



**SYSTEMS EAST, INC.**

INNOVATIONS IN FINANCE AND COLLECTIONS

To: Xpress-pay Merchants  
Re: Definitions and Policies

Thank you for your use of Xpress-pay, a nationally recognized Universal ePayment Network. Accepting payments by credit card, debit card, and electronic check is a complex process, but we are here to assist you in understanding the mechanisms and navigating the setup process.

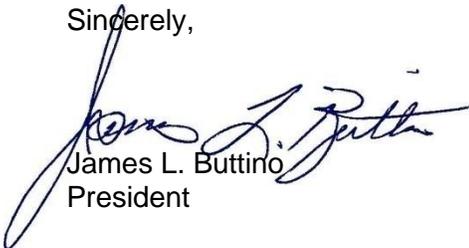
Accepting electronic payments requires at least one merchant account (one for credit/debit cards and one for electronic checks). We assist you in obtaining these by gathering information, transcribing it to the respective applications, delivering them to you for review and signature, and submitting them to the merchant account providers.

Though we facilitate this process on your behalf, the resulting agreement is between you and the merchant service provider. This document however, contains fundamental information on terms and conditions relating to our mutual agreement.

Your electronic payment endeavor gain acceptance as public awareness increases. To accelerate the benefits, we have included recommendations for your public relations campaign. The most effective methods are a prominent link on your home page, a payment button in emails, and a URL or QR code on all visual material. People pay bills online because it is far more convenient, but it also requires confidence. Your endorsement through placement is imperative for their participation.

If you have questions about any of the information contained herein, please contact us. In the meantime, thank you for choosing Xpress-pay as your ePayment partner.

Sincerely,



James L. Buttino  
President

## Enrollment Policies

### Section 1: Definitions

- **www.xpress-pay.com, Xpress-pay, Xpress-pay.com:** An Internet site and product suite developed, solely owned, and operated by Systems East, Inc.
- **Merchant (Client):** The organization, company, firm, corporation, or other entity enrolling with Xpress-pay.com to collect payments or donations.
- **Visitor:** A person using Xpress-pay for the purpose of making a payment or donation.
- **Systems East, Inc:** A New York State Corporation with headquarters at 50 Clinton Avenue, Cortland, New York 13045.
- **Participants:** The Merchant (you) and Systems East, Inc. the sole owner/operator of Xpress-pay.
- **Merchant Account:** The financial component facilitating Internet payments. Payments are processed through Client's merchant account with proceeds subsequently deposited in Client's bank account.
- **Merchant Service Provider:** The firm that establishes and maintains the Merchant Account for Merchant.
- **Electronic Check (eCheck):** Similar in function to but faster than paper checks, Electronic Checks are immediately routed to the Federal Reserve's Automated Clearing House (ACH) for processing; enabled by the 21<sup>st</sup> Century Federal Banking Regulations, also known as Check 21.
- **Site fee:** A fee charged for use of the Xpress-pay site for bill delivery and secure information exchange. The payer of the fee is determined by the terms of the Enrollment Agreement.
- **Advertisement:** A press release, insertion, public notice, or article appearing in any medium for the purpose of announcing the Xpress-pay ePayment option to interested parties.
- **PCI DSS:** The Payment Card Industry Data Security Standard. All merchants, processors, and others who come into contact with sensitive credit or debit card information are required by the payment card industry to comply with the PCI DSS level applicable to their type of business and processing volume. As one of the many components of compliance, a current Certificate of Compliance, produced by an industry-approved third-party security assurance firm, is available for review upon request.
- **PCI DSS Level One Certification:** The highest level of industry accreditation available, also the level at which Xpress-pay is certified. To demonstrate compliance, an industry standard Attestation of Compliance (AoC) must be and is available upon request.
- **Press Release:** For government entities, a written notification to the media resulting in an article appearing in a leading local newspaper in immediate locale.
- **Confidential Information:** Information submitted to Systems East to obtain the Merchant Account(s). This information includes but is not limited to merchant applications, supporting documentation, bank account information, and other identifying numbers. This also includes information disclosed through Merchant's Xpress-pay activity including customer lists, customer billing and payment information, and database entries in support of Merchant's enrollment and Visitors' activity at Xpress-pay.

## **Section 2: Enrollment and Cancellation**

Enrollment is accomplished by the submission of the Enrollment Packet. Upon acceptance by Systems East, Inc. and the merchant account providers, Systems East, Inc. will add the name of the Merchant to the web site, define an account administrator, and notify Merchant of acceptance. Merchant shall be considered enrolled at the date and time of addition of the Merchant name to the web site.

Merchant or Systems East, Inc. may cancel this agreement at any time by notifying the other Participant in writing of the date and reason for termination. Such notice shall specify the exact date and time of termination of payment processing availability through Xpress-pay. Upon notification, Systems East, Inc. shall ensure that information submitted to Xpress-pay.com by Merchant shall become unavailable. Enrollment or annual renewal fees paid, if any, are not refundable.

## **Section 3: Notification**

Where notification is to be provided to either Merchant or Systems East, Inc. such notice is to be delivered either by email (with express acknowledgement requested) or other bona fide and verifiable delivery mechanism. Notifications shall be sent to:

### **Merchant (Client)**

The Primary Responsible Party identified in the Xpress-pay Enrollment Agreement

### **Systems East, Inc.**

Jeanne Day, Director of Administration  
50 Clinton Avenue  
Cortland, New York 13045  
(607) 753-6156  
jday@systemseast.com

## **Section 4: Services and Jurisdictions**

Systems East, Inc. will provide the Xpress-pay Internet web site for use by Merchant and its customers as needed to assist in the payment and collection of financial obligations (bills) or receipt of donations, as applicable to Merchant's industry. The site and its support and operating mechanisms are and shall remain compliant with the Payment Card Industry Data Security Standard (PCI DSS). The web site shall maintain a convenient and forthright design and process flow as appropriate to encourage ePayment activity while clearly and repeatedly stating Xpress-pay applicable site fees.

For Merchant's Administrator: Xpress-pay.com contains educational content intended to fully describe the available administrative functions. Systems East, Inc. shall be available to provide additional assistance where needed. Systems East, Inc. retains total jurisdiction over the static website content and agrees to provide periodic updates to Xpress-pay as it deems appropriate.

In the event that Client wishes to upload bills for presentation and payment, Client is wholly responsible for the transmission of bills to the site to be made available for payment and for the accuracy of such information. Client is wholly responsible for the maintenance of the Client account information, bills uploaded by or on behalf of Client, interest formulas and accuracy of their results, protection of the Client's administrative passwords, and for the generation of reports of payment activity for internal processing as deemed appropriate by Client. XPC will provide and maintain a design enabling Client to effectively execute its responsibilities herein.

Merchant is also wholly responsible for reviewing applicable site fees as calculated and presented, or not presented, to the visitor, both initially and after any revisions. Systems East shall not be liable for incorrect site fee calculations and charges nor for any inaccuracies in presentation to the visitor or collections and/or reimbursements.

### **Section 5: Use and Availability of Xpress-pay**

Merchant agrees to use Xpress-pay solely for the purposes of accepting payments or donations in accordance with the provisions of this agreement. Operation of this or any web site is dependent upon the Internet infrastructure and numerous related external providers and components. Consequently, availability cannot be assured. Systems East endeavors to provide the highest degree of security and reliability, however in the event of an unscheduled interruption of service or malicious penetration, Systems East, Inc. shall be held harmless from damages or other consequences arising therefrom. In such event, Systems East, Inc. will promptly initiate all reasonable actions to restore the site to operational status.

### **Section 6: Advertising Requirements**

The success of your eCommerce campaign depends on customer awareness. Accordingly, Merchant agrees to the following terms with respect to customer notification:

- **Notice on bills and correspondence:** For each bill that is delivered by mail or other means to its customers, the statement “You may pay this bill at [*merchant website URL*]” shall be inserted near the total amount due and, if applicable, each installment amount due. Alternatively, a similar message may be included directing recipients to visit website of Client for ePayment options.
- **Payment link on Home Page:** Merchant agrees to include a link to and statement regarding Xpress-pay in a prominent location on its web site home page. The link and its purpose shall be clearly visible upon the visitor’s arrival at the home page of Merchant’s web site.
- **Graphics:** With respect to bills or donations for which proceeds are accepted, Systems East shall provide and the Merchant agrees to prominently place an “Xpress-pay it!” buttons (with hyperlink) for electronic correspondence and an Xpress-pay QR code on printed material.
- **Public awareness:** Merchant agrees to take such other measures as it deems appropriate to effectively inform customers of their ability to donate or pay at Xpress-pay.
- **Logo and presentation:** Merchant is encouraged to use the “Xpress-pay” and “Xpress-pay It!” logos where appropriate. Where logos, buttons, and/or QR codes are used, they must be presented in the colors and in the length/width proportions as provided. Though permission to use the logo is granted, no rights other than the use of the logo in accordance with the terms and conditions of this agreement are granted to Merchant.
- **Compliance:** Merchant agrees to comply with the above as appropriate for its ePayment options. Systems East reserves the right to periodically verify compliance.

### **Section 7: Miscellaneous charges**

The scope of this agreement is expressly to provide electronic payment submission and reporting and shall be accompanied by training for use of Xpress-pay. Additional services or support required by Merchant including but not limited to redundant training or data remedies related to client staff error, turnover, reassignment, may be billed to Merchant at the rate of \$125/hour with a \$75 minimum. Prior such event, Merchant’s advance written or emailed consent shall be obtained.

## **Section 8: Confidential information**

Systems East, Inc. will not use, disclose, or otherwise disseminate Merchant's Confidential Information or the Confidential Information of Merchant's customers for any purpose unrelated to the performance of its duties hereunder, unless directed by Merchant or required to do so by court order or a government authority pursuant to an official investigation.

Upon termination of Merchant's enrollment and if so requested by Merchant, Systems East, Inc. will, at its option, return to Merchant or destroy any Confidential Information relating to Merchant and its customers.

## **Section 9: Scope of Agreement, Confidentiality**

The Enrollment Agreement, Enrollment Policies, and all Exhibits shall constitute the entire agreement of the Participants and supersede any prior agreements, oral or written, with the sole exception of any Confidentiality Agreement which may have existed prior to the execution of this Agreement. In the event that a Confidentiality Agreement exists which predates this agreement, the Confidentiality Agreement shall remain in force, with the sole exception of any clauses which restrict the ability of Systems East, Inc. to publicly state its business relationship with Merchant. This may include but is not limited to the use of Merchant's logo, provided that such use is limited to a declaration of a business relationship as a service provider and includes no claim of endorsement or ownership.

## **Section 10: Role of Xpress-pay**

Systems East operates Xpress-pay as a third-party delivery and security service. Similar to a delivery service such as UPS, Federal Express, or the U.S.P.S, we charge for services we provide.

Consumers have multiple alternatives when it comes to the method used to make a delivery, including delivery of a payment. If third party services are used, they are never. We refer to our charge for the delivery and security services we provide as a Site Fee.

The Site Fee may be paid by the visitor using the site (except in the case of donations), by the merchant accepting the payment, or by the merchant service provider who engaged Xpress-pay services on your behalf. The Enrollment Agreement specifies the party responsible for providing compensation to Systems East.

There is no legislation that prohibits Systems East, Inc. from charging visitors for its services, however, certain sectors are governed by regulations that prohibit comingling our fee with primary payment proceeds, such as an insurance payment. Xpress-pay has provisions to separate the primary proceeds from the Site Fee. Prior to engaging these ePayment services, we recommend that you engage legal counsel to determine the parameters of your Xpress-pay deployment. Systems East is not be responsible for ensuring that your management of payment proceeds complies with applicable law in your state.

## **Section 11: Rates**

Site Fee rates are initially determined by and remain under the jurisdiction of Systems East. Rates are influenced by numerous factors including but not limited to industry Interchange rates, dues, assessments, as well as costs incurred by Systems East in the course of processing transactions and maintaining the required security and infrastructure. There is no obligation to provide notification for rate changes, however if such a change is found to be objectionable by the Merchant, enrollment may be cancelled at any time during the term of the agreement and without penalty.

## **Section 12: Exhibits**

This Agreement is also subject to the terms, conditions, specifications, and limitations set forth in the following Exhibits A and B attached and which are made a part hereof.

# EXHIBIT A

## STANDARD TERMS AND CONDITIONS – SYSTEMS EAST, INC.

1. **Definitions.** The following capitalized terms used in this Agreement have the following meanings:

(a) "Agreement" means the Enrollment Agreement, Enrollment Policies, and all exhibits and attachments.

(b) " Merchant" means the party entering into this agreement with Systems East, Inc.

(c) "Confidential Information" means information, other than Trade Secrets, that is of value to its owner and is treated as confidential.

(d) "Deliverables" means those deliverables specifically described in this Agreement or on any subsequent Work Authorization and all software documents, text, photographs, video, pictures, animation, sound recordings, computer programs, and any and all other works of authorship provided or developed by Systems East, Inc., its affiliates, sub-contractors, agents or licensors, together with all images, likenesses, voices, and other characteristics contained therein, including any and all Intellectual Property Rights therein delivered to Merchant pursuant to this Agreement and/or any subsequent Work Authorization.

(e) "Intellectual Property Right" and "Intellectual Property Rights" means: (a) all copyright rights under all copyright laws of the United States and all other countries for the full term thereof (and including all rights accruing by virtue of bilateral or international copyright treaties and conventions), including, but not limited to, all renewals, extensions, reversions or restorations of copyrights now or hereafter provided by law and all rights to make applications for copyright registrations and recordings, regardless of the medium of fixation or means of expression; (b) all rights to and under new and useful inventions, all improvements thereof and all know-how related thereto, including all letters of Patent and applications for letters of Patent in the United States and all reissues, extensions, renewals, divisions and continuations (including continuations-in-part) thereof, for the full term thereof; (c) all trade secrets, know-how, trade dress, techniques, concepts, trademarks and service marks; and (d) all Confidential Information of the Parties.

(f) "Trade Secrets" means information which: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

2. **Copyright.** The Software is protected by United States Copyright law and trade secret law, and by international treaty provisions. All rights not expressly granted to Merchant herein are expressly reserved by Systems East, Inc. Merchant may not remove any proprietary notice of Systems East, Inc. from the Software.

3. **Warranties and Representations.**

(a) Merchant represents and warrants that it has the power and authority to enter into this Agreement. Merchant agrees to defend, indemnify, and hold harmless Systems East, Inc., its officers, directors, employees, agents and subcontractors for any losses, costs, damages, liabilities,

and expenses (including reasonable attorneys' fees and court costs) arising out of any breach of these warranties and representations.

(b) Systems East, Inc. represents and warrants that: (1) it has the power and authority to enter into this Agreement; (2) that it will use its best efforts to deliver the Services in a competent and professional manner and in conformity with the timeline set forth in this Agreement. Systems East, Inc. agrees to defend, indemnify, and hold harmless Merchant, its officers, directors, and employees for any losses, costs, damages, liabilities, and expenses (including attorneys' fees and court costs) arising out of any claims, suits or proceedings alleging facts that would be a breach of these warranties and representations.

(c) SYSTEMS EAST, INC. RELIES ON THE INTERNET AND, THEREFORE, IS PROVIDED "AS IS" AND SYSTEMS EAST, INC. CANNOT AND DOES NOT GUARANTEE THE SOFTWARE WILL PERFORM ERROR-FREE OR BE ACCESSIBLE AT ALL TIMES. WITH THE EXCEPTION OF THE EXPRESS WARRANTIES SET FORTH IN SUBSECTION (b) OF THIS SECTION, SYSTEMS EAST, INC. DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE SERVICES OR DELIVERABLES, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

#### **4. Limitation of Liability.**

(a) EXCEPT WITH RESPECT TO LIABILITY ARISING FROM SYSTEMS EAST, INC.'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL SYSTEMS EAST, INC. BE LIABLE TO MERCHANT FOR ANY PUNITIVE, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS ARISING OUT OF MERCHANT USE OF THE DELIVERABLE OR ANY OF THE SERVICES, EVEN IF SYSTEMS EAST, INC. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SYSTEMS EAST, INC. LIABILITY TO MERCHANT FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF THE ACTION, IS STRICTLY LIMITED TO THE FEES THAT HAVE ACTUALLY BEEN PAID BY MERCHANT TO SYSTEMS EAST, INC. DURING THE THREE-MONTH PERIOD IMMEDIATELY PRECEDING THE CAUSE OF SUCH DAMAGES.

(b) In the event Systems East, Inc.'s fulfillment of its obligations hereunder are prevented or delayed by such laws, rules, regulations or orders, or by inability to obtain necessary permits, equipment, services, material or internet access, or by any other cause not reasonably within System East, Inc.'s control, this Agreement shall not terminate because of such prevention or delay, and at System East, Inc.'s option, the period of such prevention or delay shall be added to the term hereof. Systems East, Inc. shall not be liable for breach of any provisions or implied covenants of this Agreement when such services are so prevented or delayed.

#### **5. Non-Disclosure and Confidentiality.**

(a) Each party hereunder may disclose to the other party certain Proprietary Information of such party. For purposes of this Agreement, "Proprietary Information" means the other party's Trade Secrets and Confidential Information. "Owner" refers to the party disclosing Proprietary Information hereunder, whether such disclosure is directly from Owner or through Owner's

employees or agents. "Recipient" refers to the party receiving any Proprietary Information hereunder, whether such disclosure is received directly or through Recipient's employees or agents.

(b) Recipient agrees to hold the Proprietary Information disclosed by Owner in strictest confidence and not to, directly or indirectly, copy, reproduce, distribute, manufacture, duplicate, reveal, report, publish, disclose, cause to be disclosed, or otherwise transfer the Proprietary Information disclosed by Owner to any third party, or utilize the Proprietary Information disclosed by Owner for any purpose whatsoever other than as expressly contemplated by this Agreement. With regard to the Trade Secrets, the obligations in this Section shall continue for so long as such information constitutes a trade secret under applicable law. With regard to the Confidential Information, the obligations in this Section shall continue for the term of this Agreement and for a period of five years thereafter. The foregoing obligations shall not apply if and to the extent that: (i) the information communicated was already known to Recipient, without obligations to keep such information confidential, at the time of Recipient's receipt from Owner; (ii) the information communicated was received by Recipient in good faith from a third party lawfully in possession thereof and having no obligation to keep such information confidential; or (iii) the information communicated was publicly known at the time of Recipient's receipt from Owner or has become publicly known other than by a breach of this Agreement.

## **6. Term and Termination.**

(a) The term of this Agreement shall continue until this Agreement is terminated pursuant to the terms of the Enrollment Agreement. As provided thereunder, Systems East, Inc. or Merchant may terminate this Agreement at any time upon the occurrence of the following events: (i) completion of services; (ii) end of any license term; (iii) mutual written agreement of the parties to terminate; (iv) upon petition by one of the parties for bankruptcy or assignment for benefit of creditors; (v) upon the other party's breach of any of its representations, warranties or performance obligations hereunder, which such breach is not or cannot be remedied with fifteen (15) days of the non-breaching parties delivery of a written notice of breach to the breaching party; or (vi) any time by either party upon thirty (30) days advance notice to the other party..

(b) In the event of such termination, Merchant agrees to remit all fees accrued to Company up to the date and time of such termination. Final payment for accrued fees shall be effected by the same means and on the same schedule as was typical for the term during which services were regularly provided.

(c) Upon termination by either party, Systems East, Inc. will make every reasonable effort to provide the Merchant with a copy of their Data upon request and pursuant to billable time. Merchant acknowledges that it has ongoing access to the data and responsibility to download that Data on a schedule defined by it as sufficient to keep its copy of the data up to date.

(d) These terms and conditions shall survive termination of this Agreement.

**7. Publicity.** Merchant agrees that Systems East, Inc. may disclose the existence of this work for the purposes of marketing and advertising Systems East, Inc.'s services to others; provided that Systems East, Inc. obtains Merchant's written consent and complies with its obligations respecting non-disclosure of Merchant and Merchant's Proprietary Information.

## **8. Miscellaneous.**

(a) This Agreement, including all Exhibits attached thereto, expresses the complete and final understanding with respect to the subject matter hereof and supersedes and cancels all previous and contemporaneous written and oral agreements and communications relating hereto.

(b) Except pursuant to court order or as otherwise required under judicial or regulatory proceedings, neither party shall disclose the pricing or other terms and conditions of this Agreement without prior written consent of the other party.

(c) Merchant may not assign, transfer or pledge this Agreement, or any interest, license or rights herein, in any manner, without the prior written consent of Systems East, Inc. Systems East, Inc. may assign certain of its responsibilities and duties to third parties, as Systems East, Inc. deems appropriate.

(d) Systems East, Inc. and Merchant are independent contractors and this Agreement shall not be construed to create any employment relationship, partnership, joint venture, or agency relationship between the parties or to authorize any party to enter into any commitment or agreement binding on the other.

(e) Any failure by either party to detect, protest, or remedy any breach of this Agreement shall not constitute a waiver or impairment of any such term or condition, or the right of such party at any time to avail itself of such remedies as it may have for any breach or breaches of such term or condition.

(f) If any provision hereof is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement will continue in full force and effect.

(g) Neither party shall be in default by reason of any failure in performance of this Agreement if such failure arises, directly or indirectly, out of causes reasonably beyond the direct control or foreseeability of such party, including but not limited to, default by subcontractors or suppliers, acts of God or of the public enemy, U.S. or foreign governmental acts in either a sovereign or contractual capacity, labor, fire, flood, epidemic, restrictions, strikes, and/or freight embargos. Nothing in this subsection shall be construed to relieve Merchant of its payment obligations hereunder.

(h) All notices, requests, demands and other communications hereunder shall be deemed to have been duly given if the same shall be in writing and shall be delivered personally or sent by registered or certified mail, postage prepaid, receipted facsimile transmission or receipted commercial courier to the attention of the person executing this Agreement on behalf of the receiving party and addressed as set forth in Section 3 (Notification) of the Enrollment Policies. If delivered by hand, telex, telegraph, facsimile or like method of transmission, the date on which a notice is actually delivered shall be deemed the date of receipt and if delivered by mail, the date on which a notice is actually received or the fifth day after the notice is mailed, whichever occurs first, shall be deemed the date of receipt. Either party may change the address or designated person for receiving notices by providing notice in accordance with this Section.

(i) This Agreement shall be governed by, construed, and interpreted in accordance with the laws of the State of New York without regard to its rules governing conflicts of law. In the event of a dispute between the parties where the parties are unable to reach a mutually agreeable resolution, the dispute shall be submitted to binding arbitration under the commercial arbitration rules

of the American Arbitration Association then in effect; provided, however, that the parties may seek injunctive or other equitable powers from a court of appropriate jurisdiction. Arbitrations shall take place in a location as mutually agreed by both parties; such arbitrator shall have experience in the area of software technology. After the hearing, the arbitrator shall decide the controversy and render a decision setting forth the issues adjudicated, the resolution thereof and the reasons for the award. The award of the arbitrator shall be conclusive. Payment of the expenses of the arbitration, including the fee of the arbitrator and attorneys, shall be assessed by the arbitrator based on the extent to which each party prevails.

(j) All disputes arising out of this Contract shall be heard in State Supreme Court with a venue of Cortland County.

(k) This Agreement shall be binding upon and inure to the benefit of each party and their respective heirs, successors and assigns.

(l) This Agreement cannot be modified except by a written Work Authorization (an example is attached as Exhibit B or other agreement signed by both Systems East, Inc. and Merchant.

## EXHIBIT B - AUTHORIZATION

By executing the Enrollment Agreement, this Work Authorization ("Work Authorization") is being entered into by both Merchant and Systems East, Inc., a New York corporation, and Merchant in accordance with such Enrollment Agreement and these Enrollment Policies, and pursuant to same, by and between Systems East, Inc. and Merchant (the "Agreement"). Unless otherwise specifically noted herein, the following licensing fees or customization and development services (the "Additional Services") are provided pursuant to the terms and conditions of the Agreement.

1. Additional Services or licenses: None
2. Fees: As set forth in the *Enrollment Agreement*
3. Timeline: As set forth in the *Enrollment Agreement*