

**CONTRACT# CSO/200693**  
**MYUSAGE SOFTWARE ACCESS AGREEMENT**

This MyUsage Software Access Agreement (“*Agreement*”), dated as of the Effective Date shown below, is entered into by and between Exceleron Software, LLC., a Texas limited liability company and wholly owned subsidiary of EnergyComNetwork, Inc., with an address of 8144 Walnut Hill Lane, Suite 907, Dallas, TX 75231 (“*Exceleron*”), and Company identified below. This Agreement consists of this cover page (the “*Cover Page*”) and the terms, conditions, and information in the attached Exhibits A, B, C, D, and E.

<b>Company Name</b>	City of Ocala																		
<b>Contact Name &amp; Title</b>	Veronica Martinez, Customer Service Manager																		
<b>Street Address</b>	100 SE Watula Ave, 3 <sup>rd</sup> FL																		
<b>City, State and ZIP</b>	Ocala, FL 34471																		
<b>Telephone</b>	(352) 629-8246																		
<b>E-mail Address</b>	vmartinez@ocalafl.gov																		
<b>Effective Date</b>	Upon Exceleron’s signature	<b>Initial Term</b>	January 1, 2026 to December 31, 2028																
<b>FEES</b>																			
<b>Configuration and Training Fee</b>	\$0.00 billable at contract execution																		
<b>Notification and IVR Fees</b>	Company shall pay the following charges for generating and sending and/or receiving notifications: \$.05 for each IVR minute; \$.04 for each text message; Email/Push notifications are not charged																		
<b>Monthly MyUsage Prepay Fees</b>	Company shall pay the following monthly fees commencing on the Go Live Date and continuing during the term of the agreement (the “Fees”): <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Subscriber Tiers</th> <th>\$ per Subscriber/month</th> </tr> </thead> <tbody> <tr> <td>&lt; 2,000</td> <td>\$6 (see Monthly Minimum)</td> </tr> <tr> <td>2,001 - 3,000</td> <td>\$5</td> </tr> <tr> <td>3,001 - 4,000</td> <td>\$4</td> </tr> <tr> <td>4,001 - 8,500</td> <td>\$3</td> </tr> <tr> <td>8,501 - 12,500</td> <td>\$2</td> </tr> <tr> <td>12,501 – 15,000</td> <td>\$1.75</td> </tr> <tr> <td>15,001+</td> <td>\$1.25</td> </tr> </tbody> </table>			Subscriber Tiers	\$ per Subscriber/month	< 2,000	\$6 (see Monthly Minimum)	2,001 - 3,000	\$5	3,001 - 4,000	\$4	4,001 - 8,500	\$3	8,501 - 12,500	\$2	12,501 – 15,000	\$1.75	15,001+	\$1.25
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12,501 – 15,000	\$1.75																		
15,001+	\$1.25																		
<b>Monthly Minimum Fees</b>	Commencing on the Go Live Date and continuing monthly thereafter during the Term, Company shall pay the greater of the Monthly Minimum and the Fees for that month as outlined below. <table border="1" style="margin-left: 20px;"> <tr> <td>Month following the Go Live Date:</td> <td>Monthly Minimum Fees</td> </tr> <tr> <td>Month 1 – End of Term</td> <td>\$5,000</td> </tr> </table>			Month following the Go Live Date:	Monthly Minimum Fees	Month 1 – End of Term	\$5,000												
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Month 1 – End of Term	\$5,000																		
<b>MyUsage Payments Fees</b>	The following payment fees shall apply to payments being made by Prepay Participants. <b>Convenience Fee to consumer:</b> \$4.50 per Credit Card for web and mobile transactions (limit \$500 per transaction) \$5.00 per Credit Card for IVR transactions (limit \$500 per transaction) \$0.40 per ECHECK for IVR transactions																		

	<p><b>Payment Processing Fees for ECHECK Transactions to be paid by City of Ocala:</b></p> <p>\$0.15 per ECHECK for web and mobile transactions</p>
<b>Other Payment Fees</b>	<p>Fees to be paid by the Company:</p> <p><b>Payment Processing Bank Exception Fees:</b></p> <p>\$1.25 per Deposit Matching/Repair item</p> <p>\$10.00 per Chargeback transaction</p> <p>\$2.50 per Notice of Change on ECHECK</p> <p>\$2.75 per ECHECK return transaction</p> <p>\$4.50 per Each ECHECK return transaction designated as Fraud by Company</p> <p><b>Point of Sale (If applicable)</b></p> <p>\$600 plus shipping for each Ingenico Lane/3000 EMV card device provided to the Company</p>
<b>MyUsage CheckOut Fees</b>	<p>The following payment fees shall apply to payments being made by Company as defined in <u>Exhibit D</u>. CheckOut Convenience Fee to consumer for CheckOut cash payments:</p> <p>\$1.50/transaction</p>
<b>Payment</b>	The above fees and charges are payable as provided in the attached <u>Exhibit A</u> .
<b>SIGNATURES</b>	
In witness whereof, Exceleron and Company have executed this Agreement by their duly authorized officers as of the Effective Date.	
<b>Exceleron Software, LLC</b>	<b>City of Ocala:</b>
Signature:	Signature:
Name (printed): Ravi Raju	Name (printed):
Title: COO	Title:
Date:	Date:

Approved as to form and legality:

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## EXHIBIT A TERMS AND CONDITIONS

### 1. Definitions

**“Confidential Information”** means this Agreement and all its exhibits, the MyUsage Software, documentation, information, data, drawings, specifications, and any other information supplied by one party to the other and which should reasonably be considered confidential. Confidential Information will not include information that is publicly available, becomes publicly available through no fault of the other party, is already in the other party’s possession without a confidentiality obligation, is obtained by the other party from a third party without restrictions on disclosure, or is independently developed by the other party without reference to the Confidential Information.

**“Company Data”** means all data and information (whether or not Confidential Information) entered into the System by Company.

**“Effective Date”** is defined on the Cover Page.

**“Go Live Date”** means January 1, 2026.

**“Initial Term”** is defined on the Cover Page.

**“MyUsage Software”** or **“Software”** means that certain Exceleron software called MyUsage or other Exceleron software that is used to provide the Services.

**“Participating Customer”** or **“Subscriber”** means a customer of the Company who utilizes the Software.

**“Potential Participating Customer”** means a customer of the Company.

**“Services”** means any services provided pursuant to this Agreement, including training, support and other services.

**“System”** means Exceleron’s computer systems that are used to host the MyUsage Software.

### 2. MyUsage Software Access

2.1 Exceleron hereby grants to Company a non-exclusive, nontransferable, non-sublicensable license to use the MyUsage Software through the System during the Term (as defined below) solely for Company’s internal business purpose related to utility service.

2.2 Company must: (a) provide for its own access to the Internet and pay any service fees associated with such access, and (b) provide all equipment necessary to make such connection to the Internet, including a computer, modem and specified browser and plug-in software.

2.3 Exceleron will retain sole and exclusive ownership of all right, title and interest in and to the MyUsage Software and

System, including any updates, modifications, new features, customizations, upgrades, and all copies thereof.

2.4 Company Data shall be and remain the property of Company. Upon Company’s request, or upon the termination or expiration of this Agreement, such Company Data shall be promptly returned to Company by Exceleron in a form then maintained by Exceleron or, if Company so elects, shall be destroyed. Exceleron shall be free (during and after the term hereof) to use non-identifiable derivative and aggregate data to improve and enhance the Software and related services and for other development, diagnostic and corrective purposes in connection with the Software, related services and other Exceleron offerings. Company is responsible for the security of Company Data, including all Company Data that Exceleron possesses or otherwise stores, processes, or transmits on Company’s behalf. Exceleron will provide Company with its annual PCI-DSS Attestation of Compliance upon request to demonstrate Exceleron PCI-DSS compliance status.

### 3. Service Level and Support

3.1 Exceleron will use commercially reasonable efforts to make the System available for Company’s access between the hours of 5:00 a.m. and 2:00 a.m. Central Time, seven (7) days a week (“**Operating Hours**”). Except in the case of emergencies, Exceleron will provide Company with at least twenty-four (24) hours prior notice of downtime required during Operating Hours and will use commercially reasonable efforts to accommodate Company’s schedule for such downtime.

3.2 The MyUsage Software and System will operate in material conformance to the specifications set forth in Exhibit B. As Company’s sole and exclusive remedy, Exceleron will use commercially reasonable efforts to fix any non-conformities. Company agrees that Exceleron may, in its reasonable commercial judgment, amend Exhibit B from time to time to further detail the MyUsage Software and System. Amendments to Exhibit B are effective upon Company’s receipt of the revised Exhibit B. However, if: (a) the amendment would materially and adversely affect Company, (b) Company provides Exceleron with a written notice describing its objection to the amendment in reasonable detail within five (5) business days of the effective date of the amendment, and (c) Exceleron does not agree to waive the amendment as to Company within five (5) business days of Company’s notice, then Company may terminate this Agreement without liability.

3.3 Exceleron will provide Company with those error corrections and modifications to the MyUsage Software that Exceleron provides without cost to other Companies that access the MyUsage Software through the System.

3.4 Exceleron will provide telephone call-back support during Exceleron's normal business hours to permit Company to report problems and seek reasonable assistance in the use of the MyUsage Software.

3.5 Exceleron will not be in default of this Agreement, or be liable in any way, to the extent the System is unavailable wholly or partly due to: (i) Company's failure to perform its obligations under this Agreement that affects the performance of the System; (ii) force majeure events set forth in Section 12.9; (iii) the performance of Company's third party telecommunications network provider(s); (iv) changes made at the request of Company; (v) unforeseen capacity increases based on changes in Company's business processes for which Exceleron has not received at least thirty (30) days prior written notice from Company; or (vi) Company's software or hardware.

#### 4. Other Services

4.1 Exceleron will provide Company with two (2) business days of training on the use and operation of the System. The class will be held in Dallas, Texas at a mutually agreed upon date and time or at Company's site provided Company reimburses Exceleron for its reasonable travel expenses. Training will be "train the trainer" training and may accommodate up to three (3) individuals. Any additional training will be performed according to mutually agreed terms and conditions.

#### 5. Fees and Payment Procedures

5.1 Company shall pay Exceleron the fees in accordance with the fee structure set forth on the Cover Page and as otherwise provided in this Agreement. All amounts will be due and payable within twenty (20) days after the date of invoice. All amounts shall be paid by Company to Exceleron electronically via Automated Clearing House (ACH). Any amounts owing that are not paid when due will accrue interest from the due date at the rate of eighteen percent (18%), or the maximum rate permitted by law, whichever is less.

5.2 All amounts shown in this Agreement are in United States dollars and are net of all sales, use, property and related taxes. Company shall be responsible for all taxes arising out of or related to this Agreement (except for taxes based upon the net income of Exceleron), regardless of whether Exceleron bills Company for such taxes.

5.3 In the event that Company has not timely paid fees due under this Agreement or Company is otherwise in breach of this Agreement, Company acknowledges that Exceleron may suspend or deny Company's access to the MyUsage Software and System.

#### 6. Term and Termination

6.1 This Agreement will take effect on the Effective Date and, unless terminated earlier as provided in this Section 6, will remain in force during the Initial Term which shall commence

on the Go Live Date. Following the Initial Term, unless terminated earlier as provided in this Section 6, this Agreement may be renewed for up to two (2) additional consecutive renewal periods of one (1) year each upon mutual written agreement between the parties (each one-year period, a "**Renewal Term**"; and collectively with the Initial Term, the "**Term**"). Any such Renewal Term must be executed prior to the expiration of the then-current Term.

6.2 Either party may terminate this Agreement at the end of the Initial Term or a Renewal Term by providing the other party with at least thirty (30) days written notice prior to the date of termination.

6.3 A party may terminate this Agreement upon written notice to the other party if such other party breaches a material term, condition or provision of this Agreement unless the breach, if capable of being cured, is cured within thirty (30) days (ten (10) days for non-payment) after the non-breaching party gives the breaching party written notice of such breach.

6.4 A party may terminate this Agreement upon written notice to the other party if such other party (i) terminates or suspends its business, (ii) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or (iii) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes.

6.5 Notwithstanding Section 6.3, Exceleron may terminate this Agreement immediately upon Company's breach of the license restrictions in Section 2.1.

6.6 Upon termination for any reason, Company will immediately cease all use of and access to the MyUsage Software and System and will pay all amounts due and/or payable through the date of termination. The parties recognize that the harm caused by a breach of this Agreement is incapable or difficult of estimation. Accordingly, in the event of termination of this Agreement by Exceleron pursuant to Sections 6.3, 6.4, or 6.5, a fee ("**Termination Fee**") will become immediately due and payable. The Termination Fee will be calculated as the greater of those Monthly Minimum Fees that would otherwise become due under this Agreement during the remaining Term or fifty (50) percent of the average of the total fees paid by Company to Exceleron each month under this Agreement for the previous twelve-month period multiplied by the number of months remaining in the Term. Any partial months will be considered whole months for the purpose of the calculation of the Termination Fee. The parties agree that such amounts are a reasonable forecast of the amount necessary to render just compensation. Nothing in this provision is intended to entitle Exceleron to collect unearned interest or to receive an interest rate greater than the rate allowed by law.

#### 7. Disclaimer of Warranties

7.1 EXCELERON MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SERVICES, MYUSAGE SOFTWARE, THE SYSTEM OR THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO COMPANY UNDER THIS AGREEMENT. EXCELERON SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

#### 8. Limitation of Liability

8.1 EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 9 AND BREACHES OF SECTIONS 2.1, 5.1 AND 10, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 9 AND BREACHES OF SECTIONS 2.1, 5.1 AND 10, IN NO EVENT WILL EITHER PARTY'S AGGREGATE CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNT OF ALL FEES ACTUALLY PAID BY COMPANY TO EXCELERON UNDER THIS AGREEMENT FOR THE MONTH IN WHICH THE CAUSE OF ACTION AROSE, PROVIDED HOWEVER, THE LIMITATION ON DAMAGES EXPRESSED IN THE PRECEDING SENTENCE SHALL NOT APPLY TO DAMAGES CAUSED BY THE WILLFUL OR WANTON CONDUCT OF THE PARTY CREATING THE DAMAGES. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

#### 9. Indemnification

9.1 Exceleron will, at its expense, defend, indemnify and hold Company harmless from and against all claims, losses and damages related to or arising out of an allegation brought against Company that the MyUsage Software as used through the System or the Services infringe any patent, copyright, trade secret or other proprietary right of any third party. Company

shall give such assistance and information as Exceleron may reasonably require to oppose such claims. Exceleron shall have no obligation for any claims arising out of a combination or use of the MyUsage Software as used through the System with non-Exceleron programs, products or data, if such combination or use is the cause of the alleged infringement.

9.2 In the event a third-party claim of infringement is threatened or occurs, Company will immediately notify Exceleron. Exceleron may, in its sole discretion, alter or replace the MyUsage Software or System with a non-infringing functionally equivalent system. If Exceleron determines that none of these alternatives is reasonably available, Exceleron may terminate this Agreement and refund to Company any fees paid in advance for the time following termination.

9.3 Company acknowledges that (i) Company has the sole discretion whether to provide utility service to its customers, (ii) Company has the sole discretion and authority to disconnect utility service, and (iii) Company shall not rely upon Exceleron to determine whether to connect or disconnect utility service. Accordingly, COMPANY WILL, AT ITS EXPENSE, DEFEND, INDEMNIFY AND HOLD EXCELERON HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES AND DAMAGES, INCLUDING DEATH, RELATED TO OR ARISING OUT OF AN ALLEGATION BROUGHT AGAINST EXCELERON ARISING OUT OF OR RELATED TO THE MYUSAGE SOFTWARE, THE SYSTEM OR THIS AGREEMENT (INCLUDING WITHOUT LIMITATION, ANY CLAIMS AS A RESULT OF A BREACH BY COMPANY OF THIS AGREEMENT OR ANY OTHER AGREEMENTS AND ANY CLAIMS BY COMPANY'S CUSTOMERS WITH RESPECT TO COMPANY'S UTILITY SERVICE PROVIDER OBLIGATIONS), REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF EXCELERON EXCEPT TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF EXCELERON. Exceleron shall give such assistance and information as Company may reasonably require to oppose such claims.

9.4 At Company's request, Exceleron may record certain customer support calls for quality assurance purposes. Company is solely responsible for complying with all legal and regulatory requirements related to the recording such calls, including but not limited to obtaining any necessary waivers or providing customers with the appropriate notifications. In addition, Company is responsible for notifying Exceleron of any legal or regulatory requirements associated with recording such calls. Company will, at its expense, defend, indemnify and hold Exceleron harmless from and against all claims, losses, fines and damages brought against Exceleron arising out of or related to Exceleron's recording of customer support calls.

9.5 At Company's request and subject to any regulatory restrictions, Exceleron will display Company's name on the "caller id" display for Company's Participating Customers. Company is solely responsible for complying with all legal and regulatory requirements related to the display of the caller id,

including but not limited to obtaining any necessary waivers or providing customers with the appropriate notifications. In addition, Company is responsible for notifying Exceleron of any legal or regulatory requirements associated with the display of Company's name on "caller id". Company will, at its expense, defend, indemnify and hold Exceleron harmless from and against all claims, losses, fines and damages brought against Exceleron arising out of or related to Exceleron's display of Company's name on caller id.

**9.6 Telephone Consumer Protection Act ("TCPA").** Company is responsible for notifying Exceleron of any legal or regulatory requirements associated with Company's compliance with the TCPA. Company acknowledges that Exceleron is a "common carrier" for purposes of the TCPA and its sole obligation is to comply with the TCPA-related instructions provided by Company. Company will provide Exceleron with "opt out" language to be included in all communications to Company consumers (e.g., voicemails, e-mails and text messages) generated by the MyUsage Software ("TCPA Opt Out Language"). Exceleron will, at its expense, defend, indemnify and hold Company harmless from and against all claims, losses and damages related to or arising out of an allegation brought against Company because the MyUsage Software generated a communication(s) without the TCPA Opt Out Language or Exceleron failed to comply with Company's written instructions for TCPA compliance. Company shall give such assistance and information as Exceleron may reasonably require to oppose such claims.

**9.7** Company acknowledges and agrees that the Services are not appropriate for critical care customers or other customers who, by reason of applicable regulation or practical dependence on the provision of electricity, should not be subjected to the possibility of a termination of electrical service ("Critical Customers"). Company agrees that it will not permit any Critical Customers to use the Services.

**9.8 No Waiver of Sovereign Immunity.** Nothing herein is intended to waive sovereign immunity by the Company or which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute §768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.

## **10. Confidential Information**

**10.1** Each party ("**Receiving Party**") acknowledges that the other party's ("**Disclosing Party**") Confidential Information constitutes valuable trade secrets and the Receiving Party agrees that it shall use the Disclosing Party's Confidential Information solely in accordance with the provisions of this Agreement and will not disclose, or permit to be disclosed, the same, directly or indirectly, to any third party without the Disclosing Party's prior written consent. The Receiving Party

agrees to use the same efforts, but not less than commercially reasonable efforts, to protect the Disclosing Party's Confidential Information from unauthorized use and disclosure as the Receiving Party takes with respect to its own similar confidential information. The Receiving Party may disclose the Disclosing Party's Confidential Information if required to be disclosed by order of a court or other governmental entity, provided that the Receiving Party promptly notifies the Disclosing Party and assists the Disclosing Party in resisting or limiting such disclosure, and if compelled by such order, discloses the minimum amount of information necessary to comply with law.

**10.2** Exceleron may list Company's name in Exceleron's materials and may otherwise inform third parties that Company is an Exceleron customer that uses the MyUsage Software and System.

**10.3** In the event of actual or threatened breach of the provisions of Section 10.1, the Disclosing Party may have no adequate remedy at law and will be entitled to seek immediate and injunctive and other equitable relief.

**10.4 PUBLIC RECORDS.** Exceleron shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, Exceleron shall:

- A. Keep and maintain public records required by the public agency to perform the service.
- B. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if Exceleron does not transfer the records to the public agency.
- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of Exceleron or keep and maintain public records required by the public agency to perform the service. If Exceleron transfers all public records to the public agency upon completion of the contract, Exceleron shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Exceleron keeps and maintains public records upon completion of the contract, Exceleron shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

**IF EXCELERON HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO**

**EXCELERON'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CITY OF OCALA, OFFICE OF THE CITY CLERK; 352-629-8266; E-mail: [clerk@ocalafl.gov](mailto:clerk@ocalafl.gov); City Hall, 110 SE Watula Avenue, Ocala, FL 34471**

11. Assignment

11.1 Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Company, without providing prior written notice to Exceleron. For purposes of this Agreement, a transaction such as a merger, consolidation, reorganization, change of control, stock sale or exchange, sale of any substantial portion of Company's assets or similar transaction will be deemed to be an assignment. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and permitted assigns.

12. Miscellaneous

12.1 Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (a) delivered in person, (b) sent by first class registered mail, or air mail, as appropriate, or (c) sent by overnight courier, in each case properly posted and fully prepaid to the appropriate address set forth herein. Either party may change its address for notice by notice to the other party given in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, three (3) business days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight courier service.

12.2 Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be deemed to be a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.

12.3 If any term, condition, or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

12.4 This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, with respect to said subject matter.

12.5 This Agreement is for the sole benefit of Exceleron and Company and their permitted assigns and nothing herein expressed or implied will give or be construed to give to any person, other than Exceleron and Company and such assigns, any legal or equitable rights hereunder.

12.6 This Agreement may not be amended, except by a writing signed by both parties.

12.7 No exercise or enforcement by either party of any right or remedy under this Agreement will preclude the enforcement by such party of any other right or remedy under this Agreement or that such party is entitled by law to enforce.

12.8 This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement.

12.9 Except for the obligations to make payments hereunder, each party shall be relieved of the obligations hereunder to the extent that performance is delayed or prevented by any cause beyond its reasonable control, including, without limitation, acts of God, public enemies, war, civil disorder, communications failures, failures of third parties, fire, flood, explosion, labor disputes or strikes or any acts or orders of any governmental authority, failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment.

12.10 The provisions of Sections 1, 2.3, 2.4, 5, 6.6, 8, 9, 10, and 12 will survive termination of this Agreement.

12.11 This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without reference to its choice of laws provisions. Exclusive venue for any dispute between the parties arising out of or related to this Agreement shall be with the state or federal courts in Marion County, Florida. Each party consents to the jurisdiction of such courts in any dispute arising out of or related to this Agreement. Notwithstanding the foregoing, in the event of a dispute, Company and Exceleron agree to conduct a good faith non-binding mediation within thirty (30) days after receipt of notice under Section 12.1 of a breach of this Agreement in order to amicably resolve any dispute. Company and Exceleron agree to cooperate in selecting an attorney-mediator and to follow their procedures, format and timelines established by the chosen mediator. Company and Exceleron agree to equally share the costs of mediation..

12.12 The Company hereby grants to Exceleron the non-exclusive, non-transferable right to market and promote the Services to Potential Participating Customers under the terms of this Agreement. The Company shall retain the right to approve of all messaging and promotional materials prior to presentation to Potential Participating Customers, which shall not be unreasonably withheld. Exceleron is authorized to use the Company's trademarks, logos, and marketing materials for the purpose of marketing the Services, provided that such use is in accordance with the Company's branding guidelines and any

applicable laws. Exceleron agrees to conduct all marketing and promotional activities in full compliance with all applicable laws, regulations, and industry standards.

## **Exhibit B** **Specifications and Functionality**

### **Introduction**

#### **A. Purpose**

This Exhibit defines specific functional and performance requirements of the MyUsage Software (also referred to as "MyUsage" herein). Any capitalized terms not defined in this Exhibit B shall have the meaning set forth in the Agreement.

#### **B. Scope**

MyUsage is a web-based system that provides Companies with the necessary tools to offer their customers a prepay alternative to traditional billing, usage monitoring, e-bill, IVR, alerts, and payment options. Participating Customers will have the ability to prepay for utilities, monitor their consumption, credit balance and receive notification of pending disconnections. Payments will be posted to the System as they are made available by Company. Daily usage charges are calculated based on rates established and maintained by Company. During the enrollment process, Participating Customers will provide the Company with contact information to be used during the notification process.

### **General Description**

#### **A. Product Functions**

- Prepay Accounts will be created in MyUsage as Participating Customers are enrolled in Company's prepay program. An initial payment (as determined by the Company) will be posted to the account and displayed. Payment may be applied to the balance or as a service credit for future use depending upon the account specifics. Usage is monitored daily and the calculated cost for consumption across services such as electricity, water, gas, and other metered utilities are deducted from the Participating Customers current balance, provided that data integration exists to the appropriate AMI system.
- Non-Prepay Accounts that are used to monitor usage or view an electronic bill (e-bill) can also be created in MyUsage so that Participating Customers can view their usage and electronic bill (e-bill).
- Participating Customers can make payments with credit cards, debit cards, ACH/E-check, or cash at retail locations.
- Participating Customers can keep abreast of their account through receipt of notifications for which they select the method and frequency during account creation.
- For Participating Customers in the prepay program, an order is created to disconnect the service when the service credit balance reaches zero. If a payment is received prior to the actual disconnection being completed, the order is automatically cancelled in MyUsage; therefore, disconnection can be avoided provided the Company utilizes the "Order Status" feature of MyUsage as opposed to a disconnection process outside of MyUsage. If the customer has already been disconnected, a reconnect order will be generated. Additional fees or charges will also be applied when applicable such as disconnect charges or reconnect charges.
- Participating Customers will have 24/7 access to their account via the internet, the mobile app or an IVR.

#### **B. Utility User Capabilities and Objectives**

1. Create new prepay accounts
2. Post payments to accounts and display updated account balance
3. Determine unused credit and estimated number of days of unused service
4. Post payment corrections to accounts
5. Perform account maintenance (update contact information, address changes etc.)
6. Access pending disconnect and reconnect orders and view their status
7. Insert notes or events on accounts unless business practice dictates insertion of notes or events into CIS only
8. View reports

### **Functional Requirements**

#### **A. Creating new accounts**

1. Company's customer service representative, hereafter referred to as a CSR, will enter a new customer's name, address, location information and meter information into MyUsage to establish a new account. Participating Customer account information may already exist in current billing system. If access, connectivity and integration is possible, this information will be pre-populated.

#### **B. Payment Processing**

1. Payments posted to Company's billing system will be collected on a scheduled interval and posted to MyUsage electronically if access and connectivity to the Company's billing system is available
2. The CSR also has the ability to post customer payments to MyUsage account. This may be accomplished manually and/or automatically depending upon the Company's payment processing channels and available integration
3. Payments posted in MyUsage will be reported to Company's CIS system
4. MyUsage Supports multiple payment channels:
  - a. Web portal
  - b. Mobile app

**c. IVR**

**d. Retail partners**

5. MyUsage supports payments via credit/debit cards, ACH/e-check and cash at retail locations (CheckOut)
6. MyUsage Checkout provides barcode-based bill payment at participating retail locations
7. If supported by the integration with the CIS, MyUsage provides Participating Customers with an autopay option where they can store payment information and schedule recurring automatic payments

**C. Account Maintenance**

1. The CSR is able to access a Participating Customer's record in MyUsage in a timely manner and answer questions relative to information contained in MyUsage.
2. Participating Customer information is organized for quick access
3. The account information page allows the CSR to change specific customer information (i.e. billing information, contact information etc.)
4. Billing and payment information, agent location information, notification history, order history are available to the CSR for the desired Participating Customer

**D. Acquisition of Usage Data**

1. Usage data will be acquired from the Company's Advanced Metering Infrastructure (AMI) database or other usage database. Both daily consumption and interval data is supported by MyUsage if available. Access to client-side application to query the desired data and transmit such data to the MyUsage application is required

**E. Calculate Usage Debits**

1. Usage charges will be calculated nightly as new usage is received and inserted into MyUsage to debit the Participating Customer's balance.
2. **Monitoring:** Each meter will be monitored to ensure that a usage record is received and processed each night. Accounts for which usage was not received will be displayed in an Exceptions Report.

**F. PCA (Power Charge Adjustment) True-up**

1. **Description:** The Power Cost Adjustment (PCA) is part of the rating engine. It can be updated, typically monthly, via an API or manually depending upon the level of integration. If applicable, a true-up may occur during the reconciliation process and such results from PCA being applied to CIS billing retroactively and to MyUsage at the time of which the new PCA is available. (This portion is applicable only to those Companies utilizing PCA.)

**G. Calculate taxes**

1. **Description:** Applicable taxes will be calculated and applied to the Participating Customer's account.

**H. Web Service Interface to Disconnect/Reconnect**

1. **Description:** Provide a process that will interface with remote disconnect/reconnect collars if available.
  - a. A disconnection order will be generated based upon Participating Customer's account no longer being in good standing as defined by Company. Disconnect orders may be viewed through a dynamic orders list which provides easy access to individual accounts. Depending upon the disconnection method utilized by Company, disconnections may occur automatically or manually. If an automatic process is desired, this setting must be controlled by and deployed by Company.
  - b. A reconnection order will be generated based upon sufficient payment being applied to Participating Customer's account to bring account into good standing as established by the Company. Reconnect orders may be viewed through a dynamic orders list which provides easy access to individual accounts. Depending upon the reconnection method utilized by the Company, reconnections may occur automatically or manually. If an automatic process is desired, this setting must be controlled by and deployed by Company.

**I. Notification Server**

1. The MyUsage notification server permits Participating Customers to receive selected notifications in the form designated and at the time designated
2. Default notifications and method of notification can be selected by the Company
3. Notification settings can be accessed through MyUsage by CSRs and Participating Customers
4. Notification methods available include Interactive Voice Response (IVR), SMS text message, email or push notification
5. Notification events are tracked at the account level

**J. IVR Inbound Member Services**

1. Participating Customers will have the ability to call an access number to obtain information pertaining to their usage and current balance. The ability to make a payment via the IVR will also be provided.
2. MyUsage supports the ability to make a payment via the IVR
3. The IVR supports English and Spanish language options
4. If configured, automatic account look-up is supported via caller ID

**K. Online Bill View (MyUsage)**

1. Participating Customers may view electronic bills
2. Payment history will also be permitted through online bill view (MyUsage).
3. MyUsage provides daily and interval usage data (if interval data is available) including current and limited historical data

4. If configured, Participating Customers can view an estimated upcoming bill total based on consumption to date

## **L. Arrearage Assist**

1. **Description:** Participating Customers will have access to Arrearage Assist which allows a consumer to pay off his arrearage over time at a designated percentage of each payment. (The designated percentage is configurable by the utility and can vary by account and circumstances.) For example, if \$100 is placed in Arrearage Assist at a 25% recovery rate, each time a consumer makes a payment, 25% of that payment will be automatically applied to Arrearage Assist (no action required by CSR) reducing the \$100 with each payment until the Debt Assist has been completed. The remaining 75% is applied to the prepay balance.
2. While Arrearage Assist is most often used during prepay account creation due to a prepay account having to be brought current during account creation and the consumer is asked to pay that amount to begin prepay, ALL OR PART OF THAT AMOUNT may be placed in Arrearage Assist. (“Brought current” is similar to final billing where account balance, unbilled usage, unbilled fixed charges, unbilled taxes, deposit, and utility required starting credit are part of the “brought current” calculation and shown as “Amount Owed” in MyUsage.) Arrearage Assist may be used during any time throughout the prepay lifecycle. Examples of this would be an old balance is discovered, or a large unforeseen charge is levied, and you want to give the customer additional time to pay.

## **Interface Requirements**

### **A. User Interface**

1. CSRs access MyUsage with a web browser. No additional software is required on the user's workstation
2. All MyUsage functions are accessible via the Main Menu. Access requires a valid username and password and levels of access are restricted by various permission levels
3. Navigation is accomplished using standard links and drop-down boxes

### **B. Company MyUsage.com**

1. Exceleron will provide all Participating Customers internet access to MyUsage.com
2. Access to MyUsage.com requires a username and password that is established during account setup in MyUsage
3. Company will have the ability to disable individual account access via the MyUsage interface

### **C. MyUsage Mobile App**

1. Participating Customers may download the MyUsage Mobile App for iPhone or Android from the Apple Store or Google Play Store
2. Participating Customers must use the username and password that is previously established during the account setup in MyUsage to login into the MyUsage Mobile App
3. Participating Customers may manage logins via the MyUsage Mobile App

**Exhibit C**  
**Supplemental Terms and Conditions for Payment Processing**

This Exhibit C is hereby a part of the Agreement. The following supplemental terms and conditions shall apply to Company's use of Exceleron's payment processing services.

**1. DEFINITIONS**

Whenever used in this Exhibit C, the words and phrases listed below shall have the meanings given below. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

**"ECHECK" or "Electronic Check"** means automated debit from the Cardholder's checking or savings account with an ACH transaction.

**"Business Day"** means each weekday, Monday through Friday, which is not a holiday of the United States Federal Reserve.

**"Card Company"** means an association, such as Visa U.S.A. Inc., MasterCard International, Incorporated or American Express that operates an interchange system for exchanging information, transactions, money and other items on a standardized and consistent basis between member financial institutions with respect to Credit/Debit Card payment transactions.

**"Cardholder"** means owner of the payment instrument being used. In the case of Credit/Debit Card transactions this is the responsible party for the card. In the case of ECHECK transactions, this is responsible party or owner of the checking or savings bank account.

**"Chargeback"** means the challenge of a transaction that is challenged by a Cardholder or merchant bank, which is sent back through interchange to the bank of account (Cardholder or merchant/sub-merchant) for resolution. Such challenge can be for all or any portion of a transaction, whether or not such dispute is valid.

**"Computer System" or "Computer Systems"** means (i) computer programs, including without limitation software, firmware, application programs, operating systems, files and utilities; (ii) supporting documentation for such computer programs, including without limitation input and output formats, program listings, narrative descriptions, operating instructions and procedures, user and training documentation and special forms; and (iii) the tangible media upon which such programs are recorded, including without limitation chips, tapes, disks and diskettes.

**"Convenience Fee"** means a fee charged to Cardholders of Company for the use of the Services as set forth in Section 9 of this Exhibit.

**"Credit/Debit Card"** means a VISA-branded, MasterCard-branded or other mutually agreeable Credit/Debit Card issued by a financial institution in accordance with the rules and regulations of the Card Company.

**"Credit/Debit Card Acquirer"** means any financial institution providing services related to those in this Exhibit, which is a member bank of Visa or MasterCard national bank card associations and provides "merchant bank" acquiring services which enable consumers and businesses to use Credit/Debit Cards and/or Discover and American Express merchant financial institutions, as applicable.

**"Credit/Debit Card Issuer"** means any financial institution, which is a member bank of Visa or MasterCard National bankcard associations and provides Credit/Debit Cards to consumers and businesses used to purchase goods and services from merchants/sub-merchants sponsored by Visa and MasterCard merchant financial institutions.

**"Electronic Bill Presentment"** means presenting a PDF image of consumer's bill (obtained from company's bill print vendor) on demand to consumer.

**"IVRS" or "Interactive Voice Response System"** means an automated telephone response System, accessible by Cardholders for the initiation of Payment Requests, that presents a series of choices to the caller, and to which the caller responds by pushing buttons on the touch-tone telephone.

**"Merchant Services Agreement"** means a merchant services agreement or sub-merchant agreement between the Credit/Debit Card Acquirer and Company establishing the authority for the Company to accept Credit/Debit Cards as a means for payment for

goods and services. The authority is granted with the condition that the Company follow established Card Company operating rules and regulations.

**“Point of Sale” or “POS”** means face-to-face payments where cardholder and card are present and card payment account data can be either swiped, chip-read or keyed into MyUsage Payments for processing.

**“Remittance”** means an amount remitted by a Card Company in connection with payment by a Cardholder to the Company or payment of a Convenience Fee transaction.

**“Retrieval Request”** means requests initiated by a Cardholder or his Credit/Debit Card Issuer, for information regarding specific charges to his Credit/Debit Card account for the Company bill payment or Convenience Fee.

**“Returns”** means Company’s initiated reversal of a Credit/Debit Card charge or an ECHECK payment to a Cardholder’s account.

**“Settlement”** means the process by which the funds for Cardholder transactions are passed from Credit/Debit Card Issuers to Credit/Debit Card Acquirers or from the settlement bank to the Company.

All other capitalized terms in this attachment, other attachments or elsewhere shall have the meaning given to that term in the Agreement.

## 2. General Terms

Company will provide to Exceleron all Company data generated for Company’s customers necessary for Exceleron to successfully process payments on behalf of Company. Unless otherwise expressly agreed to in writing by Exceleron to the contrary, Exceleron will process all of Company’s customer payment transactions as defined in the MyUsage Payments Fees section above. Company will not use credit card or ECHECK processing of any bank, payment processor, entity or person other than Exceleron for processing of Company’s Cardholder payment transactions as defined in the MyUsage Payments Fees section above throughout the term of this Agreement.

## 3. GENERAL DESCRIPTION OF MYSUSAGE PAYMENTS PROGRAM

In general, but subject to the more detailed description of Exceleron’s and Company’s obligations elsewhere in this Agreement, the Services is a merchant/sub-merchant bill payment service whereby a Cardholder uses an IVRS, Exceleron Internet site (MyUsage Payments.com) or POS interface to request a payment transaction to Company by means of a charge against a Credit/Debit Card or an ECHECK debit (the “Payment Request”) in accordance with Exceleron’s and Company’s procedures. Concurrently, the Cardholder or Company shall be charged the applicable fee for use of the Services as set forth in Section 9 of this Exhibit in connection with using the Services as described herein. The portal to accept Payment Requests is available twenty-four (24) hours a day, seven (7) days per week except for scheduled maintenance. Computer System downtime will not exceed one tenth of one percent (0.1%) of the time, not including scheduled maintenance, during the term of the Agreement. Exceleron is not responsible for the availability of the Internet or the Company’s Computer Systems.

Payment Requests processed hereunder will be subject to the appropriate approval, by or on behalf of the Credit/Debit Card Issuer of a transaction for a merchant or another affiliate bank (each, an “Authorization”) and other policies and security procedures established by Exceleron or Credit/Debit Card Acquirer or Issuer from time to time or otherwise agreed to in writing by the parties. The IVRS, Internet site and POS interface will initiate an on-line Authorization request through the respective Credit/Debit Card Issuer for payment of the Company bill and the Convenience Fee amounts. ECHECK Payment Requests will verify the bank routing and transit number. The IVRS, Internet site and POS interface will provide a confirmation number to Cardholder to confirm acceptance and processing of the bill payment transaction if the Payment Request was accepted. If a Payment Request was declined, the IVRS, the website, POS interface will instruct the Cardholder to contact their Credit/Debit Card Issuer. Payment to Company will not be processed if payment of the Convenience Fee is not also approved. In addition, Exceleron, on behalf of Company, at the request of Company, will deny a Credit/Debit Card or ECHECK payment based on a prior Chargeback or an ECHECK transaction that was returned and not authorized by the bank of the Cardholder (a “Returned ECHECK Item”). Exceleron shall not process payment transactions manually, except for correcting rejected transactions and processing adjustments.

Exceleron will provide support for Company’s customer service staff during Exceleron’s standard business hours from 7:00 a.m. to 7:00 p.m. CST. Customer service will consist of responding to inquiries concerning such matters as payment verification, reconciliation, accounting, Remittance Data Files, and general Services operation delivery questions. Exceleron shall make a

commercially reasonable attempt to respond to all Company inquiries by the end of the next Business Day after notification. In cases where inquiries cannot be resolved by the end of the next Business Day, Exceleron shall keep a record of all actions that require more than twenty-four (24) hours to resolve and present these issues to the Company representative.

#### 4. SCRIPT PROMPTS, INTERNET SITE AND PARAMETERS

The script prompts, Internet site and parameters shall be described during the Company implementation process. Company shall approve all IVRS scripts in use and the Internet site to be used, hereunder, prior to implementation. Any customized changes to the standard script prompts, the Internet site and parameters listed in the set-up sheets require a three (3)-week lead-time. With respect to customized changes, Exceleron will respond with the estimated time to make the change in seven (7) Business Days. Such charges will be in accordance with the fee schedule set forth in Exhibit C, Section 9.1.

#### 5. REMITTANCE DATA FILE AND REPORT DELIVERY

A data file that includes both summary and detail of all Cardholders' initiated payment transactions reflecting payments processed during the current Business Day shall be created after each Business Day's Settlement cut-off time (a "Remittance Date File") and should be delivered electronically to Company within 60 minutes of their scheduled batch close time. Files will be in Exceleron's standard flat file format unless mutually agreed to otherwise, which may result in an additional charge. Exceleron shall retain each Remittance Data File for a minimum of thirty (30) days and retransmit the Remittance Data File in the event of an unsuccessful Transmission or upon request of Company. Exceleron shall retain a record of all Company payment data for the greater of (a) a period of three (3) years or (b) as required by state law, statutes and/or federal regulations. At the end of each Business Day, Exceleron will submit batch close transactions electronically to the appropriate Credit/Debit Card Acquirer and send all ECHECK transactions electronically to the appropriate banks. Company is responsible for accessing and retrieving the Remittance Date File. The Remittance Date File will have the following reports:

- i. Financial Control shows the processing, verifying, and monitoring of Credit/Debit Card and ECHECK transactions from Cardholder by Exceleron. Exceleron will provide Company with accurate payment detail to allow for timely and accurate posting of the Cardholder accounts.
- ii. Daily Payment Detail shows the detail and totals of all payments processed by Exceleron and shall include Cardholder's customer account number, payment amount, payment type, date and time of the payment, payment type used (specific Credit/Debit Card type or ECHECK), confirmation number, Convenience Fee amount.
- iii. Daily Payment Summary shows the daily totals of all payments and Company Settlement transactions processed by Exceleron and submitted for Settlement, on behalf of Company and shall include amount and volume by, payment type used (specific Credit/Debit Card type or ECHECK), and processed through each Business Day.
- iv. Daily Detail – Adjustments shows the account detail and daily totals of all Company initiated Returns, Returned ECHECK Items and Credit/Debit Card Issuer Chargebacks received and processed by Exceleron and shall include Cardholder's customer account information, payment amount, payment type (Credit/Debit Card type used or ECHECK), Return or Chargeback code, original payment date, and confirmation number.

#### 6. ADJUSTMENT PROCESSING - RETRIEVALS, CHARGEBACKS, REFUNDS and RETURNED ECHECK ITEMS

Exceleron will from time to time provide adjustment services for the handling of Credit/Debit Card Retrieval Requests, Chargebacks and Return ECHECK Items received from the Credit/Debit Card Acquirer or a bank. Upon receipt of a Retrieval Request, Exceleron will provide information, reasonably required, to satisfy the Retrieval Request. In the event that the Retrieval Request is asking for missing name and/or address information, Exceleron will attempt to obtain this information from Company. It is Company's option to comply with the request or not. If Company elects to complete this information, Company shall complete the name and address information and return it to Exceleron within one (1) Business Day. The processed Chargeback transaction(s) provided by the Credit/Debit Card Acquirers will be detailed on the daily Financial Report and Remittance Data File provided to the Company. Exceleron can, at Company's option, provide stop payment security parameters to block the use of a Credit/Debit Card, bank account, or customer account number that has been involved in a previous Chargeback or Return situation.

#### 7. ADDITIONAL EXCELERON RESPONSIBILITIES

Exceleron will provide support, maintenance and updates for the IVRS equipment, IVRS Computer Systems, IVRS software, IVRS database(s) and Internet site if provided by Exceleron. Exceleron will monitor call volumes and Internet site hits, IVRS and Internet system performance, and maintain adequate personnel and Computer Systems resources to provide Services. Exceleron shall maintain records of each payment using the Services and such records shall include: (i) information required to produce the reports specified in herein and (ii) material complaints concerning Services. Exceleron will provide at least sixty (60) days advance written notice to Company of any changes or enhancements to the Exceleron Computer System where such changes alter the way of use or process for the Company Cardholder and Company. Exceleron will provide written notice to Company of any changes that may affect Company's ability to use the Services.

## 8. ADDITIONAL COMPANY RESPONSIBILITIES

Company shall, at its own cost and expense: (A) comply with (i) all state and federal laws and regulations which affect the Services provided hereunder, (ii) the Merchant Services Agreement(s) between Company and any Card Company or Credit/Debit Card Acquirer and their applicable by-laws, regulations and operating rules, including Chapter 8 of American Express Program Operating Regulations, the American Express Merchant Operating Guide, and all applicable website requirements specified in these Operating Regulations; (iii) written materials, advice and technical information provided in connection with the Services provided hereunder; (iv) PCI-DSS data security requirements, including Chapter 15, "Data Security" of the American Express Program Operating Regulations; (B) distribute, inspect, and review all reports created from information transmitted or delivered by Exceleron and reject all incorrect reports within two (2) Business Days after receipt thereof for daily reports and within three (3) Business Days after receipt thereof for other than daily reports; provided, however, that with respect to information related to Chargebacks and retrievals, Company shall review and respond promptly to such information in accordance with the operating rules of the Card Companies, if applicable; however, notwithstanding the foregoing time limits, Company shall promptly inform Exceleron of any errors, deficiencies, or irregularities reflected in any such statements that Company discovers. Failure to so reject any report collected from such information shall constitute acceptance thereof. Company shall indemnify and hold harmless Exceleron from and against any and all taxes, assessments, duties, permits, fees, or other charges of any nature or kind that Company is responsible to pay, or is liable for, as well as, any additions to tax, penalties, interest, fees, or other expenses, if any, incurred by Exceleron as the result of any such taxes, assessments, duties, permits, fees, or other charges not being paid at the time or in the manner required by applicable law, or any taxes, assessments, duties, permits, fees, or other charges of any nature or kind that are imposed upon or related to any payment by a Cardholder, and goods and services sold by Company to Cardholders. Company agrees to indemnify, defend and hold Exceleron harmless from any and all third-party claims, actions, damages, liabilities, costs, and expenses, including without limitation reasonable attorneys' fees and expenses ("Losses"), arising out of the Company's activities in connection with its Merchant Services Agreement (including, without limitation, any Losses related to Chargebacks or reversals of transactions by Cardholders). The provisions of this paragraph shall survive the term or termination of the Agreement for any reason. Company understands and agrees that Card Companies, including American Express, may use the Company's information obtained in the application at the time of setup to screen, communicate with and/or monitor Company in connection with Card marketing and administrative purposes.

## 9. PAYMENT PROCESSING FEES.

9.1 Cardholder or Company Charges. For use of the Services under this Exhibit, the Cardholder or the Company, as designated below will be charged a Convenience Fee for electing to use the Services pay-by-phone and pay-by-Internet services paid by Credit/Debit Card or via ECHECK. The Convenience Fee will be assessed to the Cardholder's Credit/Debit Card account as a line item on their Credit/Debit Card statement separate from the bill payment amount or billed monthly to Company. The ECHECK Convenience Fee is separate from the bill payment amount deducted from their bank account or billed monthly to Company.

The credit/debit/echeck Convenience Fees are specified on page 1 of the MyUsage Software Access Agreement in the section entitled *MyUsage Payment Fees*.

The Convenience Fee is subject to change effective for Cardholder transactions submitted on or after the effective date of the modification, upon at least thirty (30) days' prior written notice to Company.

9.2 Company Charges. The following table sets forth fees payable to Exceleron by Company with respect to the Services.

The Payment Processing Exception Fees are specified on page 1 of the MyUsage Software Access Agreement in the section entitled *Other Payment Fees*.

## **Exceleron Optional Fee Schedule**

<b>Service Description</b>	<b>Fee Schedule</b>
IVRU Voice Recording Fee *	\$500 / per occurrence for English
IVRU Voice Recording Fee *	\$750 / per occurrence for Spanish
Technical and Business Development Man-Rates **	\$250 / hour + actual travel and living expenses

\* The Service Implementation Fee includes the initial IVRS Voice Recording. Once Company signs off on the IVRS script, any future custom script modifications may be billed according to the Exceleron Fee Schedule. Changes to the IVRS script to reflect modifications by Exceleron to the Convenience Fee will be implemented without charge to Company hereunder.

\*\* The Service Implementation Fee includes the technical support needed to establish standard Services. Should Company require customization of the web interface, IVRS script, reports or Remittance Data File formats or integration during or after implementation, then the corresponding Technical and Business Development Man-Rates will apply.

### **9.3 Taxes**

There will be added to any charges under this Agreement, or separately billed, and Company will either pay to Exceleron, or reimburse Exceleron for the payment of, amounts equal to any taxes, assessments, duties, permits, fees and other charges of any kind, however designated, assessed, charged or levied, based on, with respect to or measured by (a) such charges, (b) this Exhibit or (c) the Services, software, equipment, materials or other property (tangible or intangible), or the use thereof or the resources used therefor, that are provided under this Agreement. Charges payable under this Section 9.3 include state and local sales taxes, use taxes, property taxes, privilege taxes, excise taxes (including federal excise taxes), value added taxes and any taxes or amounts in lieu thereof paid or payable by Exceleron in respect of the foregoing, exclusive however, of taxes based on the net income of Exceleron.

**Exhibit D**  
**Supplemental Terms and Conditions for Exceleron's CheckOut Payment Service**

This Exhibit D is hereby a part of the Agreement. The following supplemental terms and conditions shall apply to Company's use of Exceleron's CheckOut Payment Service. Terms not defined herein shall have the meaning ascribed to them in the Agreement.

1. Definitions

**"Account"** means an account established with Company for purposes of receiving services provided by Company, to which funds may be applied in payment of amounts owed for the provision of such services.

**"Affiliate"** means any person, firm, corporation, partnership (including, without limitation, general partnerships, limited partnerships, and limited liability partnerships), limited liability company, or other entity that now or in the future, directly Controls, is Controlled with or by or is under common Control with such party.

**"Applicable Law"** means (A) the bylaws, operating rules and regulations of any payment network, (B) any applicable rule or requirement of the National Automated Clearinghouse Association, and (C) any and all foreign, federal, state or local laws, treaties, rules, regulations, regulatory guidance, directives, policies, orders or determinations of (or agreements with), and mandatory written direction from (or agreements with), any foreign, federal, state or local government agency or other regulatory authority, including, without limitation, the Bank Secrecy Act and the regulations promulgated thereunder, any and all sanctions or regulations enforced by the U.S. Department of Treasury's Office of Foreign Assets Control, and all federal or state statutes or regulations relating to money transmission, unclaimed property, telecommunications, unfair or deceptive trade practices or acts, privacy or data security, as each of the foregoing may be amended and in effect from time to time.

**"Bill Payment"** means the tendering of funds by or on behalf of a Customer for purposes of applying such funds to an Account held by such Customer.

**"CheckOut Convenience Fee"** means the fee charged by Exceleron for the services provided in this Exhibit, which CheckOut Convenience Fee will be collected by the Retailer directly from the Customer at the time of the retail transaction.

**"Consumer Funds"** means those funds, other than CheckOut Convenience Fees, which have been tendered by or on behalf of a Customer in connection with a Bill Payment transaction, but which have not yet been remitted to Company.

**"Customer"** means a person holding an Account.

**"Customer Data"** means all information regarding a Customer that is provided by a Customer to, or otherwise obtained by Exceleron or Service Provider, including, without limitation, all "Nonpublic Personal Information" and "Personally Identifiable Financial Information" (as defined in 16 C.F.R. 313.3(n) and (o), respectively), and with respect to the disposal of Customer information, shall also include any record containing "Consumer Information", as that term is defined in the regulations implementing 15 U.S.C. § 1681; provided, however, that "Customer Data" shall not include (i) data or information collected from a Customer by Service Provider, any of their respective Affiliates or service providers, or a Retailer, in connection with a transaction separate and apart from a Bill Payment, or (ii) data or information collected from a Customer by a Retailer in connection with a loyalty or other customer promotional program of such Retailer, provided that such data is limited to name, mailing address, phone number and/or e-mail address.

**"Data File"** means an electronic data file to which contains the following information relating to a Bill Payment (collectively, the **"Payment Information"**): (i) such information identifying the relevant Account, Customer and optional expiration date as Service Provider may require from time to time in order to accept and process such Bill Payment, and (ii) the amount of such Bill Payment or, in the event that such amount is not fixed, the permitted minimum and maximum amount of such Bill Payment, in each case as specified and authorized by Company.

**"Payment Amount"** means the amount of funds tendered by or on behalf of a Customer in connection with a Bill Payment which are to be applied to an Account. Payment Amount does not include the CheckOut Convenience Fee which shall be retained by Exceleron, Service Provider, and Retailer.

**"Payment Notification"** means a notification to Company which indicates that a Bill Payment has been accepted and includes the related Transaction Data.

**“Receipt”** means an electronic receipt containing such information directed by Service Provider relating to a transaction, or a printed receipt generated by the Retailer.

**“Regulatory Authority”** means any card association or payment network which is utilized by any Party or the Service Provider including the National Automated Clearing House Association, any state banking department, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and any other governmental agency, including any foreign governmental agency, having jurisdiction over any of the services to be provided hereunder.

**“Retailer”** means a business that sells goods directly to the public, including Customers, at specific store locations that support the CheckOut Service.

**“Service Provider”** means Interactive Communications International, Inc. which provides an existing, core platform that provides a pass-through processing model backbone to be used for collecting payments and delivering funds to Company

**“Transaction Data”** means, with respect to a Bill Payment, the Payment Information and Payment Amount associated with such Bill Payment.

## 2. CheckOut Service Definition

Exceleron will enable Company to offer a walk-in, bill pay solution to their customers at third-party payment locations, leveraging Exceleron’s CheckOut payment solution in conjunction with the existing Service Provider’s Retailer network.

Exceleron will provide Company with the ability to provide customers a barcode on statements, customer marketing material, or on desktop and mobile web pages to pay their bill in-lane at cash registers or if applicable, bill pay offices in Retailers across the U.S. Exceleron will coordinate with Service Provider to seek the approval from a designated group of Retailers to accept payments for Company.

The CheckOut payment process requires a barcode tied to a payment account that can be scanned at a retail location for payment. Exceleron has added specific and unique utility functions as well as business rules to enhance the existing infrastructure to provide real-time payment posting to the Company in order to apply payments immediately to the customer’s account.

By utilizing the CheckOut solution and leveraging the existing Service Provider’s Retailer network to allow customers to make in-store bill pay payments at retail locations, customers will have a convenient way to make payments.

## 3. Implementation Details

- CheckOut Implementation
  - *Landing Page*  
Company will link to a landing page that will be provided by Exceleron. Landing page will provide Account validation, barcode display, E-receipts, Location map, “How it works” video. Landing page will be configured to display Company’s logo.
  - *Payment Rules*  
Payment amount restrictions for overall minimums and maximums can be utilized to limit the transaction size based on Company’s business rules. Approved payment methods shall include only cash. A custom rule lookup will be developed and implemented to retrieve rules at time of payment from Company. Minimum and maximum restrictions and other advanced functions may be limited to the capabilities of the Retailer’s Point-of-Sale (POS) system. All customer payments received by Retailers and remitted to Exceleron less any mutually agreed upon fees are the exclusive property of Company.
  - *Payment Posting*  
Payments will be posted directly back to Company via a web service shadow post in real-time. All payments are funded by the individual Retailer and Service Provider usually within 48-72 hours depending upon the type of payment. Exceleron is never in possession of the funds and therefore cannot control the time it takes to fund the Company.

- *Customer Receipts*  
In addition to a printed receipt which will be generated by the Retailer at the conclusion of the in-lane payment transaction, an e-receipt is also provided to the customer making the payment. Company will need to provide a link to the e-receipt via some form of communication to the customer. At a minimum, the customer's e-receipt shall include the name of the Retailer, customer account number, amount of customer payment, date and time and transaction number.
- *Funds Settlement*  
CheckOut will retrieve a settlement report from Service Provider and will generate a CSV report to be uploaded or sent to Company's system in conjunction with Service Provider's ACH transfer of related funds to Company. This will occur on a daily basis Monday through Friday, excluding specified holidays. Inasmuch as funds must clear the Retailer's bank first remittance files sent to Company's system may take 48 to 72 hours. However, a shadow post to the Company's CIS will occur immediately after the POS accepts the payment. The funds are never in the possession of Exceleron or its bank.

#### 4. Deliverables/Tasks

- A. Requirements
  - Company and Exceleron will determine barcode integration requirements
  - Company, and Exceleron to determine how funds are settled using ACH and settlement files
  - Company and Exceleron to determine interface for real time payment amount business rules lookup by account
  - Company and Exceleron jointly design a method of real time payment posting integration via a web service.
- B. Integration/Setup
  - Exceleron will set up and configure landing page for company's customers.
  - Exceleron will integrate with Company's real-time payment posting web service.
  - Exceleron will setup ACH capability to Company's designated accounts
  - Exceleron will configure delivery of settlement files for payment posting.
  - Exceleron and Company will integrate with real time payment amount business rule lookup.
- C. Testing
  - Company and Exceleron will complete end-to-end development testing of the System and all integration points using test accounts.
  - Company will provide all necessary test information and plans for all test cycles.
  - Company will perform user acceptance testing from end-to-end to verify it meets all requirements.
  - Exceleron and Company will sign off on full system test results prior to full deployment.
- D. Deployment
  - Exceleron will jointly develop with Company a deployment plan

#### 5. CheckOut and Payments Terms and Conditions

Company agrees to pay Exceleron the amount of any fees assessed or imposed by Service Provider, or any Retailer related to Company's transactions. Exceleron will include such chargebacks and related fees in the invoice following their imposition and Company will pay such chargebacks and fees in accordance with this Agreement.

Company agrees to enter into such agreements and other documents as Service Provider, or their Affiliates may require to provide the CheckOut Service.

Exceleron has shared or will share Company's bank account information with Interactive Communications International, Inc. and its affiliates. Company will receive funds directly from Service Provider in connection with the CheckOut Service.

Upon Company's receipt of a Barcode File from Service Provider, Company shall provide the Barcode and Terms & Conditions contained in such Barcode File to the appropriate Company customer. Company shall procure all necessary authorizations and consents from the Company customer to provide such Barcode and Terms & Conditions. By transmitting a Data File, Company represents and warrants that (i) all information included in the Data File is true and accurate, and the Account identified in the Data File is valid and eligible to receive a payment in the amount, or within the range of amounts,

specified in the Data File, and (ii) it has performed all necessary actions to approve the receipt and processing of a Bill Payment to the Account and in the amount, or within the range of amounts, specified in the Data File.

Following receipt by Company of a notification to Company which indicates that a Bill Payment has been accepted and includes the related Transaction Data (such notification, a “*Payment Notification*”), Company shall (i) cause an amount equal to the Payment Amount to be credited to the relevant Account immediately following Company’s receipt of such Payment Notification, and (ii) immediately send to the Company customer an electronic receipt containing such information relating to the transaction (“*Receipt*”). Company will ensure that it has all necessary authorizations and consents from the Company customer to provide such electronic communications. Notwithstanding anything herein to the contrary, in the event that the Exceleron or Service Provider is permitted to retain a portion of the Payment Amount as compensation for services rendered, Company shall credit the full Payment Amount paid by the Company’s customer to customer’s account. Company shall ensure that once the amount equal to the Payment Amount has been credited to the relevant Account, such credit may only be revoked by the relevant Customer and is irrevocable by any other Party except in accordance with Applicable Law.

Company shall provide appropriate disclosures relating to the CheckOut Convenience Fee before providing the Barcode and Terms and Conditions, in a manner designated and approved by Service Provider subject to the approval of any regulatory authority with jurisdiction, if required.

Liability for losses associated with bill payments shall be the responsibility of Company to the extent any losses arise from (i) inaccurate data transmission from Company or any of its service providers, or (ii) any failure of Company or any of its service providers, to provide the correct Barcode, CheckOut Convenience Fee disclosures, Terms and Conditions and Receipt to any Company customer in the manner and format mutually agreed upon by the Parties, in each case to the extent resulting from the act or omission of Company, any of its respective service providers, or any of its affiliates, employees, contractors or representatives, or from any third party fraudulently accessing the computer network, database or system of Company or any of its service providers.

Exceleron shall not be liable for any act or failure to act of a Retailer and any such act or failure to act shall not be a breach of this Agreement.

Company shall comply with Applicable Law in the processing, receipt, maintenance and transmission of Consumer Funds and Biller Fees.

Each Party shall maintain complete and accurate books of account and records, in accordance with generally accepted accounting principles in the United States, of all financial transactions arising in connection with its obligations pursuant to this Agreement for a period of not less than that legally required for such records from the date last recorded or created, but in no event less than seven (7) years following the end of the Term. In addition to and notwithstanding the foregoing, to the extent any Party has sole possession or control of any records required to be maintained by any other Party pursuant to Applicable Law, the Party with possession or control shall maintain, or cause to be maintained, as applicable, such records in such form and for such time periods as required by Applicable Law, and shall make such records available to the other Party upon request. The Parties further agree to work together in good faith to reconcile any accounting discrepancies. Each Party shall at all times (i) cooperate with respect to, and promptly respond to, all reasonable requests communicated to it by any other Party or by Service Provider, or Retailer in connection with the subject matter hereof, and (ii) provide reasonable access to all information and documents related to the subject matter hereof which may be in the control or possession of such Party and which the other Party requires in order to comply with Applicable Law.

Each Party (the “*Reviewing Party*”) may, at its own expense, inspect, or have a third party designated by the Reviewing Party inspect, the books and records of the other Party (the “*Reviewed Party*”) that are directly related to the obligations of the Reviewed Party hereunder, provided that any such inspection shall occur upon no less than ten (10) Business Days prior written notice and at a mutually agreed upon date and time during the Reviewed Party’s normal business hours, and no more frequently than once during any calendar year unless (i) otherwise required by Applicable Law or any Regulatory Authority, or (ii) the Reviewing Party has a reasonable belief that the Reviewed Party is not acting in compliance with the terms of this Agreement or Applicable Law. Service Provider shall have the right to be a Reviewing Party under this Agreement. The Reviewed Party shall furnish to the Reviewing Party or its designee all such information concerning transactions and the Reviewed Party’s performance of its obligations as the Reviewing Party may reasonably request.

Company shall ensure that each of the following complies with Applicable Law: (i) the Accounts and all related products, services, features and functionality; (ii) the terms and conditions applicable to the Accounts; (iii) the fees and charges applied to or in connection with any Account by Company; (iv) all products or services offered by or on behalf of Company; (v) all materials related to the Accounts, including, without limitation, all marketing and informational materials and disclosures; and (vi) all statements related to the Accounts which are made by Company or any third party engaged by Company.

Company shall comply with applicable state unclaimed property laws with respect to the Accounts and related Consumer Funds, including, without limitation, remitting any such unclaimed Consumer Funds to the appropriate jurisdiction as required under Applicable Law.

Company shall: (i) submit to any examination which may be required by any Regulatory Authority with audit and examination authority over the other Party or the Service Provider (such Party, the “*Examined Party*”); (ii) provide to the Examined Party any information that may be required by any Regulatory Authority in connection with their audit or review of the Examined Party or the subject matter hereof and reasonably cooperate with such Regulatory Authority in connection with such any audit or review; and (iii) provide such other information as the Examined Party or any Regulatory Authority may from time to time reasonably request with respect to the financial condition of such Examined Party.

Each Party acknowledges and agrees that it shall establish administrative, technical and physical safeguards for all Customer Data in its control or possession from time to time. Such safeguards shall be designed for the purpose of: (i) ensuring the security of such records and information, (ii) protecting against any anticipated threats or hazards to the security or integrity of such records and information; (iii) ensuring the proper disposal of such records and information, and (iv) protecting against unauthorized access to or use of such records and information that would result in substantial harm or inconvenience to any Customer. Such safeguards shall be established in accordance with Applicable Law, including, without limitation, Section 501 of GLBA and its implementing regulations. Each Party agrees to promptly notify the other Party if it acquires actual knowledge of any unauthorized access to or use of Customer Data and shall take appropriate actions to address any such incident.

Subject to any obligations placed upon it by a law enforcement agency, each Party agrees to disclose to the other Party any actual breach in security that results in unauthorized intrusions into such Party's computer and other information systems that materially affects the other Party or the Customers as soon as such Party becomes aware of such a security breach. Such disclosure shall describe when material intrusions occur, the effect on the other Party and Customers, and such Party's corrective action to respond to the intrusion. In addition, in the event of an actual breach in security of any Party's computer or other information systems that may affect the other Party or the Customers, such Party agrees: (i) to permit an independent qualified third party auditor to perform an investigation (including the installation of monitoring or diagnostic software or equipment) to locate the source and scope of the breach and provide the other Party with any material information related to such Party that such independent auditor discovers with respect to the breach; or (ii) that, to the extent that such Party has reasonably determined that it need not engage an independent auditor to investigate any breach in the security of its systems, the other Party may reasonably request such Party to engage an independent qualified third party auditor to perform such investigation (including the installation of monitoring or diagnostic software or equipment) to locate the source and scope of the breach and provide the other Party with any material information related to such Party that such independent auditor discovers with respect to the breach, provided all of the costs incurred in such requested audit are paid for by the requesting Party; and (iii) to be responsible for all costs, expenses, fines, fees, penalties and other liability directly arising out of or related to any such actual breach which the other Party may incur or for which the other Party may otherwise be responsible.

#### Contact Information

*Exceleron Software, LLC*  
8144 Walnut Hill Ln,  
Suite 907  
Dallas, TX 75231



Exhibit E

## Company Set Up

### Company Information

Company Name: \_\_\_\_\_ Date: \_\_\_\_\_

Billing Address: \_\_\_\_\_  
Street Address \_\_\_\_\_ City, State and Zip Code \_\_\_\_\_

**Tax Exempt Status:**  Taxable  Tax-Exempt

\* Note: If Tax Exempt, please forward a copy of your Tax-Exempt Certificate.

Accounts Payable Contact:

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Phone:

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Email Address:

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\* Note: Invoices and Statements are sent electronically.

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