



## MASTER SERVICES AGREEMENT

Client:	Durham, North Carolina
Client Address:	101 City Hall Plaza Annex, Durham, NC 27701
Contact for Notices to Client:	Chad Cowan
Estimated Yearly Bills / Invoices:	1,080,000

This Master Services Agreement (“Master Agreement”) is entered into as of the Effective Date below, by and between the Client (“Client”) identified above and **Paymentus Corporation**, a Delaware Corporation (“Paymentus”).

**WHEREAS** Paymentus desires to provide and the Client desires to receive certain services under the terms and conditions set forth in this Agreement. Paymentus provides electronic bill payment services to utilities, municipalities, insurance and other businesses.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows. This Agreement consists of this signature page, General Terms and Conditions, and the attachments (“**Attachments**”) with schedules (“**Schedules**”) listed below:

**Schedule A:** Paymentus Service Fee Schedule

This Agreement represents the entire understanding between the parties hereto with respect to its subject matter and supersedes all other written or oral agreements heretofore made by or on behalf of Paymentus or Client with respect to the subject matter hereof and may be changed only by agreements in writing signed by the authorized representatives of the parties.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives

**Client:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Paymentus:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Paymentus

## -GENERAL TERMS AND CONDITIONS

### 1 Definitions:

For the purposes of this Agreement, the following terms and words shall have the meaning ascribed to them, unless the context clearly indicates otherwise.

- 1.1 “**Agreement**” or “**Contract**” shall refer to this Agreement, as amended from time to time, which shall constitute an authorization for the term of this contract for Paymentus to be the exclusive provider of services, stated herein, to the Client
- 1.2 “**User**” shall mean the users of the Client’s services
- 1.3 “**Effective Date**” shall be the last date upon which the parties signed this Agreement. The Agreement will not be effective against any party until the said date
- 1.4 “**Launch Date**” shall be the date on which Client launches this service to the Users
- 1.5 “**Payment**” shall mean Users to make payments for Client’s services or Client’s bills
- 1.6 “**Payment Amount**” shall mean the bill amount User wants to pay to the Client.
- 1.7 “**Services**” shall include the performance of the Services specified in section 2 of this Agreement
- 1.8 “**Paymentus Authorized Processor**” shall mean a Paymentus authorized merchant account provider and payment processing gateway
- 1.9 “**Reversed or Charged-back Transactions**” shall mean cancelled transactions due to User error, or a User’s challenge to Payment authenticity.
- 1.10 “**Average Bill Amount**” shall mean the total amount of Payments collected through Paymentus system in a given month divided by the number of the Payments for the same month.

### 2 Description of Services to be Performed

#### 2.1 **Scope of Services**

Paymentus shall provide Users the opportunity to make Payments by Visa, MasterCard, Discover, E-check and other payment methods as deemed necessary by Paymentus and other services outlined in Exhibit A of this Agreement. Payments may be made by Interactive Telephone Voice Response System (“IVR”) or secure Internet interface provided at the Paymentus Corporation’s web site or other websites part of Paymentus’ Instant Payment Network (“WebSites”), collectively referred to as the (“System”).

#### 2.2 **Professionalism**

Paymentus shall perform in a professional manner all Services required to be performed under this Agreement.

### 3 Compensation

#### 3.1 **No Cost Installation**

Paymentus will charge no fees related to the initial setup and personalization of its standard service for Web, mobile, text and IVR interfaces.

#### 3.2 **Paymentus Fees**

A schedule of Paymentus Fees is attached hereto as Exhibit A. System will charge fees as specified in Exhibit A. For non-utility bills, such Paymentus Service Fee is to be collected in addition to the corresponding Payment as part of the transaction.

For each non-utility payment, the Paymentus Service Fee collected will be used to pay the corresponding Credit Card transaction fees or transaction fees associated with Debit Cards or eChecks (hereinafter called “Transaction Fees”) except for the return items (eCheck returns or Credit/Debit Card chargebacks).

For all utility-related bills, the City will pay the related Paymentus Service Fee as specified in Exhibit A, which is hereby made part of this agreement.

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The Paymentus Service Fee for Utility Payments is based on the Average Bill Amount, current payment method mix (credit vs debit vs e-check) and on the assumption that the total number of payments and the total Payment Amount collected each month from the use of non-consumer cards shall be under 5% of the total per month ("Fee Assumptions"). Quarterly, Paymentus and the Client shall audit the use of non-consumer cards, and the Client shall be billed an additional Paymentus Service Fee for utility-related Payments based on the rate of 3.5% of the Payment Amount for any excess amount if the Fee Assumptions vary by more than 5% on a quarterly basis. Paymentus can amend this schedule upon prior written notice to the Client, if such change is required due to changes in the Visa and MasterCard regulations or changes in Credit Card fees or changes in the Average Bill Amount or changes in Fee Assumptions.

## **4 Payment Processing**

### **4.1 Integration with Client's Billing System**

At no cost to Client, Paymentus will develop and maintain a real-time interface to interact with the MUNIS ("Client's Supplier") IVR Gateway, provided Client cooperates fully with Paymentus and causes Client's Supplier to fully cooperate. Paymentus shall be responsible for maintaining compatibility with the MUNIS IVR Gateway or other real-time integrated non-custom standard MUNIS module without additional cost to what is agreed upon in this Agreement. If this compatibility is not fully implemented or fails, solely due to Paymentus' acts or omissions despite full cooperation from Client and Client's Supplier, the Client, at its discretion, may deem it a Material Breach as provided in Section 9.2.

### **4.2 Explicit User Confirmation**

Paymentus shall confirm the dollar amount of all Payments and the corresponding Paymentus Service Fee to be charged to a Card and electronically obtain the User approval of such charges prior to initiating Card authorizations transaction. Paymentus will provide User with electronic confirmation of all transactions.

### **4.3 Merchant Account**

Paymentus will arrange for the Client to have a merchant account with the Paymentus Authorized Processor for processing and settlement of the credit card transactions.

### **4.4 Card Authorization**

For authorization purposes, Paymentus will electronically transmit all Card transactions to the appropriate Card-processing center, in real time as the transactions occur.

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## 4.5 Settlement

Paymentus together with its authorized Card processor shall forward the payment transactions and corresponding Paymentus Service Fee to the appropriate card organizations for settlement directly to the Client's depository bank account previously designated by the Client (hereinafter the "Client Bank Account").

Paymentus together with Paymentus Authorized Processor will continuously review its settlement and direct debit processes for its simplicity and efficiencies. Client and Paymentus agree to fully co-operate with each other if Paymentus were to change its settlement and invoicing processes.

## 4.6 Reversed or Chargeback Transactions

With respect to all Reversed or Chargeback Transactions, the Client authorizes Paymentus and Paymentus Authorized Processor (and/or the respective card organization) to debit the Client Bank Account for the Payment Amount, and Paymentus shall refund to the Card organization for credit back to the User the corresponding Paymentus Service Fees.

Paymentus together with Paymentus Authorized Processor will continuously review its processes for Reversed or Chargeback transactions, for simplicity and efficiencies. Client and Paymentus agree to reasonably co-operate with each other if Paymentus requires any change its settlement and invoicing processes for such transactions.

## 5 General Conditions of Services

### 5.1 Service Reports

Paymentus shall provide Client with reports summarizing use of the Services by Users for a given reporting period.

### 5.2 User Adoption Communication by Client

Client will make Paymentus' Services available to its residential and commercial Clients by different means of Client communication including a) through bills, invoices and other notices; b) by providing IVR and Web payment details on the Client's website including a "Pay Now" or similar link on a mutually agreed prominent place on the web site; c) through Client's general IVR/Phone system;

and d) other channels deemed appropriate by the Client.

Paymentus shall provide Client with logos, graphics and other marketing materials for Client's use in its communications with its users regarding the Services and/or Paymentus.

Both parties agree that Paymentus will be presented as a payment method option. Client will communicate Paymentus option to its end residential and commercial Clients wherever Client usually communicates its other payment methods.

### 5.3 Independent Contractor

Client and Paymentus agree and understand that Paymentus is an independent contractor to the Client, and this business arrangement is not a partnership.

### 5.4 Client's Responsibilities

In order for Paymentus to provide Services specified in this Agreement, the Client shall co-operate with Paymentus by:

- (i) Client will enter into all applicable merchant Card or cash management agreements.
- (ii) For the duration of this Agreement, Client will keep a bill payment link connecting to Paymentus System at a prominent and mutually agreed location on the Client website. The phone number for the IVR payment will also be added to the web site. Client will also add the IVR payment option as part of the Client's general phone system.
- (iii) User Adoption marketing as described in 5.2.
- (iv) Within 30 days of the merchant account setup, Client will launch the service to the Users.
- (v) For the purpose of providing Client a posting file for posting to Client's billing system, Client will provide the file format specification currently used to post its payments to the billing system. Client will fully cooperate with Paymentus and

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provide the information required to integrate with Client's billing system.

## **6 Governing Laws**

This Agreement shall be governed by the laws of the state of North Carolina, and jurisdiction shall be in the General Court of Justice for the State of North Carolina in the County of Durham.

## **7 Communications**

### **7.1 Authorized Representative**

Each party shall designate an individual to act as a representative for the respective party, with the authority to transmit instructions and receive information. The parties may from time to time designate other individuals or change the individuals.

### **7.2 Notices**

All notices of any type hereunder shall be in writing and shall be given by Certified Mail or a national courier or by hand delivery to an individual authorized to receive mail for the below listed individuals, all to the following individuals at the following locations:

#### **To Client**

C/O: Chad Cowan  
Address: 101 City Hall Plaza Annex, Durham, NC 27701  
Phone: 919-560-4511, 1  
Fax:

#### **To Paymentus**

C/O: President and CEO  
Address: 13024 Ballantyne Corporate Place Suite 450  
Charlotte, NC 28277  
Phone: 980-255-3000  
Fax: 704-322-3776

Notices shall be declared to have been given or received on the date the notice is physically received if given by hand delivery, or if notices given by US Mail, then notice shall be deemed to have been given three days after the date said notice was deposited in the mail addressed in the manner set forth above. Any party hereto by giving notice in the manner set forth herein may unilaterally change the name of the person to whom notice is to be given or the address at which the notice is to be received.

## **7.3 Interpretation**

It is the intent of the parties that no portion of this Agreement shall be interpreted more harshly against either of the parties as the drafter.

## **7.4 Amendment of Agreement**

Modifications or changes in this Agreement must be in writing and executed by the parties bound to this Agreement.

## **7.5 Severability**

If a word, sentence or paragraph herein shall be declared illegal, unenforceable, or unconstitutional, the said word, sentence or paragraph shall be severed from this Agreement, and this Agreement shall be read as if said word, sentence or paragraph did not exist.

## **7.6 Attorney's Fees**

Should any litigation arise concerning this Agreement between the parties hereto, the parties agree to bear their own costs and attorney's fees.

## **7.7 Confidentiality**

Client will not disclose to any third party or use for any purpose inconsistent with this Agreement any confidential or proprietary non-public information it obtains during the term of this Agreement about Paymentus' business, operations, financial condition, technology, systems, no-how, products, services, suppliers, Clients, marketing data, plans, and models, and personnel. Paymentus will not disclose to any third party or use for any purpose inconsistent with this Agreement any confidential User information it receives in connection with its performance of the services.

Each party will: (a) protect the other party's Confidential information with the same standard of care it uses to protect its own Confidential information; and (b) not disclose the confidential information, except to affiliated, employees, and agents who need to know it and who have agreed in writing to keep it confidential. Each party (and any affiliates, employees and agents to whom it has disclosed confidential information) may use confidential information only to exercise rights and fulfill its obligations under this Agreement, while using reasonable care to protect it. Each party is

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responsible for any actions of its Affiliates, employees and agents in violation of this Section.

Confidential information does not include information that: (a) the recipient of the Confidential information already knew (b) becomes public through no fault of the recipient; (c) was independently developed by the recipient; or (d) was rightfully given to the recipient by another party.

Each party may disclose the other party's confidential information when required by law but only after it, if legally permissible: (a) uses commercially responsible efforts to notify the other party; and (b) gives the other party the chance to challenge the disclosure. Should Paymentus decide to challenge a public records request, Paymentus will pay the costs of such a challenge and defend the City and pay any costs incurred by or assessed against the City in resisting the disclosure request.

Client is responsible for responding to Third Party Requests. Paymentus will, to the extent allowed by law and by the terms of the Third Party Request: (a) promptly notify Client of its receipt of a Third Party Request in a manner permitted by law; (b) comply with Customer's reasonable requests regarding its efforts to oppose a Third Party Request; and (c) provide Client with the information or tools required for Client to respond to the Third Party Request. Client will first use the Admin Tool to access the required information, and will contact Paymentus only if it is insufficient for Client's needs.

In the event of a data breach or unauthorized access of Client's data, Paymentus will promptly notify Customer of the breach, including details of its nature, the data compromised, mitigation efforts, and corrective actions to be taken by Paymentus.

## 7.8 Intellectual Property

In order that the Client may promote the Services and Paymentus' role in providing the Services, Paymentus grants to Client a revocable, non-exclusive, royalty-free, license to use Paymentus' logo and other service marks (the "Paymentus Marks") for such purpose only. Client does not have any right, title, license or interest, express or implied in and to any object code, software, hardware, trademarks, service mark, trade name, formula, system, know-how, telephone number, telephone line, domain name, URL, copyright image, text, script (including, without limitation, any script used by Paymentus on the IVR or the WebSite) or other intellectual property right of

Paymentus ("Paymentus Intellectual Property"). All Paymentus Marks, Paymentus Intellectual Property, and the System and all rights therein (other than rights expressly granted herein) and goodwill pertain thereto belong exclusively to Paymentus.

## 7.9 Force Majeure

Paymentus will be excused from performing the Services as contemplated by this Agreement to the extent its performance is delayed, impaired or rendered impossible by acts of God or other events that are beyond Paymentus' reasonable control and without its fault or judgment, including without limitation, natural disasters, war, terrorist acts, riots, acts of a governmental entity (in a sovereign or contractual capacity), fire, storms, quarantine restrictions, floods, explosions, labor strikes, labor walk-outs, extra-ordinary losses utilities (including telecommunications services), external computer "hacker" attacks, and/or delays of common carrier.

## 7.10 Time of the Essence

Paymentus and Client acknowledge and agree that time is of the essence for the completion of the Services to be performed and each party's respective obligations under this Agreement.

## 8 Indemnification

### 8.1 Paymentus Indemnification and Hold Harmless

To the maximum extent allowed by law, the Paymentus shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of this contract as a result of acts or omissions of the Paymentus or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. In performing its duties under this subsection "a," the Paymentus shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City. (b) Definitions. As used in subsections "a" above and "c" below -- "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within "Charges" are (1) interest and reasonable attorneys' fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not

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limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract). "Indemnitees" means City and its officers, officials, independent contractors, agents, and employees, excluding the Contractor. (c) Other Provisions Separate. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This section is in addition to and shall be construed separately from any other indemnification provisions that may be in this contract. (d) Survival. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Paymentus under this contract. (e) Limitations of the Contractor's Obligation. Subsection "a" above shall not require the Paymentus to indemnify or hold harmless Indemnitees against liability for damages proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

## 8.2 Client Indemnification and Hold Harmless

Client agrees to the fullest extent permitted by law, to indemnify and hold harmless Paymentus, its affiliates, officers, directors, stockholders, agents, employees, and representatives, (collectively, the "Paymentus Indemnitees") from and against all liabilities, demands, losses, damages, costs or expenses (including without limitation reasonable attorney's fees and expenses) incurred by any Paymentus Indemnitee as a result or arising out of (i) the willful misconduct or negligence of Client related to the Services or (ii) a material breach of Client's covenants.

## 8.3 Warranty Disclaimer

Except as expressly set forth in this Agreement, Paymentus disclaims all other representations or warranties, express or implied, made to the Client or any other person, including without limitation, any warranties regarding quality, suitability, merchantability, fitness, for a particular purpose or otherwise of any services or any good provided incidental to the Services provided under this Agreement.

## 8.4 Limitation of Liability

Notwithstanding the foregoing, the parties agree that neither party shall be liable to the other for any lost profits, lost savings or other special, indirect or consequential damages, even if the party has been advised of or could have foreseen the

possibility of such damages. Paymentus' total liability for damages for any and all actions associated with this Agreement or the Services shall in no event exceed the specific dollar amount of the Paymentus Service Fee paid to Paymentus for the particular payment transaction which is the subject matter of the claim of damage.

## 8.5 Data Assurances

All data uploaded by Client into or created using the Services used by Client is owned solely by the Client and Paymentus will not access such data unless for the sole purpose of delivering the Services.

Client may access and retrieve all Client data stored using the Services at its sole discretion, regardless of who created the content and for what purpose.

Paymentus will permanently delete all data and copies of data from its systems when deleted by the Client or any authorized End User except when it is required to maintain compliance with rules and regulations.

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## **9 Term and Termination**

### **9.1 Term**

The term of this Agreement shall commence on the effective date of this Agreement and continue for a period of 5 (five) years ("Initial Term") from the Launch Date. Services under this Agreement shall begin within 30 days of the merchant account setup.

At the end of the Initial Term, this Agreement will automatically annually renew for up to three (3) successive one year periods unless either Client or Paymentus provide the other party with not less than 2 (two) months prior written notice before such automatic renewal date that such party elects not to automatically renew the term of this Agreement. If the renewal involves any fee adjustments, the party requesting the fee adjustment will provide the other party 6 (six) months notice prior to the end of the contract.

### **9.2 Material Breach**

A material breach of this Agreement shall be cured within 90 (ninety) days ("Cure Period") after a party notifies the other of such breach. In the event, such material breach has not been cured within the

Cure Period, the non-breaching party can terminate this Agreement by providing the other party with a 30 (thirty) days notice.

### **9.3 Upon Termination**

Upon termination of this Agreement, the parties agree to cooperate with one another to ensure that all Payments are accounted for and all refundable transactions have been completed. Upon termination, Paymentus shall cease all Services being provided hereunder unless otherwise directed by the Client in writing.

## **10 Notice of City Policy**

### **10.1 Non-Discrimination**

THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CITY CONTRACTS.

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## Exhibit A – Paymentus Service Fee Schedule

### Paymentus Solution Components (✓ Indicates feature is included)

- |   |   |
|---|---|
| <p><input checked="" type="checkbox"/> <b>Web Payments &amp; Account Information</b><br/>Allows customers to pay online quickly without requiring registration; Access to advanced customer self-service features: multi-account access, payment/consumption history, auto-pay.</p> <p><input checked="" type="checkbox"/> <b>Paperless eBilling</b><br/>Email bill reminders; opt in/out of receiving paper bill; historical statement summaries and renderings; Secure PDF Ebilling.</p> <p><input checked="" type="checkbox"/> <b>Mobile</b><br/>Allows customers to quickly check balances and make payments from mobile devices as well as the full functionality of the Web. Downloadable Apps &amp; Responsive Web with SMS text for payments.</p> | <p><input checked="" type="checkbox"/> <b>Paymentus Payment Processing Services™</b><br/>Level 1 PCI-compliant credit/debit/eCheck processing solution; Real-time data with simplified reconciliation to all Agency payments. E-lockbox services are also available.</p> <p><input checked="" type="checkbox"/> <b>IVR / Automated Phone Payments</b><br/>Easy-to-use, rapid payment service allows customers to hear their balance and make a payment in under two minutes</p> <p><input checked="" type="checkbox"/> <b>Outbound Customer Notifications</b><br/>Deliver payment reminders and other time-critical notifications by phone/text/email; proven to reduce delinquencies by 50%</p> <p><input checked="" type="checkbox"/> <b>Business Intelligence &amp; Reporting</b><br/>Real-time transaction data and detailed reporting and analytics through our agent dashboard.</p> |
|---|---|

### Pricing

Utility Billing Payments Via Credit/Debit or Electronic Check Transaction Fees	\$1.40 per qualified transaction via Visa, MasterCard, Discover, American Express; \$0.50 per Electronic Check; *Utility Billing Payments will be absorbed by the City.
Non-Qualified Utility Billing Payments and Other Departments Via Credit/Debit or Electronic Check Transaction Fees	3.30% per transaction via Visa, MasterCard, Discover, American Express; \$0.50 per Electronic Check **Non Utility Billing Payments will be passed along to the user via User Fee

- Average Utility Billing payment amount of \$75.00. Maximum Amount per Payment is \$400.00. Multiple payments can be made.
- Chargebacks will be billed at \$9.95 per chargeback.
- Outbound notifications include 40,000 outbound calls and 40,000 text/email messages annually; additional usage is invoiced at \$0.12 cents per minute and \$0.05 per text and email.