's services, the Project or this Agreement, that results in bodily injury or damage to personal property, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b.        If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

c.        Without limiting the generality or applicability of subsections a and b of Section 12, above, if a third party makes a claim against the City that any use of the Services in accordance with the terms of this Agreement infringes such third party's intellectual property rights, Consultant, at its sole cost and expense, will defend City against the claim and indemnify City from the damages, losses, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by Consultant, provided that City: (i) notifies Consultant promptly in writing of the claim; (ii) gives Consultant sole control of the defense and any settlement negotiations; and (iii) gives Consultant reasonable assistance in the defense of such claim.  If Consultant believes or it is determined that the Services violated a third party's intellectual property rights, Consultant may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, Consultant may terminate City's use rights and refund any unused, prepaid fees City may have paid to Consultant.

13.       California Labor Code Requirements.

a.        Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws").  If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is One Thousand Dollars and Zero Cents ($1,000.00) or more, Consultant agrees to fully comply with such Prevailing Wage Laws.  Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b.        If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works

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project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. <u>Verification of Employment Eligibility</u>.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. <u>Personal Information; Disclosure of Security Breach</u>.

If this Agreement requires City to disclose "Personal Information" to Consultant within the meaning of California Civil Code section 1798.29(g), Consultant and subconsultants, if any, shall use such information only in accordance with this Agreement and only as necessary in performing the Services. Consultant is advised of the requirements of the California Civil Code, section 1798.29, requiring notification to any resident of California in the event of breach of the security of a system containing computerized data that includes Personal Information. Consultant agrees it will notify the City as soon as practicable (and in no event more than 72 hours) upon the occurrence of any verified breach in the security resulting in loss of or unauthorized access to Personal Information data from within Consultant's systems that may potentially trigger the need for security breach notifications pursuant to Civil Code section 1798.29 or similar State or Federal law. The parties agree that the City will control the timing and content of any such required security breach notification to the extent permitted under applicable law and agree that Consultant shall fully pay or reimburse the City for the costs of providing any such security breach notification required by Civil Code, section 1798.29,or similar State or Federal law, resulting from any security breach of the Consultant's system. Consultant's responsibility for the costs of providing such security breach notifications shall not be limited by any disclaimer or limitation of liability in the Agreement, including but not limited to, Sections 8 and 12 of Exhibit E of this Agreement.

16. <u>Laws and Venue.</u>

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California.

17 <u>Termination or Abandonment</u>

a. City has the right to terminate the Agreement, after the Initial Term, not for cause, by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all City's Customer Data (as set forth in Exhibit E), original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned, other than Consultant's rights in the "Service" as defined in

Exhibit E. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

    b.    Either Party may terminate this Agreement upon thirty (30) calendar days' written notice to the other Party only in the event of substantial failure by the other Party to perform in accordance with the terms of this Agreement and the failure of the breaching party to cure during such notice period.

    c. The Consultant understands and accepts that at all times; the Agreement is subject to appropriation of funds by the Milpitas City Council. The Agreement may terminate without penalty, liability or expense of any kind to the City at the end of Agreement term. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other contracts. City budget decisions are subject to the discretion of the Mayor and City Council. Consultant's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This section controls against any and all other provisions of the Agreement.

    18    Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

    19.    Organization

    Consultant shall assign **Zachary Gerjets** as Project Manager for the implementation phase. The Project Manager shall not be removed from the Project or reassigned as long as he employed by Consultant without the prior written consent of the City.

    20.    Limitation of Agreement.

    This Agreement is limited to and includes only the work included in the Project described above.

    21.    Notice

    Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:                                           CONSULTANT:

City of Milpitas                                Invoice Cloud

455 E. Calaveras Boulevard                      30 Braintree Hill Office Park, Suite 101

Milpitas, California 95035                      Braintree, MA 02184

Attn: Walter C. Rossmann, Director of Finance   Attn: Robert Lapides, President

and shall be effective upon receipt thereof.

22.     Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23.     Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24.     Entire Agreement

This Agreement, with its exhibits specified in Section 1 , represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

25.     Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

26.     Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27.     Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

28.     Time of Essence

Time is of the essence for each and every provision of this Agreement.

29.     City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

30.     Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further,

Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

31.     Wage Theft Prevention

a.      Consultant, and any subconsultant it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

b.      BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONSULTANT OR ITS SUBCONSULTANTS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) HAS EITHER FULLY SATISFIED  EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONSULTANT AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONSULTANT OR ITS SUBCONSULTANT(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

c.      If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Consultant or a subconsultant it employs to perform work under this Agreement has violated any applicable wage and hour law, or Consultant learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Consultant shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Consultant or its subconsultant(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Consultant or its subconsultant is subject to a payment or other alternative plan, the Consultant or its subconsultant shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

d.      For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

e.      Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

f.      Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

**[SIGNATURES ON FOLLOWING PAGE]**

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT**
**BETWEEN THE CITY OF MILPITAS**
**AND INVOICE CLOUD INC.**


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

**CITY OF MILPITAS**                              **INVOICE CLOUD INC.**
*Approved By:*

_____        _____
Steven G. McHarris, City Manager        Signature

_____        _____
Date        Robert Lapides

*Approved As To Form:*        President_____
        Title

_____
Christopher J. Diaz, City Attorney        _____
        Date
*Approved:*

_____
Walter C. Rossmann, Risk Manager/Director
of Finance

**EXHIBIT A**

**Invoice Cloud Statement of Work**

**Overview**
The Invoice Cloud (IC) suite of services specified on the Order Form (the Service) will give the **City of Milpitas** (Biller) and its customers the ability to accept online payments for invoiced and non-invoiced items. The Service will allow the **Biller** to offer online payment processing in a securely hosted real-time environment. Customers will be able to locate, view and print bills or invoices and payment records online and pay using credit cards, debit cards, and electronic checks.

If applicable, Invoice Cloud will make changes to the setup and functionality of the Services as set forth in Appendix A: System Modifications, attached hereto.

**Definitions:**
1. Biller – Merchant / **City of Milpitas**
2. Payer – Client customer, resident, person paying a bill or invoice
3. EBPP – Electronic Bill Presentment and Payment
4. Bill – Bill and Invoice are used synonymously throughout this document
5. RTDR - Real-Time Data Refresh – collects and aggregates the data as soon as a user accesses a specific function
6. NTDR – Near-Time Data Refresh – integration that happens periodically; the data is collected immediately but it is not aggregated until later – data can be processed every day, every hour or even every few minutes

1. **Security and Industry Compliance**
   Invoice Cloud maintains full compliance with current applicable Payment Card Industry (PCI) standards, Cardholder Information Security Program (CISP) regulations and National Automated Clearinghouse Association (NACHA) rules and guidelines. Invoice Cloud will abide by such guidelines for the security of all cardholder data that Invoice Cloud possesses.
   a. **PCI** - Invoice Cloud will provide compliant storage of Biller's customer payment information that is certified by Visa/MasterCard. Data security measures are addressed during collection and transmission via SSL with our patent pending encryption technology. All confidential information will be treated in accordance with the PCI standards.
   b. **Software as a Service (SaaS) Architecture** – All Biller customer financial and payment information and the invoice presentment and payment processing application is housed offsite from Biller.
   c. **Browser Compatibility** - Invoice Cloud supports the most current version of the industry's most common browsers.

2. **Data Integration**
   Invoice Cloud maintains an integration with Harris Cayenta. The integration for the **Biller** will include the functionality found in Appendix B, attached hereto. Biller shall be responsible for providing the items listed in Appendix C: Biller Deliverables, attached hereto.

3. **Payer Portal**

The Payer Portal is an electronic bill presentment and online payment portal where a Biller's customer (Payer) can view a bill and then proceed, within the same user interface, to make an online payment.

   a. Invoice Cloud will present bills electronically through a payer portal that is branded for Biller or via an email notification, if the Payer provides an email address.
   b. The electronic invoice presentment will simulate the paper invoice Biller uses and will be available in PDF and/or html format.
   d. The Service may provide the Payer the option of making a payment via credit card (Visa, MasterCard, American Express and Discover) or electronic check (also referred to as ACH, e-check, EFT).
   e. The Service provides the Payer a one-time online payment option without registration, and the capability to register to access Payer's account history, schedule a payment, or set up AutoPay payments.
   f. A Payer will have the ability to choose their payment date (also known as scheduled payments).
   g. The system will accept partial, full, or overpayments as defined by the Biller.
   h. The Payer will register with the Service using the authentication method designated by Biller.
   i. Linking Accounts - After registering with the Service, the Payer will be able to login into their account(s). If the Payer has multiple accounts and uses the same authentication information for all accounts, the Payer will be able to link their account and view from a single registration. The Payer will then have the option to choose which account they would like to pay or view in further detail.
   j. The Payer will receive an email confirmation of payment after any payment process.
   k. The Payer will have the ability to search and access historical bills once they register with the Service. The Service will store twenty-four (24) months of rolling history from the point of Biller's first invoice file upload to the Service. This includes invoice history and account history.
   l. Biller has the option of allowing the Payer to pay via different payment methods which include online, IVR, IC Biller Portal, Pay by Text, CloudCSRConnect and CloudPOSConnect.
   m. Payers who have scheduled a payment or registered for AutoPay will receive email notification from the Service of pending payments.
   n. The Service includes shopping cart functionality.
   o. The Service will allow the Payer the option to elect paperless billing.
   p. A Payer registered for paperless billing will be automatically placed back on paper billing if their email address is undeliverable; notification of the Payer's undeliverable email address will be sent to Biller via email.
   **q.** The Service complies with Federal E-Signature Act for paperless billing and AutoPay by providing a system in which a Payer must confirm enrollment in paperless billing and/or AutoPay by responding to an email sent after the Payer registers for paperless billing and/or AutoPay through online self-service.

4. **Biller Portal**

The Biller Portal is an administrative portal where Biller staff will have access to reporting, search customers, search invoices, search payments, initiate payments or credits, login as a Payer, modify email templates, etc.

    a. Biller can log in as the Payer on either the Biller or Payer Portal and make a payment on behalf of the Payer. There is an audit trail for who made the payment, and the source of every payment (CSR, Pay by Text, AutoPay, Web, IVR, etc.).

    b. Biller will have the capability of blocking future payments by specific Payer and payment method type (i.e. Credit Card or E-Check (ACH).

    c. **Permissions** – The Biller Portal includes a table of role based permissions, determined by the Biller's System Administrator. Each permission is applied to a user ID on an individual basis to maximize flexibility. The system administrator can allow or disallow access to functions such as viewing data, creating reports, resending email notices, processing payments, credits or refunds, editing email templates and more. Since it is controlled by Biller administrator, changes can be made quickly on an as needed basis.

    d. **Administrative Email Notifications** - Biller may set up the system to send several administrative notifications and request system notifications be sent to multiple staff members. This allows different departments to get the information they need in a timely manner. The notifications include:

- ACH Reject Notifications
- Batch Close Notifications
- Daily Management Report
- File Processing Notifications
- Month End Billing Invoice
- Paperless Customer Email Bounce Daily Report
- Request System Notifications (this is the ticketing system available in the Invoice Cloud payer portal).
- Status Notifications (notifications of planned outages, new features, etc.)

    e. **Biller Controlled Configuration Options** – The Biller Portal includes several Biller controlled configurable options to customize the way payments and customer accounts are handled. The Biller will be able to configure for:

- allowing Auto-Pay and scheduled payments
- allowing customers to update their phone or mailing address through the payer portal
- allowing customers to pay less than, or more than the balance due based on receivable type
- updating Refund Policy description
- updating customer service phone number

5. **Biller Portal - Reporting**
   Biller can access a selection of pre-configured reports. Biller can request reports for daily, monthly, or date range activity. Most reports can be exported to excel files or scheduled for download as a custom report, as indicated by asterisk (*) in the report name. All stored payment data is truncated, and this is reflected in all reports.

    a. Reports:

    b. Search Customers*

  c. Search Invoices
  d. Search Payment Transactions*
  e. Monthly Summary
  f. Registration Report*
  g. Autopay Report*
  h. Paperless Report*
  i. Data Synchronization History
  j. EFT/ACH Rejects*
  k. View Scheduled Payments*
  l. Invoice File History
  m. Import Errors
  n. Daily Payments Received*
  o. Total Outstanding Invoices
  p. Email Notification Summary
  q. Email Statistics
  r. Email Tracking
  s. Bounced Email Report
- Email Statistics
- Email Tracking
- Bounced Email Report

6. **Payer Email Notifications**

Invoice Cloud provides a set of customizable email notification templates for each invoice type that are delivered for numerous events surrounding electronic invoice presentment and payment activity. Email notifications may be customized through the Biller Portal using a Word style editor and options to insert secure hyperlinks to website, links to electronic documents such as newsletter or bill inserts, and/or variable fields selected from the Biller's data file.

  a. Three (3) email notifications can be scheduled.  The first notification is based on the number of days from the invoice due date.  Second and third notifications will only be sent to Payers with an outstanding balance, a scheduled payment, or Payers who have signed up for Auto-Pay.

  b. At the discretion of Biller, Payer email notifications can be delivered for each of the following events.

- First Invoice Email Notification
- Second Invoice Email Notification
- Third Invoice Email Notification
- Payment Transaction Receipt
- Declined Auto Pay Transaction
- Late Fee Email Notification
- Declined Scheduled Payment Notification
- Registered Customer Welcome Email
- AutoPay Registration Notification
- Paperless Registration Notification
- ACH Reject/Chargeback Notices (with reason codes and descriptors)
- Credit Card Expiration Notification
- Scheduled Payment Confirmation

- AutoPay Reminder Notification
- FlexPay Confirmation Notification
- Scheduled Payment Reminder
- Paperless Off Confirmation
- Online Bank Direct Payment Receipt
- Check 21 Payment Receipt
- Linked Accounts First Notice Notification
- Linked Accounts Second Notice Notification
- Linked Accounts Third Notice Notification
- AutoPay Off Confirmation
- Conveyed Customer Notification
- Multiple Registered Customers Welcome Email
- Recurring Scheduled Payment Confirmation
- Recurring Scheduled Payment Canceled

7. **Business Rules**

The Invoice Cloud solution is designed for flexibility for customers and Billers. There are many rules currently available and we will also undertake the creation of new business rules as we both agree. Each bill type operates independently and can accept different payment types as well as other business rules. At Biller's option, multiple business rules can be applied to each bill type. Invoice Cloud provides flexibility regarding business rules to support specific needs, including:

a. Ability to allow partial payments, over payments, full balance only, or late fees.
b. Ability to allow payments beyond the due date - The service is designed to accommodate biller specific business rules like allowing payments beyond their due date.
c. Ability to allow for multiple payment types for one customer for the same bill - The service allows multiple payment types from one customer for the same bill when partial payments are allowed. Credit/debit card and e-check (ACH) can be run separately and an unlimited number of remittance types can be used. For example, a customer can pay part of a bill with a checking account, another part with a credit card and the remainder with a second credit card of a different type.

8. **Implementation Process**

Invoice Cloud assigns an Implementations Manager (IM) to each Biller. The IM will be the Biller's primary contact during the implementation process and coordinates all necessary resources from Biller, Biller software company, Invoice Cloud, and any sub-contractors. The IM will provide the Biller with the following documents to facilitate the project:
a. **New Biller Questionnaire and Questionnaire Key** – Documents critical information needed to setup and initiate the service including information on business rules and feature selection.
b. **Project Timeline** – Details project schedule and milestones.
c. **Testing and Training Plan** – This plan walks the Biller through a set of user acceptance testing criteria and facilitates training on the service.

9. **Support and Training**

a. **Business Hours** – The business hours will be Monday through Friday from 8 a.m. to 8 p.m. Eastern Standard Time. Note: Biller Support hours are 8 a.m. to 8 p.m. EST.  Payer Support hours are currently 8 a.m. to 4 p.m. EST.

b. **Help Desk -** The Service will provide a helpdesk ticketing system for Biller within the Biller Portal to get help from Invoice Cloud client support team.  This tool will allow Biller to track and retain resolutions for historical reference.

c. **Payer Support** – The Payer Support is two tiered with Biller staff as the first line of support regarding account, registration and billing questions.  Issues with the Invoice Cloud service operation or incorrect credit card charges will be routed to Invoice Cloud Client Support via telephone or a Biller helpdesk ticket.

d. **Biller Support** - If Biller encounters an inquiry which they cannot resolve Biller will create a helpdesk support ticket.  Invoice Cloud Customer Support will address the issue and if applicable provide training to Biller to allow the address of tickets in a timely matter; often within twenty-four (24) business hours.  Biller and technical support is available during business hours.

    i. **Routine Technical Support** - Technical Support is available during business hours.  Biller may call customer support directly; however, the use of the helpdesk ticketing system is encouraged as the preferred method of contact.  Invoice Cloud staff views all tickets as they are submitted and routes them to the appropriate person for resolution.

    ii. **Emergency After-Hours Support** – The helpdesk service is monitored after business hours and emergency support issues are addressed within one (1) hour. An emergency support issue is defined as an issue involving the system being down and inoperable and does not include Payer payment issues.  Biller may request email notification be provided in the event the system is down and inoperable.

e. **Service Enhancements** - Most enhancements do not require action on the part of Biller.  Upgrades as agreed are done at the Invoice Cloud server level, so there are no mandatory actions for Biller to take.  Support levels are not affected by enhancements.

f. **Biller Training**- Biller staff will be guided in how to use the system through in-house training, documentation, remote live sessions, and access to our client support team.

- All standard training will be done remotely.  Invoice Cloud's training personnel will provide sessions for both Payer and Biller portals for Biller's staff.
- Separate training is conducted for Biller's technical staff regarding the uploading of bill files and any other applicable processes.
- Ongoing phone and Go-To-Meeting training will be provided during the first month of use at no additional cost to Biller.

## 10. Marketing

Invoice Cloud provides marketing support that our Billers can use to promote the EBPP and IC payment solutions to its Payers, at no charge. Invoice Cloud's marketing group will schedule a 1-hour conference call to review Invoice Cloud's recommended best practices for promoting the service.  Sample templates will be provided for each item and customizations can be made upon request.  The marketing collateral that Invoice Cloud provides may include:

- Bill Inserts
- Newsletters
- Envelope Teasers

- Pay Button Link
- Posters with Acrylic Stands for Payment Counters
- Business card sized take-away cards with QR code
- Local cable/TV station announcement

## 11. <u>CloudIVRConnect™</u>

The IC CloudIVRConnect allows Billers to accept payments via our interactive voice response system.  It provides customers with 24-hour access to account status and billing information (total balance due, past due amount, last payment made, next billing date etc.). The following options are available:
- Provides for a toll-free call and a caller ID number set by the biller
- Supports messaging in both English and Spanish
- Provides for a customizable initial greeting (includes City/County/Company name) – all remaining prompts are standard
- Ability to pay with credit card (Visa, MasterCard, Discover, American Express), debit card, or eCheck (ACH)
- Replays information with Invoice Cloud generated confirmation #

Outbound IVR Campaigns will provide the Biller with the ability to create outbound call campaigns for past due reminders, disconnections or other account status updates as needed by the Biller pursuant to Exhibit C.

## 12. <u>CloudSMSConnect™</u>

The IC CloudSMSConnect allows Billers to accept payments via SMS text messaging.  The following options are available:
- Provides interactive registration and service sign-up confirmation
- Sends notification when new bills are available for payment
- Ability to pay with credit card (Visa, MasterCard, Discover, American Express), debit card, or eCheck (ACH)
- Allows for payment utilizing a stored-payment method

## 13. <u>CloudStore™</u>

The IC CloudStore allows Billers to accept payments for non-invoiced services like books, t-shirts, etc., fire, police, building permits, or activity programs.  The following options are available:
- Accept electronic check and or credit/debit cards.
- Customer receives immediate email confirmation of payment.
- Department receives email notification of purchase event for instant fulfillment services.
- Ability to apply convenience fees, if required.
- Reporting by service type.
- Linked to Biller branded payment portal.
- Each service type can have its own online registration form.
- Can be setup to accept payments over the counter.

## 14. <u>Online Bank Direct™</u>

The IC Online Bank Direct (OBD) allows Billers to electronically import echeck (ACH) payments initiated from consumer bank bill sites. The following options are available:

- Auto-matching of payments with open invoices
- Email consumer a payment notification for those customers with an email address on file
- Ability to apply a single payment to multiple invoices
- Custom search capabilities to locate matching invoice(s)
- Electronic deposit of corresponding echecks

This SOW contains many products, services and payment methods. Only the specific products, services and payment methods selected by the **Biller,** as outlined in the Biller Order Form, attached hereto as Appendix D, are included in the delivery of products, services and payment methods.

**Appendix A:  System Modifications**

As outlined below, Invoice Cloud has agreed to make the following changes to the setup and functionality of our platform:

**NONE**

**Appendix B:  Integration Supported Features**

| Harris - Cayenta | CIS | |
|---|---|---|
| **PRODUCTS** | | |
| EBPP | Supported | |
| Invoice Types | #42 - Utilities | |
| IVR | Supported | |
| Pay by Text | Supported | |
| Cloud POS Connect | Supported | |
| Cloud CSR Connect | Supported | |
| KIOSK | Supported | |
| **DATA EXCHANGE** | **Method** | **Frequency** |
| Invoices | Web Service | Each Billing Cycle |
| Payments | Data Pump | Near Time |
| AutoPay Flags | Data Pump | Near Time |
| Paperless Flags | Data Pump | Near Time |
| Account Balances | RTDR | Real Time |
| Block Payment Method (Credit/ACH) | RTDR | Reals Time |
| **INVOICE FILES** | | |
| IC Translates file | X | |
| Historical Data (2 years shown online) | X | |
| **BILL PRESENTMENT** | | |
| PDF Extraction (Partial/Full) | X | |
| Templates | N/A | |
| Link to PDFs | X | |
| **BATCH CLOSE** | | |
| Standard or Custom | Custom | |
| **CUSTOM OPTIONS** | | |
| Single Sign-on | X | |
| Branded Biller Portal | X | |
| Branded Payer Portal | X | |

## Appendix C:  Biller Deliverables

| Deliverable |
| --- |
| Sample Invoice File (.bif) |
| Web services installed |
| Firewall access granted – White listing |
| SSO User name and password conversion data (if applicable |
| Auto Pay Conversion data if applicable |
| Paperless conversion data if applicable |

**Appendix D**

**Biller Order Form**

[Continued on Following Page]

# InvoiceCloud™                                                Biller Order Form

## SALES INFORMATION

| | | | | | |
|---|---|---|---|---|---|
| IC Sales Rep | Carlyn Altheide | | | Vertical | Utility |
| Order Date | 5/11/2020 | Sales Prtnr | Harris - Cayenta | Software Prtner | Harris - Cayenta |

## PRODUCTS AND SERVICES

| | |
|---|---|
| Products | [EBPP] [Cloud Store] [IVR] [CSRConnect] [Outbound IVR] |

## PAYMENT METHODS ACCEPTED

| | |
|---|---|
| Payment Types | [VISA/Mastercard/Discover] [ACH/EFT] |

## BILLER INFORMATION

| | | | | |
|---|---|---|---|---|
| Ownership Type | Government | Phone | (408) 586-3000 | Fax |
| Legal Name | City of Milpitas | Website URL | http://www.ci.milpitas.ca.gov/ | |
| Address 1 | 455 East Calaveras Boulevard | Bus. Open Date | 01/26/54 | |
| Address 2 | | Federal Tax ID | 94-6019192 | |
| City | Milpitas | | *Federal Tax ID and Legal Name must match on all documents* | |
| State | CA | ZIP | 95035 | |

## BILLER CONTACT

| | |
|---|---|
| Primary Contact Name | Dante Ong |
| Phone | (408) 586-3132 |
| Email Address | dong@ci.milpitas.ca.us |

## SIGNING AUTHORITY

| | | | | |
|---|---|---|---|---|
| Name | Walter C. Rossmann | | Title | Director of Finance/ Risk Manager |
| Phone | (408) 586-3111 | Fax | Email Address | wrossmann@ci.milpitas.ca.gov |

## BILLER PRICING

| Description | Interval | Cost Type | Cost |
|---|---|---|---|
| Biller Portal Access Fee | Monthly | Fixed ($) | $100.00 |
| Invoice Presentment For Paperless Customers | Per Transaction | Fixed ($) | $0.30 |
| IC Payment Transaction Fee - Credit Card | Per Transaction | Fixed ($) | $0.60 |
| IC Payment Transaction Fee - EFT | Per Transaction | Fixed ($) | $0.60 |
| Recurring Transaction (ACH only) | Per Transaction | Fixed ($) | $0.40 |
| IC IVR Payment Transaction Fee - Credit Card | Per Transaction | Fixed ($) | $0.50 |
| IC IVR Payment Transaction Fee - EFT | Per Transaction | Fixed ($) | $0.50 |
| ACH Reject Fee Non-Submitter (Chase) | Per Transaction | Fixed ($) | $15.00 |
| Cloud Access Fee | Monthly | Fixed ($) | $50.00 |

## HARDWARE

| | | | | | |
|---|---|---|---|---|---|
| Card Reader Type | | Quantity | | Cost per Reader | |
| Card Reader | | | | Billing Interval | |
| Shipping Addr. | | | | | |

| | | | |
|---|---|---|---|
| *(if different than location address)* | | | |

| Kiosk Type | Device Quantity | Per Device Txn Min | Note: Biller will be charged for the minimum number of transactions listed to left each |
|---|---|---|---|
| Standard/In-Door | | 750 | month per kiosk unity. In addition, if the Biller's order includes kiosks then the terms |
| Thru-Wall | | 800 | and conditions of Kiosk Managed Standard SOW (and applicable schedules) are hereby |
| Outdoor Model | | 850 | agreed and incorporated by reference |

## BILLER BANK INFO

**Note: Must include voided business check or bank letter for each unique account**

| | | | |
|---|---|---|---|
| Billing Method | ACH Month End Fees | | |
| Name on Account | City of Milpitas General Account | Bank Name | Wells Fargo |
| Bank Address | 420 Montgomery Street | Phone | (626)349-3535 |
| | San Francisco, CA   94104 | | |
| Routing # | 121000248 | Last 4 Acct # | 0628 |

## DATA RETENTION

| | | |
|---|---|---|
| Months to Keep | 24 | *Additional Fees apply if greater than 24 months |

## NOTES/SPECIAL HANDLING

-This agreement includes a transition from Paya to Chase Paymentech processing platform. The conversion project will begin within 30 days of contract execution.

-Outbound IVR Campaigns, Biller Pricing: Monthly Access Fee-$100 per Month. Outbound IVR per Message Transaction Fee-$0.15 per outbound message.

-Custom Programming Charges per Hour: $175 Charges per hour with scope of services

-PayNearMe Transaction Fee- $1.99

### CERTIFICATION AND AGREEMENT

A. By signing below, the Biller hereby authorizes Invoice Cloud, Inc. ("Invoice Cloud") to initiate and execute debit/credit entries to its checking/deposit account(s) indicated above at the depository financial institution(s) named above and to debit/credit the same such account(s). The Biller acknowledges that the origination of ACH transactions to its account(s) must comply with the provisions of U.S. law. This authority is to remain in full force and effect until (i) Invoice Cloud has received written notification (by electronic or U.S. mail) from the Biller of its revocation in such time and manner as to allow Invoice Cloud a reasonable opportunity to act on it, but not less than 10 business days notice; and (ii) all obligations of the Biller to Invoice Cloud that have arisen under this Agreement and all other agreements have been paid in full. The Biller must also notify Invoice Cloud, in writing, (by electronic or U.S. mail) when a change in account number(s) or bank has occurred at which time this authorization shall apply to such new/changed account. This notification must be received within 10 business days of change. A fee will be charged for any returned ACH debits.

B. By signing below, the Biller named:  (1) has read, agreed to, and acknowledges receipt of the Professional Services Agreement and Exhibits executed by the Biller, and (2) certifies to Invoice Cloud that he/she is authorized to sign this Order Form; (3) certifies that all information and documents submitted in connection with this Order Form are true and complete; (4) authorizes Invoice Cloud or its agent to verify any of the information given, including credit references, and to obtain credit reports (including a spouse if in a community property state); (5) agrees to pay the Monthly Access Fee through the last day of the month following the effective date of termination as provided in the Billing Agreement; (6) agrees that Biller and each transaction submitted will be bound by the Order Form and the Biller Agreement in its entirety; (7) agrees that Biller will submit transactions only in accordance with the information in this Order Form and Biller Agreement and will immediately inform Invoice Cloud, by email (contracts@invoicecloud.com) if any information in this Order Form changes, and (8) the Biller agrees and understands that outstanding sums due and owing to Invoice Cloud., will be charged daily or monthly and debited from its current depository account.  Non-sufficient funds for these debits are grounds for a change in fees or termination of this Agreement.  In the event of non-payment of any sums due, Invoice Cloud reserves the right to withdraw such sums from the current depository account at any time to ensure payment of the same.

C. Pay by Text: Standard data rates and text messaging rates may apply based on the payer's plan with their mobile phone carrier. Payer can opt out of text messaging at any time with Invoice Cloud. Partial payment or overpayment is not supported. Service fees may apply based on the biller set up with Invoice Cloud. Biller may not use the service for activities that violate any law, statute, ordinance or regulation.

D. By signing below, the Biller hereby gives permission to Invoice Cloud to access his / her credit history via Trans Union, Equifax, or other credit-reporting agency.

**InvoiceCloud™**

Biller Order Form

**INVOICE PARAMETERS**

Invoice Parameters must be completed for each invoice type

| Invoice Type | Water | | Pricing Model | Non-Submitter |
|---|---|---|---|---|
| Biller Software | Cayenta | | Non-Submitter: Interchange Paid By | Biller |

**BILLING DETAILS**

Please indicate which months bills are *sent* by placing the bill count for each month below:

| Jan | Feb | Mar | Apr | May | June | July | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 8500 | 8500 | 8500 | 8500 | 8500 | 8500 | 8500 | 8500 | 8500 | 8500 | 8500 | 8500 |

Avg Invoice $ 357.00   Max Invoice $ 125000.00   Bill Frequency Bi-Monthly   BPM 8500

**SERVICE FEES**

| Payment Source Description | Payment Method | Minimum Fee ($) per Transaction | Calculation Type | Fee Amount |
|---|---|---|---|---|
| All Payment Sources | Credit/Debit | | | |
| All Payment Sources | ACH/EFT | | | |
| Kiosk | All Payment Methods | | | |
| IVR Surcharge | All Payment Methods | | | |

**PAYMENT SOURCE EXCEPTIONS**

**MAX PAYMENT CAP**

| CC Max | | ACH Max ($) | 125000.00 | |
|---|---|---|---|---|

**BILLER DEPOSITORY BANK INFO**

*Note: must include voided business check or bank letter for each unique account*

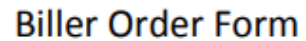| Routing # | 121000248 | Last 4 Acct # | 0628 |
|---|---|---|---|

**NOTES/SPECIAL HANDLING**

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**Invoice**Cloud™

# Biller Order Form

## INVOICE PARAMETERS

| Invoice Type | Utility Deposits | | Pricing Model | Non-Submitter |
|---|---|---|---|---|
| Biller Software | Cloud Store | | Non-Submitter: Interchange Paid By | Biller |

### BILLING DETAILS

Please indicate which months bills are *sent* by placing the bill count for each month below:

| Jan | Feb | Mar | Apr | May | June | July | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |

Avg Invoice $  226.00     Max Invoice $  125000.00     Bill Frequency  Monthly     BPM  10

### SERVICE FEES

| Payment Source Description | Payment Method | Minimum Fee ($) per Transaction | Calculation Type | Fee Amount |
|---|---|---|---|---|
| All Payment Sources | Credit/Debit | | | |
| All Payment Sources | ACH/EFT | | | |
| Kiosk | All Payment Methods | | | |
| IVR Surcharge | All Payment Methods | | | |

| PAYMENT SOURCE EXCEPTIONS |
|---|

### MAX PAYMENT CAP

| CC Max | | ACH Max ($) | 125000.00 | |
|---|---|---|---|---|

### BILLER DEPOSITORY BANK INFO

*Note: must include voided business check or bank letter for each unique account*

| Routing # | 121000248 | Last 4 Acct # | 0628 |
|---|---|---|---|

### NOTES/SPECIAL HANDLING

**Invoice**Cloud™                                          Biller Order Form

## INVOICE PARAMETERS

Invoice Parameters must be completed for each invoice type

| Invoice Type | Miscellaneous Accounts Receivables | | Pricing Model | Non-Submitter |
|---|---|---|---|---|
| Biller Software | Cloud Store | | Non-Submitter: Interchange Paid By | Biller |

### BILLING DETAILS

Please indicate which months bills are *sent* by placing the bill count for each month below:

| Jan | Feb | Mar | Apr | May | June | July | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 128 | 128 | 128 | 128 | 128 | 128 | 128 | 128 | 128 | 128 | 128 | 128 |

Avg Invoice $  2200.00    Max Invoice $  125000.00    Bill Frequency  Monthly    BPM  128

### SERVICE FEES

| Payment Source Description | Payment Method | Minimum Fee ($) per Transaction | Calculation Type | Fee Amount |
|---|---|---|---|---|
| All Payment Sources | Credit/Debit | | | |
| All Payment Sources | ACH/EFT | | | |
| Kiosk | All Payment Methods | | | |
| IVR Surcharge | All Payment Methods | | | |

| PAYMENT SOURCE EXCEPTIONS |
|---|

### MAX PAYMENT CAP

| CC Max | | ACH Max ($) | 125000.00 | |
|---|---|---|---|---|

### BILLER DEPOSITORY BANK INFO

*Note: must include voided business check or bank letter for each unique account*

| Routing # | 121000248 | | Last 4 Acct # | 0628 |
|---|---|---|---|---|

### NOTES/SPECIAL HANDLING

**EXHIBIT B**

**Schedule of Charges/Payments**

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant.

Electronic Bill Presentment

| Item | Cost/Unit of Measure | One Time or Recurring | Note |
|---|---|---|---|
| Set up and implementation of Electronic Bill Presentment and Payment portal and payment configuration | $0.00 | N/A | No charges for setup or implementation of Invoice Cloud's SaaS EBPP platform. |
| Set up and implementation – Data processing program used to process billing data to create eBills in PDF format | $0.00 | N/A | eBill images are available for Payers and CSRs using IC's PDF Linking with DataProse. |
| Option 1: Price to load all City bills into system | $0.00 | N/A | No charges to load City PDF bills into Invoice Cloud's SaaS EBPP platform. eBill |
| Option 2: Price to load enrolled user bills only | $0.00 | N/A | eBill images are available for Payers and CSRs using IC's PDF Linking with DataProse. IC makes bill images available |
| Price charged per enrolled customer per month | $0.00 | N/A | There is no fee per enrolled user with Invoice Cloud. |
| Price per document view | $0.00 | N/A | IC does not charge any fees for document views. |

| | | | |
|---|---|---|---|
| Price charged for a Customer Service Representative to view or interact with bills | $0.00 | N/A | No fees for CSRs to view or interact with bills. |
| Price per payment initiated via the EBPP system | $0.60 per item | Recurring | |
| Price for Recurring Payments | $0.40 per ACH item | Recurring | AutoPay ('recurring') EFT/ACH Payment fee is $0.40 per item |
| Monthly Maintenance Costs | $100.00 | Recurring | The Monthly Biller Portal Access fee includes an unlimited number of City CSR Users with no incremental costs. |
| Custom programming charges per hour | $175.00 | One Time | Charges per hour with scope of services and written approval by the City and IC. |
| Other (pls. explain in column 4) | $0.30 per item | Recurring | Paperless Billing Fee, per account enrolled in IC paperless, per cycle |
| Other (pls. explain in column 4) | $0.00 | N/A | Email Engine with 27 Branded Email Templates and up to 3 mail reminder per bill |
| Other (pls. explain in column 4) | $0.00 | N/A | Pay by Text: No additional fees for IC's Pay by Text (SMS text bill reminders and ability for your Registered Users to pay through SMS text messaging) |
| Other (pls. explain in column 4) | $0.00 | N/A | No additional fees for IC's SaaS customer engagement tools, such as OneClickPay, Remind Me, AutoPay/PaybyText/Paperless enrollment in the One Time Payment Route. |

Mobile Application

| Item | Cost/Unit of Measure | One Time or Recurring | Note |
|------|------|------|------|
| Set up and implementation of Mobile Application and payment configurations | $0.00 | N/A | Invoice Cloud's true SaaS EBPP platform uses Mobile Responsive Design, there is no charge for this mobile environment. With mobile responsive design, your |
| Monthly Maintenance Costs | $0.00 | N/A | Invoice Cloud does not charge for maintenance. |
| Custom programming charges per hour | $175.00 | One Time | Charges per hour with scope of services |
| Other (pls. explain in column 4) | $0.00 | N/A | No separate fees for IC's mobile responsive design. |

Interactive Voice Response

| Item | Cost/Unit of Measure | One Time or Recurring | Note |
|------|------|------|------|
| Set up and implementation of Interactive Voice Response and payment configurations | $0.00 | N/A | No charge to set up and implement Invoice Cloud's payment IVR. |
| Monthly Maintenance Costs | $0.00 | N/A | No monthly maintenance fees for Invoice Cloud's payment IVR |
| Other (pls. explain in column 4) | $0.50 per payment transaction | Recurring | IC Payment IVR: Includes English and Spanish language options with other languages available upon request. Saved Payment Methods, Email Receipt, Call Transfer, and toll free or local area codes. There are no annual, monthly or per minute fees for the IVR. |

Electronic Payment Processing

| Item | Cost/Unit of Measure | One Time or Recurring | Note |
|---|---|---|---|
| EBPP Solution vendor cost - ACH / Bank Account Payment | $0.40 per item | Recurring | AutoPay ('recurring') EFT/ACH Payment fee is $0.40 per item |
| - Credit Card – VISA | $0.60 per item | Recurring | IC per item fee for all credit/debit card payments from the major card brands, Visa, MasterCard, Discover and American Express. |
| - Credit Card - MasterCard | $0.60 per item | Recurring | IC per item fee for all credit/debit card payments from the major card brands, Visa, MasterCard, Discover and American Express. |
| Processor Cost (If processor is part of vendor response): | See Below | Recurring | |
| - ACH / Bank Account Payment | See Below | Recurring | |
| - Credit Card - VISA | See Below | Recurring | |
| - Credit Card – MasterCard | See Below | Recurring | |
| Payment Processor Transactional Cost including any flat fees and/or basis points (per transaction and list ACH and Card transactional costs separately) | Effective rate for all pass- through fees 0.69% | Recurring | With this contract renewal, Invoice Cloud is proposing a change from Paya to Chase Paymentech. With Chase, Invoice Cloud sends Level 3 data, ensuring our clients qualify for lower rates on certain commercial credit cards, in addition to the already favorable utility rates. Pass-through fees include card brand interchange, plus all fees, dues and assessments. The City's current effective rate for credit/debit card processing is 0.69%, this is a blended average over a 2-month billing cycle. IC looked at the City's existing pass-through fees for Sept/Oct 2019 and Nov/Dec 2019, and the effective rate average is the same. Please refer to the attachment "Chase Schedule A to Merchant Agreement" for a listing of the detailed pass-through fees. |

| | | | |
|---|---|---|---|
| Returned ACH | $15.00 per item | Recurring | |
| Monthly Account Charges | $0.00 | Recurring | No Monthly Fees with Chase |
| Gateway Transaction fees | N/A | N/A | No 3rd party gateway is required for Invoice Cloud / Chase electronic payment processing. |
| Other (pls. explain in column 4) | N/A | N/A | N/A |

Online Payment Remittance Reporting

| Item | Cost/Unit of Measure | One Time or Recurring | Note |
|---|---|---|---|
| Set up and implementation of Online Remittance Reporting | $0.00 | N/A | |
| Other (pls. explain in column 4) | $0.00 | N/A | |

Self Service Bill Payment Kiosk

| Item | Cost/Unit of Measure | One Time or Recurring | Note |
|---|---|---|---|
| Implementation Fee – includes development, testing and deployment for the Bill Payment Application | $3000 | One Time | Initial site survey, kiosk shipment, and service tech in attendance on installation day for 1 standard indoor kiosk. |
| Monthly Lease | $0.00 | N/A | |
| Management Fee | $1.50 per transaction, 750 minimum transactions per kiosk, per month | N/A | 1 standard indoor kiosk includes cash, credit card and check payment methods (conversion to ACH). The minimum number of transactions for each indoor unit is 750, therefore the City's monthly minimum cost will be $1125 + processing fees. |
| Onsite Training | $1000 per day | One Time | |
| Materials (Thermal Receipt Paper, Printer Ink, etc.) | $30-50 average per roll | Recurring | |
| Equipment Maintenance | N/A | N/A | Included in Per Transaction Fees |

Other Billing and Payment methods/services Offered

1. CSRConnect Application - $0.00 Setup / $0.00 Ongoing
2. POSConnect Application - $0.00 Setup / $0.00 Ongoing
3. POS Encrypted Credit Card Swipe Hardware - $30 per unit, per month
4. PayGo - Cash Retail Payment Option - $1.95 per cash payment, paid by the City or paid by the Payer

**EXHIBIT C**

**Activity Schedule**

As the City's current EBPP provider, Consultant does not anticipate any implementation activities. If, however, the City wishes to add any new services for Utility Billing such as Online Bank Direct, CSRConnect, POSConnect, Marketing activities such as a paperless campaign, AutoPay Conversion (from City to IC), new Cloud Stores for Utilities or other City Departments, these activities can be completed within the July 1, 2020 time frame. For new Cloud Store and add-on services such as Outbound IVR Campaigns, these services are normally implemented within sixty days from the add-on project kick-off. Bill payment kiosks require a separate implementation plan and timeline (separate from EBPP activities) and require a minimum of 12 weeks lead time from our kiosk manufacturer.

**EXHIBIT "D"**

**INSURANCE REQUIREMENTS**

Please refer to the insurance requirements listed below. **Those that have an "X" indicated in the space before the requirement apply to Contractor's or Consultant's Agreement.**

Contractor or Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor or Consultant, its agents, representatives, employees or subcontractors.

Contractor or Consultant shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements.

Contractor or Consultant shall furnish City with copies of original endorsements affecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by City before work commences. City has the right to require Contractor's or Consultant's insurer to provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

**Commercial General Liability (CGL):**

___ Coverage at least as broad as Insurance Services Office ("ISO") Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than $2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

X_ Coverage at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than $1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

___ Coverage at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than $5,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

**Automobile Liability:**

X_ Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), of if Contractor or Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than $1,000,000.00 combined single limit for bodily injury and property damage.

___ Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), with limits no less than $5,000,000.00 combined single liit for bodily injury and property damage.

\_\_\_     Garage keepers' extra liability endorsement to extend coverage to all vehicles in the care, custody and control of the Contractor or Consultant, regardless of where the vehicles are kept or driven.

**Professional Liability (Errors and Omissions):**

\_\_\_     Insurance appropriates to the Contractor or Consultant's profession, with limit no less than $1,000,000.00 per occurrence or claim, $2,000,000.00 aggregate.

\_\_\_     (If Design/Build), with limits no less than $1,000,000.00 per occurrence or claim, and $2,000,000.00 policy aggregate.

\_\_\_     Insurance appropriates to the Contractor or Consultant's profession, with limit no less than _____ per occurrence or claim, _____ aggregate

**Workers' Compensation Insurance:**

\_X\_     Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000.00 per accident for bodily injury or disease. *(Not required if Contractor or Consultant provides written verification it has no employees)*

The Employer's Liability policy shall be endorsed to waive any right of subrogation as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees.

**Builder's Risk (Course of Construction):**

\_\_\_     Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

**Contractor's or Consultant's Pollution Legal Liability:**

\_\_\_     Contractor's or Consultant's pollution legal liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than $1,000,000.00 per occurrence or claim and $2,000,000.00 policy aggregate.

If the Contractor or Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor or Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

**Cyber Liability Insurance**

X\_     Cyber Liability Insurance with limits not less than $1,000,000 per claim.

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor or Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion

of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

**Surety Bonds:**

Contractor shall provide the following Surety Bonds:

____    Bid Bond
____    Performance Bond
____    Payment Bond

The Payment Bond and Performance Bond shall be in a sum equal to the contract price. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

**Other Insurance Provisions:**

The insurance policies are to contain, or be endorsed to contain the following provisions:

**_X_    Additional Insured Status and Primary/Non-Contributory Language:**

Contractor's general liability and automobile liability policies shall be primary and shall not seek contribution from the City's coverage and be endorsed to add the City and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office form CG 20 10 (or equivalent) on the general liability policy.  For construction projects, an endorsement providing completed operations coverage for the additional insured on the general liability policy, ISO form CG 20 37 (or equivalent), is also required.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

**___    Loss Payee Status – Builder's Risk/Course of Construction Insurance (applicable    to Construction Contracts only)**

Contractor or Consultant may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the City as a loss payee as their interest may appear.

**X_    Notice of Cancellation, Suspension or Otherwise Voiding Policies:**

Each insurance policy required above shall contain or be endorsed to contain that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days' prior written notice by certified mail, return receipt requested to the City.

**X_    Waiver of Subrogation:**

Contractor or Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Contractor or Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Contractor or Consultant, its employees, agents and subcontractors.

\_\_\_    **Completed Operations**

For Construction Agreements, Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

THE FOLLOWING PROVISIONS APPLY TO ALL AGREEMENTS

**Deductibles and Self-Insured Retentions ("SIR"):**

Any deductibles or self-insured retentions must be declared to and approved by City. The City may require the Contractor or Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees; or (2) the Contractor or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All SIRs must be disclosed to Risk Management for approval and shall not reduce the limits of liability.

Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

City reserves the right to obtain a full-certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

**Acceptability of Insurers:**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to City.

**Claims Made Policies: (note - should be applicable only to professional liability, see below)**

1.    The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

2.    Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract of work.

3.    If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor or

Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

4.      A copy of the claims reporting requirements must be submitted to the City for review.

5.      If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

**Subcontractors:**

Contractor or Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Subcontractor agrees to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other contract documents. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

**Verification of Coverage:**

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**Special Risks or Circumstances**

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

**Failure to Comply:**

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

**Applicability of Coverage:**

Each insurance policy required above shall contain or be endorsed to contain that the Contractor's or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

# Exhibit E

## Invoice Cloud Biller Agreement

**1. License Grant & Restrictions.** Subject to execution by Biller of the Invoice Cloud Biller Order Form incorporating this Agreement, Invoice Cloud hereby grants Biller a non-exclusive, non-transferable, worldwide right to use the Service described on the Biller Order Form until termination as provided herein, solely to bill and receive payment from Biller's own customers for the invoice types that are referenced in the Biller Order Form. All rights not expressly granted to Biller are reserved by Invoice Cloud and its licensors. Unless otherwise expressly agreed to in writing by Invoice Cloud to the contrary, Invoice Cloud will process all of Biller's Customers' Payment Instrument Transactions requirements related to the Biller Data and will do so via electronic data transmission according to our formats and procedures for each electronic payment type selected in the Biller Order Form. In addition, Biller will sign all third party applications and agreements required for the Service including without limitation payment and credit card processing agreements and merchant agreements. For utility billing invoice types listed on the Order Form, and other invoice types (other than those listed as "miscellaneous" on the Order Form). Biller will not use the credit card processing, ACH or check processing of any bank, payment processor, entity, or person, other than Invoice Cloud via electronic data transmission or the authorization for processing of Biller's Customers' Payment Instrument Transactions for each electronic payment type selected in the Biller Order Form throughout the term of this Agreement. The preceding sentence shall not be construed to prevent Biller from accepting payments at the point of sale.

Biller shall not: (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service in any way; (ii) modify or make derivative works based upon the Service; (iii) Recreate, "frame" or "mirror" any portion of the Service on any other server or wireless or Internet-based device; (iv) reverse engineer or access the Service; or (v) copy any features, functions or graphics of the Service.

**2. Privacy & Security.** Invoice Cloud's privacy and security policies may be viewed at http://www.invoicecloud.com/privacy.html. Invoice Cloud reserves the right to modify its privacy and security policies in its reasonable discretion from time to time which modification shall not materially adversely impact such policies. Invoice Cloud will maintain compliance with current required Payment Card Industry (PCI) standards and Cardholder Information Security standards.

**3. Account Information and Data.** Biller will provide to Invoice Cloud all Biller Data generated for Biller's Customers reasonably necessary for provision of the Services. Invoice Cloud does not and will not own any Customer Data in the course of providing the Service. Biller, not Invoice Cloud, shall have sole responsibility for the accuracy, quality, integrity, legality, and reliability of, and obtaining the intellectual property rights to use and process all its Customer Data. In the event this Agreement is terminated, Invoice Cloud will make available to Biller a file of the Customer Data within 30 days of termination of this Agreement (or at a later time if required by applicable law), if Biller so requests at the time of termination. Invoice Cloud reserves the right to remove and/or discard Customer Data with 30 days advanced notice except as prohibited by applicable law or in the event of exigent circumstances which makes prior notice impracticable, and in which case, notice will be provided promptly thereafter.

**4. Confidentiality / Intellectual Property Ownership.** Invoice Cloud agrees that it may be furnished with or otherwise have access to Customer Data that the Biller or Biller's customers considers confidential. Invoice Cloud agrees to secure and protect the Customer Data in a manner consistent with the maintenance of Invoice Cloud's own Confidential Information, using at least as great a degree of care as it uses to maintain the confidentiality of its own confidential information, but in no event use less than commercially reasonable measures. Invoice Cloud will not sell, transfer, publish, disclose, or otherwise make available any portion of the Customer Data to third parties, except as required to perform the Services under this Agreement or otherwise required by applicable law.

Invoice Cloud (and its licensors, where applicable) owns all right, title and interest, including all related Intellectual Property Rights, in and to the Invoice Cloud Technology, the Content and the Service and any enhancement requests, feedback, integration components, suggestions, ideas, and application programming interfaces, or recommendations provided by Biller or any other party relating to the Service. In the event any such intellectual property rights in the Invoice Cloud Technology, the Content or the Service do not fall within the specifically enumerated works that constitute works made for hire under applicable copyright laws or are deemed to be owned by Invoice Cloud, Biller hereby irrevocably, expressly and automatically assigns all right, title and interest worldwide in and to such intellectual property rights to Invoice Cloud. The Invoice Cloud name, the Invoice Cloud logo, and the product names associated with the Service are trademarks of Invoice Cloud or third parties, and no right or license is granted to use them.

Biller agrees that during the course of using or gaining access to the Service (or components thereof) it may be furnished with or otherwise have access to information that Invoice Cloud considers to be confidential including but not limited to Invoice Cloud Technology, customer and/or prospective customer information, product features and plans, marketing/sales collateral, pricing and financial information of the parties which are hereby deemed to be Invoice Cloud Confidential Information, or any other information that by its very nature constitutes information of a type that any reasonable business

person would conclude was intended by Invoice Cloud to be treated as proprietary, confidential, or private (the "Confidential Information"). Biller agrees to secure and protect the Confidential Information in a manner consistent with the maintenance of Invoice Cloud's rights therein, using at least as great a degree of care as it uses to maintain the confidentiality of its own confidential information, but in no event use less than reasonable efforts. Biller will not sell, transfer, publish, disclose, or otherwise make available any portion of the Confidential Information of the other party to third parties (and will ensure that its employee and agents abide by the requirements hereof), except as expressly authorized in this Agreement or otherwise required by applicable law. **5. Billing and Renewal.** Invoice Cloud fees for the Service are provided on the Biller Order Form. Invoice Cloud's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, Invoice Cloud may assess and/or collect such taxes, levies, or duties against Biller and Biller shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on Invoice Cloud's income. All payment obligations are non-cancellable and all amounts or fees paid are non-refundable. Unless Invoice Cloud in its discretion determines otherwise, all fees will be billed in U.S. dollars. If Biller believes Biller's bill or payment is incorrect, Biller must provide written notice to Invoice Cloud within 60 days of the earlier of the invoice date, or the date of payment, with respect to the amount in question to be eligible to receive an adjustment or credit; otherwise such bill or payment is deemed correct. Invoice Cloud reserves the right to pass through any pricing modifications with respect to fees owed by the Biller upon thirty days written notice to Biller based on increases incurred by Invoice Cloud on fees, assessments, and the like from credit card processors, bank card issuers, payment associations, ACH and check processors.

**6. Effect of Termination.** Upon any early termination of this Agreement by Invoice Cloud as a result of the breach, Biller shall remain liable for all fees and charges incurred, and all periodic fees owed through the end of the calendar month following the effective date of termination. Upon any termination or expiration of this Agreement, Biller's password and access will be disabled and Biller will be obligated to pay the balance due on Biller's account computed in accordance with the Charges and Payment of Fees section above. Biller agrees that Invoice Cloud may charge such unpaid fees to Biller's Debit Account or credit card or otherwise bill Biller for such unpaid fees

**7. Invoice Cloud Responsibilities.** Invoice Cloud represents and warrants that it has the legal power and authority to enter into this Agreement. Invoice Cloud warrants that the Service will materially perform the functions that the Biller has selected on the Order Form under normal use and circumstances and that. Invoice Cloud shall use commercially reasonable measures with respect to Customer Data to the extent that it retains such, in the operation of the Service; provided that the Biller shall maintain immediately accessible backups of the Customer Data. In addition, Invoice Cloud will, at its own expense, as the sole and exclusive remedy with respect to performance of the Service, correct any Transaction Data to the extent that such errors have been caused by Invoice Cloud or by malfunctions of Invoice Cloud's processing systems.

**8. Limited Warranty** EXCEPT AS PROVIDED IN SECTION 7, THE SERVICES AND ALL CONTENT AND TRANSACTION DATA IS PROVIDED WITHOUT ANY EXPRESS, OR IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY INVOICE CLOUD AND ITS LICENSORS AND PAYMENT PROCESSORS. INVOICE CLOUD AND ITS LICENSORS AND PAYMENT PROCESSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THAT THE SERVICE WILL NOT DELAY IN PROCESSING OR PAYING, OR (C) THE SERVICE WILL MEET REQUIREMENTS WITH RESPECT TO SIZE OR VOLUME. Invoice Cloud's service may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Invoice Cloud is not responsible for any delays, delivery failures, or other damage resulting from such problems.

**9. Biller's Responsibilities.** Biller represents and warrants that it has the legal power and authority to enter into this Agreement. Biller is responsible for all activity occurring under Biller's accounts and shall abide by all applicable laws, and regulations in connection with Biller's and/or its customers' and/or any payers' use of the Service, including those related to data privacy, communications, export or import of data and the transmission of technical, personal or other data. Biller represents and warrants that Biller has not falsely identified itself nor provided any false information to gain access to the Service and that Biller's billing information is correct. Biller shall: (i) notify Invoice Cloud immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to Invoice Cloud and immediately stop any copying or distribution of Content that is known or suspected to be unauthorized by Biller or Biller's Users; and (iii) obtain consent from Biller's customers and payers to receive notifications and invoices from Invoice Cloud. Invoice Cloud is not responsible for any Biller postings in error due to delayed notification from credit card processor, ACH bank and other related circumstances. Biller agrees and acknowledges that in the event that Biller has access to, receives from, creates, or receives protected health information, or Biller has access to, creates, receives, maintains or transmits on behalf of electronic protected health information (as those terms are defined under the privacy or security regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009 ("ARRA"),during the performance under this Agreement, it will comply with all such law, regulations and rules related thereto.

Biller is required to ensure that it maintains a fair policy with regard to the refund, return or cancellation of services and adjustment of Transactions. Biller is also required to disclose all refund, return and cancellation policies to Invoice Cloud and any applicable payment processors and Biller's Customers, as requested. Any change in a return/ cancellation policy must be submitted to Invoice Cloud, in writing, not less than 21 days prior to the effective date of such change.  If Biller allows or is required to provide a price adjustment, or cancellation of services in connection with a Transaction previously processed, Biller will prepare and deliver to Invoice Cloud Transaction Data reflecting such refund/adjustment within 2 days of resolution of the request resulting in such refund/adjustment. The amount of the refund/adjustment cannot exceed the amount shown as the total on the original Transaction Data. Biller may not accept cash or any other payment or consideration from a Customer in return for preparing a refund to be deposited to the Customer's account; nor may Biller give cash/check refunds to a Customer in connection with a Transaction previously processed, unless required by applicable law

**10. Indemnification.** Invoice Cloud shall indemnify and hold Biller, employees, attorneys, and agents, harmless from any losses, liabilities, and damages (including, without limitation, Biller's costs, and reasonable attorneys' fees) arising out**:** (i) failure by Invoice Cloud to implement commercially reasonable measures against the theft of the Customer Data**;** or (ii) its total failure to deliver funds processed by Invoice Cloud as required hereunder (which relates to payments due from Invoice Cloud for Transaction Data). This indemnification does not apply to any claim or complaint relating to Biller's failure to resolve a payment dispute concerning debts owed to Biller or Biller's negligence or willful misconduct or violation of any applicable agreement or law.

**11. Fees.**
Invoice Cloud will not charge fees related to the initial setup, initial implementation and personalization of its standard Service unless a fee is included in the Biller Order Form. Invoice Cloud will charge the Biller or payer fees as provided in the Biller Order Form.  In addition, Invoice Cloud reserves the right to charge for changes to the setup, implementation or personalization performed after the completion of initial setup or implementation and any other requested work or changes including the following services, at its then standard rates:

- new file/biller set up
- template changes
- custom reports and other custom development
- new bill printer support
- invoice file format changes resulting in revision of integration/data translation
- re-implementation of a site/system and/or new billing system
- payment file revisions
- loading pdfs and importing/loading invoices
- conversion of biller customer registrations/passwords (post initial implementation)
- balance forward of invoices
- other out of scope services

**12. Limitation of Liability.** EXCEPT FOR INVOICE CLOUD'S INDEMNIFICATION OBLIGATIONS AND TO THE EXTENT THAT CLAIMS FOR WHICH INVOICE CLOUD IS INSURED ARE PAID BY THE APPLICABLE INSURANCE CARRIER, INVOICE CLOUD'S AGGREGATE LIABILITY SHALL BE UP TO AND NOT EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM BILLER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL INVOICE CLOUD AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to Biller.

**13. Export Control.** The Biller agrees to comply with United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies.

**14. Notice.** Either party may give notice by electronic mail to the other party's email address (for Biller, that address on record on the Biller Order Form, or by written communication sent by first class mail or pre-paid post to the other party's address on record in Invoice Cloud's account information for Biller, and for Invoice Cloud, to Invoice Cloud, Inc., 30 Braintree Hill Office Park, Suite 303, Braintree, MA 02184 Attention: Client Services.  Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email).

**15. Assignment.** This Agreement may not be assigned by either party without the prior written approval of the other party, but may be assigned without such party's consent to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void.

**16. Insurance.**

Invoice Cloud agrees to maintain in full force and effect during the term of the Agreement, at its own cost, the following coverages:

a. Commercial General or Business Liability Insurance with minimum combined single limits of One Million ($1,000,000) each occurrence and Two Million ($2,000,000) general aggregate.

b. Umbrella Liability Insurance with minimum combined single limits of Five Million ($5,000,000) each occurrence and Five Million ($5,000,000) general aggregate.

c. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than One Million ($1,000,000) for any one occurrence, with respect to each of the Invoice Cloud's owned, hired or non-owned vehicles assigned to or used in performance of the Services.

d. Errors and Omissions Insurance (Professional Liability and Cyber Insurance) with limits of liability of at least One Million Dollars ($1,000,000) per claim and in the aggregate.

**17. Immigration Laws.** For Services performed within the United States, Invoice Cloud will assign only personnel who are either citizens of the United States or legally eligible to work in the United States. Invoice Cloud represents and warrants that it has complied and will comply with all applicable immigration laws with respect to the personnel assigned to the Biller.

**18. Beta Products.** In the event that there is any functionality labelled "Beta" on the Biller Order Form, such functionality is provided "AS IS" WITHOUT ANY EXPRESS, OR IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY INVOICE CLOUD AND ITS LICENSORS AND PAYMENT PROCESSORS. INVOICE CLOUD'S AGGREGATE LIABILITY WITH RESPECT TO SUCH FUNCTIONALITY SHALL BE UP TO AND NOT EXCEED $10.

**19. General.** No text or information set forth on any other purchase order, preprinted form or document (other than a Biller Order, if applicable) shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between Biller and Invoice Cloud as a result of this agreement or use of the Service. The failure of either party to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Invoice Cloud in writing. All rights and obligations of the parties in Sections 4, 6, 10, 12, 14, 18 and 19 shall survive termination of this Agreement. Biller agrees that Invoice Cloud can disclose the fact that Biller is a paying customer and the edition of the Service that Biller is using.

Additional terms and conditions and definitions applicable to this Agreement and the Biller Order Form are found at www.invoicecloud.com/termsandconditions (the "Biller T+C") and are agreed to by Invoice Cloud and the Biller.

Exhibit F

Confirmation of Critical Terms of Service on the Cash Transaction Network

Under a Payment Processing Agreement between "us", the Processor identified in the Signature Block, and PayNearMe MT, Inc. ("PayNearMe") (the "Agreement"),PayNearMe will, through us and any approved data processors already interfaced with your systems, provide a web-based technology merchant payment processing service and supporting network infrastructure (the "Network") to enable cash payments to you at pa11icipating 7-Eleven, ACE Cash Express, Casey's General Store, CVS, and Family Dollar stores.(note: Family Dollar does not accept auto loan payments) and other payment locations to be agreed upon in the future, subject to any exclusions that you identify below. More information may be found. at www.paynearme.com (the "Website"). We have agreed to the following PayNearMe terms of service on your behalf, and the Agreement also requires that all payment recipients and payees ("Y.Q!!") expressly confirm them. You agree:

(i) thatPayNearMe and its payment locations are authorized to receive cash payments for you pursuant to the Agreement (i.e.,
       act as agents for the limited purpose of receiving payments).

(ii) that PayNearMe will remit these payments to us or directly to you, as we so instruct PayNearMe, less thePayNearMe and payment location commissions as well as any applicable transaction taxes that PayNearMe or the payment location is obliged to withhold and remit to authorities (currently none).

(iii) that we may share such information with PayNearMe as may be necessary in our discretion to enable PayNearMe to
       perform its services pursuant to the Agreement.                                                          .

(iv) that receipt of payment by a payment location on your behalf from any person using the Network ("user") is deemed receipt of payment by you and will satisfy the obligation owed to you in the amount of the applicable payment by the user, even if PayNearMe or we fail to make such corresponding payment to you. (Instead, your recourse is to us, we would look to PayNearMe and so on). The receipt issued by the payment location will identify you as the recipient of the payment and may identify us as well. In this way, the user is not at risk of having to pay twice. You agree that you have no, and shall not assert any, claim for the payment against any user after user's payment at a payment location and that you will not otherwise allow or take any action or fail to take any action that is adverse to user in connection with such payment.

(v) that either we or PayNearMe can elect to suspend the initiation of new payment transactions at our reasonable discretion until such time as we and PayNearMe agree to resume processing.

(vi) that you will comply with applicable provisions of the: (x)Dodd-Frank Wall Street Reform and Consumer Protection Act, undertaking in particular not to commit unfair, deceptive, or abusive acts or practices as prescribed by the Consumer Financial Protection Bureau; (y) Gramm-Leach-Bliley Act, undertaking in particular to properly safeguard consumer information as described in the Safeguards Rule promulgated by the Federal Trade Commission; and (z) the Truth in Lending Act and related regulations enforced by the Consumer Financial Protection Bureau in its authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(vii) that all use of the Network by users is subject to PayNearMe's terms of use displayed on the Website and that you will reasonably cooperate with PayNearMe and us in good faith to minimize fraud/theft/abuse/illegality in the use the Network and during the term of the Agreement and for a reasonable time thereafter, you will promptly respond to reasonable, related information requests.

(viii)    that you will not use any payment location names, marks or logos without PayNearMe's prior written approval. In the event of any inconsistency between this confirmation and the Agreement, then the Agreement provision will govern. PayNearMe is an intended third party beneficiary of the foregoing agreements.

(ix) The following payment locations are excluded *(not applicable if left blank):* ACE Cash Express, Casey's General Store, Family Dollar

You"/Client Name:     City of Milpitas                        Agreed: (signature):_____

Client Address:         455 E Calaveras Blvd.                         Date:_____

                        Milpitas, CA 95035                      Print Name:_____

"Us"/ Processor Name: Invoice Cloud, Inc                         Title:_____

PayNearMe Basic Fee: $1.99                              Phone #: _____

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