



Terms and Conditions

Client: City of Margate

Effective Date: October 8, 2015

Initial Term End Date: September 30, 2017

This **Payment Processing Services Agreement** ("Agreement") is entered into as of the Effective Date by and between **Bill2Pay, LLC**, ("Company") a Florida Corporation with offices in Jacksonville and Clearwater, Florida, and the above referenced Client, a Florida Municipality.

1 SCOPE OF SERVICES

Company shall furnish the services and implement the general product as set forth in the attached **Exhibit A** which is incorporated herein and made a part of this Agreement.

2 COMPENSATION

2.1 FEES

As consideration for the services set forth in **Exhibit A**, Client shall pay the Company the fees according to the provisions contained in **Exhibit B**.

2.2 PRICING CHANGES

The fees defined in **Exhibit B** are fixed for the initial term of the Agreement provided Client does not make a substantial change not in accordance with the service description set forth in **Exhibit A**. Substantial changes include, but are not limited to, initiating a change in the form of Client's customer payments, operating procedures, invoices, account numbers, or any other similar changes.

Should Client desire to make any such change, it shall give the Company at least thirty (30) days advance written notice. Client shall be responsible for any additional expenses incurred by Company.

2.3 INVOICES

Company will send Client a monthly invoice for all charges incurred. The invoices will also include detail for volumes and the number of transactions processed.

Client shall pay invoices within forty-five (45) days of issue. Invoices not paid within forty-five days shall be charged interest which compounds daily. The interest rate shall be the lower of 18% simple interest, or the highest amount allowable under applicable law. This interest shall accrue from the issue date and shall continue until invoice is paid in full.

Should Client object to any invoice or portion thereof then Client shall pay such invoice under protest. Should the parties not be able to resolve such dispute the matter shall be resolved pursuant to subparagraph 10.1 – Arbitration.

Invoices and detail will be sent to:

City of Margate
Attn: Accounts Payable
5790 Margate Blvd
Margate, FL 33063

Payment will be sent to:

Bill2Pay
4700 140th Ave. North
Ste 106
Clearwater, FL 33762

3 AGREEMENT TERM

3.1 INITIAL TERM

This Agreement shall have an initial term from October 8, 2015 ending at midnight on September 30, 2017.

3.2 RENEWAL OPTIONS

This term will be automatically extended for successive one (1) year terms unless terminated by Company or Client, pursuant to the provisions contained in paragraph 4 – Termination.

4 TERMINATION

4.1 TERMINATION FOR CONVENIENCE

Company or Client may terminate this Agreement for convenience, without further obligation, upon ninety (90) days written notice to the other party.

4.2 TERMINATION FOR CAUSE

Company or Client may terminate this Agreement, without further obligation, upon written notice to the other party if the other party breaches any material term of the Agreement and such breach remains uncured for thirty (30) days after receipt of said notice.

Company may terminate this Agreement, without further obligation, upon written notice to the Client if the Client withholds, or does not pay, any fees claimed by Company. In such event the period to cure shall be seven (7) days after receipt of said notice.

5 RESPONSIBILITIES

5.1 RESPONSIBILITY FOR THE DATA

Company assumes no liability for loss of input payment data, checks or other information before such data is in possession of Company. Company does not guarantee any payment for goods or services provided by Client. Company shall not be liable for any consequential, special, exemplary, incidental or indirect damages.

Company will reimburse Client for the recovery of overdraft fees charged to a Client customer as a direct result of a payment transaction error by Company. Company will further reimburse Client for any payments made by Client to Company which may be subsequently reversed for any reason.

The term Company shall include all employees, directors and officers of Company as well as independent contractors hired by the Company to perform any part of the services to be furnished under this Agreement.

Possession of the data by the Company first occurs when the items to be processed are delivered electronically and successfully stored by the Company's electronic payment application, or when items are delivered physically to Company's lockbox processing facility and ends when the information has been delivered to the Client's depository institution. Company ensures the protection and integrity of the data in its systems.

6 INSURANCE AND BOND

Company shall maintain the following coverage:

- I. **Worker's Compensation Insurance** which shall fully comply with the statutory requirements of applicable state and federal laws.
- II. **Employers' Liability Insurance** with limits no lower than \$500,000 per accident, \$500,000 for disease per employee and \$500,000 disease policy limits.
- III. **Commercial General Liability Insurance** with a minimum combined single limit of liability of \$1,000,000 per occurrence per location and \$2,000,000 aggregate for bodily injury and/or death and/or property damage and/or personal injury. This policy shall include products, completed operations coverage, and Broad Form Contractual Insurance specifically covering this Agreement.
- IV. **Fidelity Bond** for coverage for the dishonest acts of its employees with a minimum amount of \$1,000,000.

7 CONTRACT DOCUMENTS

7.1 CONTRACT DOCUMENTS

The following Contract Documents are incorporated into and made part of this Agreement. In the event of any conflict between the Contract Documents or any ambiguity, the following priority is hereby established:

- I. Signed Amendments to this Agreement
- II. This Payment Processing Services Agreement
- III. Exhibits to this Agreement

Client has read and executed these exhibits.

7.2 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties. No other representations have been made by either of the parties other than what has been set forth herein. This Agreement may only be amended by written amendment signed by both parties.

All of the representations made by Company with respect to the provisions of the services are set forth in this Agreement and Client acknowledges that it has not relied upon any other statements. Client acknowledges that it has not relied upon any other prior statements or negotiations.

7.3 SEVERABILITY

If any provision of this Agreement shall be held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable. If a court, or arbiter, finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

7.4 HEADINGS

Section headings are only included for reference and convenience. They are not intended to define the scope of any provision and should not be used to construe or interpret this Agreement.

8 CONTACTS

8.1 NOTICES

Whenever, under this Agreement, one party is required to give notice to the other, such notice shall be deemed given, if mailed by United States mail, registered or certified mail, return receipt requested,



postage prepaid and addressed as shown below. Either party may at any time change its address for notification purposes by mailing a notice stating the change and setting forth the new address.

Client

City of Margate
Attn: Finance Director
5790 Margate Blvd
Margate, FL 33063

Intuition Systems, Inc.

Bill2Pay
4700 140th Ave. North
Ste 106
Clearwater, FL 33762

8.2 ASSIGNMENT

No party may assign or transfer any of its rights or obligations under this contract without the prior written approval of the other party, except that the Company may assign this contract without the prior written approval of the Client to an affiliate or to any entity acquiring all or substantially all of the rights or assets of Bill2Pay.

8.3 PRIMARY CONTACTS For informational purposes only

Mary Beazley
City of Margate
5790 Margate Blvd
Margate, FL 33063

Kathy Wilson
Bill2Pay
4700 140th Ave. North
Ste 106
Clearwater, FL 33762

9 FORCE MAJEURE – SUSPENSION OF OPERATIONS

Performance of these services will be provided in Company's facilities in either Clearwater or Jacksonville, Florida. Neither party shall be liable for damages for delay in Services should both of these facilities be unavailable due to causes beyond its control and without its fault or negligence. In the case of Company, Company shall within four (4) hours from the beginning of such delay, notify Client of the cause of delay and Company's contingency plan to cure such delay.

These causes include, but are not limited to, acts of God, acts of public enemy, acts of the government, foreign or domestic terrorists, fires, floods, epidemics, strikes, labour disturbances, and freight embargoes. It will not including delays caused by subcontractors or suppliers.

If a delay exceeds a total of five (5) days, Client may immediately without necessity of further notice, terminate this Agreement. Where Company is prevented from providing the Services due to a cause listed above, Company shall use its best efforts to resume Services as soon as such cause ends.

10 DISPUTE RESOLUTION

10.1 ARBITRATION

10.2 CHOICE OF LAW

This Agreement shall be governed by the laws of the State of Florida.

10.3 VENUE

This agreement shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida

10.4 WAIVER OF JURY TRIAL

Company and Client both waive any right to a jury trial for any dispute arising from or relating to this Agreement.

11 SIGNATURES

In Witness whereof, the parties hereto have executed this Agreement as of the Effective Date by the undersigned officer's thereunto duly authorized.

Bill2Pay, LLC

Sign: _____

Name: Iris Kraft

Title: Co-President, Chief Operations Officer

Date: 9/21/2015



Payment Processing Services Agreement

CITY OF MARGATE

A handwritten signature in blue ink, reading "Douglas E. Smith", written over a horizontal line.

Douglas E. Smith, City Manager

1st day of October, 2015



Exhibit A – Lockbox Services

Company agrees to provide remittance processing and other enumerated related services for Client in accordance with the procedures listed below.

1. **Post Office Box:** A Post Office caller service box will be opened by Client at the Tampa Regional Airport Post Office facility in Tampa, Florida. The actual post office box will be in the name of and owned by Client and Client will grant Company exclusive use of the post office box for the term that this Agreement is in effect. Company will pay for the cost of the lockbox at the Tampa Airport and pass through the cost to the Client on an annual basis. Mail addressed to the box will be picked up each Company business day (Monday through Saturday), opened and the envelope contents reviewed and processed in accordance with the terms of the Agreement.
2. **Mail Processing:** Company will open all mail and prepare the remittance coupons and payment checks for processing. Company shall not process those items documented in the Lockbox Information Sheet not to be processed. Unless otherwise agreed upon, all processed checks will be endorsed:

Deposit to the Account of: City of Margate
Bank Name: Wells Fargo, N.A.
Bank Account Number: 2152400056694

3. **Authorization:** Company is hereby authorized to accept for deposit into Client demand deposit accounts at Client's designated bank of deposit, drafts and other items made payable to or endorsed in favor of the Client or a reasonable variation thereof.

Client has designated their demand deposit accounts to be used by Company for lockbox deposits and adjustments hereunder. The funds associated with the Client will be deposited into the demand deposit account on the date that such checks and remittance coupons are processed by Company, or the next business banking day when such items are processed on a Saturday, Sunday or holiday.

4. **Delivery:** Company will deliver by electronic pdf file or overnight express to Client on the same day the check and remittance mail is opened and processed – correspondence, address changes, messages, balancing documentation.
5. **Record Retention:** Company will maintain an image record of all checks, which are processed by Company for a period of one (1) year.
6. **Payment Amount Discrepancy:** If the handwritten amount on a payment differs from the numeric amount, the amount, which agrees to the invoice, will be accepted.
7. **Client Changes:** Client will notify Company at least sixty (30) days in advance of any change in the form of its customer payments, invoices, and envelopes or in the regular monthly mailing schedule of such documents.
8. **Hardware Failure:** For the purposes of ensuring that the processing of payment data is timely to the Client, the Company has established production deadlines, which have been furnished to Client in writing. In the event the Company suffers hardware failure or any other condition beyond their control, the work will be cut off early to ensure a deposit is posted each day.



Exhibit B – Retail Processing Fees

Monthly Volume	Per Item Fee	Monthly Fee
Items Processed/Returned	.50	
Online Banking	.05	
Cash Payment	3.25	
Online Image Access	2 Years Online Image Access of checks and remittances processed.	N/C
Interactive Exceptions	Exception checks hosted on interactive website – client provides Bill2Pay with posting instructions.	N/C
ICL Check Conversion Fee		N/C
eClient Bag		N/C
Data Transmission		No Charge
Annual P.O. Box Fee		Pass-through
Fed Ex/Postage/Courier		Pass-through
Contract Monthly Minimum		2,500.00 mthly
Implementation		No Charge