

CITY OF HAMILTON, OHIO

Non-Residential Broadband Service

TERMS AND CONDITIONS; RULES AND REGULATIONS

This Customer Agreement and Terms of Use ("Agreement") sets out the terms and conditions on which we will provide you Internet Service (the "Service"). For the purposes of this Agreement, "you" means the subscriber to Internet Service (the "Customer"), and "we" or "us" means the City of Hamilton, Ohio (the "City" or "Provider") and any third parties the City may retain to provide the Services (hereinafter referred together with you as the "Parties" and each separately a "Party").

This Agreement is an agreement between you and the City regarding your subscription to Internet Service and the use of any equipment, including Consumer Premise Equipment ("CPE"), provided by us to you for providing the Service (the "Equipment"). The Service does not include any websites controlled by the City, including but not limited to, www.hamilton-oh.gov or www.invoicecloud.com (payment for Hamilton Utilities).

By signing up to receive the Service, and in using the Service, you agree to abide by this Agreement. This Agreement also incorporates and includes our Privacy Policy for the websites controlled by the City and The City of Hamilton Application and Service Agreement for Utility Services (together with this Agreement, the "Customer Agreements").

In the future, we may change our prices, the Service, and/or the Customer Agreements. We will notify you of material adverse changes by email to the email address you provide, by posting notice online at <https://www.hamilton-oh.gov/utilities> by a mailing to your billing address, or by a text or phone call to the telephone number provided by you to us. Your continued use of the Service after notice of any change will be considered your acknowledgement and acceptance of the change. The most current versions of the Customer Agreements are posted at <https://www.hamilton-oh.gov/utilities-rules-regulations>.

1. Services.

The Service provides you access to the Internet. Your subscription to the Service begins on the day we install and activate the Service and continues until the Service is terminated, as described below. We refer to the period of time that you receive Service as the "Service Term."

During the Service Term, you get installation of the Service, the Equipment, including a CPE, on-going use of the Service itself, and tech support for your personal use of the Service.

The City may be providing this Service as part of a market trial. The Service may be changed or cancelled as part of this trial at any time and without notice, including for reasons outside of City's control, as explained below.

2. Equipment, Hardware, and Software.

The Service includes your use of the Equipment, which must be used to access the Service. You agree to the following terms governing the use of Equipment, including any hardware, and/or software in connection with the Service:

- (a) Customer is responsible for the installation, operation, and maintenance of hardware or software not provided by the City. The City is not responsible for the transmission or reception of information by such hardware or software, or any data you transmit or receive through the Service.

- (c) Customer is responsible for the selection, use and compatibility of hardware or software not provided by the City. If Customer provides its own equipment to interface with the Services, Customer is responsible for the installation, maintenance, and configuration of the equipment. If hardware or software not provided by the City impairs Customer's use of the Services, Customer is nonetheless liable for payment for Services. If the City notifies Customer that the hardware or software not provided by the City is causing or is likely to cause hazard, interference, or service obstruction, Customer must eliminate the hazard, interference, or service obstruction. The City may suspend the provision of Service until the hazard, interference, or service obstruction is corrected as per City's direction. If requested by Customer, the City may, at its then-current rates, assist Customer with resolving technical difficulties caused by hardware or software not provided by the City. If any changes in Service cause hardware or software not provided by The City to become obsolete, require modification or alteration, or otherwise affect performance of such hardware or software, Customer, not the City, is responsible for modifying, altering or replacing the hardware or software.

- (d) WE MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT CUSTOMER PROVIDED HARDWARE OR SOFTWARE. WE ARE NOT LIABLE FOR ANY FAILURE OR DAMAGE TO SUCH HARDWARE OR SOFTWARE.

- (e) For the sole purpose of enabling Customer to use Services, the City grants to Customer a non-exclusive and non-transferable license to use software that may be provided with or included in the Services. The City or its suppliers retain title and property rights to the City-provided software and equipment, whether or not it is embedded in or attached to realty. Customer neither owns nor will it acquire any claim or right of ownership to (i) any the City-provided equipment not purchased by Customer; (ii) any software (including the original media and all subsequent copies of the software, regardless of the media's form) and associated documentation (including copies); and (iii) any IP addresses assigned to Customer.

- (f) The City is responsible for maintaining its software and hardware in accordance with the terms of this Agreement and any applicable Terms of Service. Customer

agrees not to open, alter, misuse, tamper with or remove the software and equipment required to operate the Service. Customer will not remove any markings or labels or serial numbers from the equipment. If the equipment is damaged, destroyed, lost or stolen while in Customer's possession, Customer shall be liable for the cost of repair or replacement of such equipment. Customer will safeguard the equipment from loss or damage of any kind, and will not permit anyone other than an authorized representative of the City to perform any work on the equipment.

- (g) The Equipment is owned by us and will not be deemed fixtures or in any way part of the Premises. We may remove or change the Equipment at our discretion at any time, which may also interrupt your Services. You may not sell, lease, abandon, or give away the Equipment, or permit any other service provider to use the Equipment. The Equipment may only be used in the Premises unless expressly permitted by us. If you desire, we may relocate the Equipment for an additional charge. The Equipment must be returned upon termination of this Agreement. If, for any reason, you fail to return the Equipment to us upon the termination of the Service, you agree that the City may charge your account or credit card for the cost of the Equipment or pursue the funds through debt collection action. You are also responsible for loss, repair, replacement, and other costs, damages, fees, and charges if you do not return the Equipment to us in an undamaged condition.

3. Customer Obligations.

When you order the Service, you will create an account. You must be of legal age (generally, eighteen (18) years old) to order the Service and create an account. When you complete the sign-up process, you accept this Agreement on behalf of all persons who use the Service through your account. You are solely responsible for ensuring that all other users of the Service through your account understand and comply with the terms and conditions of this Agreement.

You understand and agree the execution and delivery of this Agreement and the performance of the duties and obligations provided for in the Agreement by you do not violate your Articles of Organization or Incorporation or your Operating Agreement or Bylaws or the provisions of any law, ordinance, regulation or agreement to which you are a party or by which you are bound.

You further represent that you have received no notice of any pending or threatened claim, litigation or other administrative or legal proceeding involving or affecting the transactions contemplated by this Agreement.

Your account can be accessed through the username or email address and password you provide, and it will contain important contact information where we will send you information about the Service, including usage information, account payment information, and other important notices and communications. You are responsible for creating and maintaining a secure

password. You must provide accurate, current, and complete information to the City when you create your account, and you must keep this information up-to-date at all times.

You are responsible for keeping your account information secure. Do not permit or enable any use of your account or password by any person who is not a member of your household. You are responsible for the use (or misuse) of the Service, whether by a member of your household or an unauthorized third-party, including any use (or misuse) of your account, and username and password.

You understand that the Service is for commercial purposes only. You agree that only you, your employees, and your authorized guests at your property at which the Service and/or Equipment will be provided (the Premises) will use the Service. You will not use the Equipment at any time at an address other than the Premises without the City's prior written consent. You agree not to resell or permit another person to resell the Service in whole or in part.

4. Fees and Expenses.

You agree to pay us in advance in full for each month of Service. You will make the first payment when we install and activate the Service. We will then automatically charge you every following month until the Service is terminated, as described below.

In the event that the Service is initially provided to you on a promotional basis, including at no charge for a period of time agreed upon by you and the City, then you agree to comply with the payment terms established in the City's rate schedules

You must notify us of any disputed payments within sixty (60) calendar days of the charge appearing on your credit card statement, or such longer period of time as may be required by applicable law. After such date, you waive all disputes and claims for which you have not provided us notice.

Your obligation to pay for the Service continues even if the Service is unavailable or its quality is degraded, except in the case of certain service outages described below. Any late payments that you make will first be applied to offset amounts you owe to us.

If you fail to pay the full amount due for any charges then we, at our sole discretion in accordance with and subject to applicable law, may suspend or disconnect the Service without a reduction in the amounts you owe us. In order to resume the Service, we may require you to pay the past due charges in full together with any fees, charges, and assessments we have imposed, including any applicable reconnection fee.

We reserve the right to change the fee for the Service or to add new fees at our discretion and at any time in accordance with this Agreement.

We do not extend credit to our customers. We may bill you fees, charges, and assessments related to late or non-payment for the Service. These fees, charges, and assessments are liquidated damages intended to be a reasonable advance estimate of our costs resulting from your late or non-payment because we cannot know in advance the actual costs that we may incur as a result of your failure to pay.

If we incur collection or other legal costs as a result of non-payment, you agree to pay us for the total past due amount and the costs of collection. These costs include, but are not limited to, any collection agency's fees, reasonable attorneys' fees, and arbitration or court costs upon judgment.

You authorize us to charge the credit or debit card number you provided for your monthly Service.

When you provide a credit or debit card number to us to pay for the Service, you authorize us to charge that credit card or debit card for all amounts payable by you for ongoing charges until you notify us in writing that you are withdrawing this authorization or until you have paid all amounts you owe us under this Agreement. If we do not receive payment from your card issuer or its agents, you agree to pay all amounts due upon demand.

We may charge fees for all debit, bank card, or credit card charge-backs. If you would like to know the current charge-back fees we may charge, please contact us as described below. We reserve the right to change our charge-back fees.

Do not attempt to place an order or make a payment to us with an expired, false, or unauthorized credit or debit card. We reserve the right to terminate your account immediately without notice upon the rejection of any credit or debit card charges, or non-payment by your financial institution.

5. Limited Warranty.

We do our best to provide reliable Service. However, sometimes things happen outside of our control. Unless otherwise required by law, if there is a complete failure of the Service for twenty-four (24) consecutive hours or more, excluding any interruption that is scheduled or due to a power outage, inclement weather, or any other 'Force Majeure' event, as such term is defined below, you are entitled, upon request, as your sole and exclusive remedy, to a prorated credit of monthly recurring charges for affected Service for the period that such failure continues beyond twenty-four (24) hours. Unless otherwise specifically provided by law, you must request credit for Service interruptions within thirty (30) calendar days.

6. Installation.

In order to install the Service, we must have access to your Premises. You agree to allow us – including our employees, agents, and contractors – to enter your Premises as necessary at a time agreeable to you and us to install, configure, maintain, inspect, repair and replace, and, upon termination, remove the Service and any Equipment.

You warrant that you have the authority to grant us access to the Premises. If you do not own the Premises or do not have the authority to give us access to the Premises, you agree to supply the owner's name, address, and phone number, and evidence that the owner has approved our access, upon request by us. The City and its agents will be respectful of your Premises and try our best to not cause any cosmetic or other damages to the property. We will handle repairs to your Premises to the extent that the damages are attributable to our negligently performed work.

You must notify us with any claim for damages to your Premises within thirty (30) calendar days of the occurrence of the damages.

For any cabling or wiring that occurs inside the Premises, you are solely responsible for such wiring. Such wiring must not interfere with the Services or the normal operations of our cable network. Upon your request, we can install, repair, or maintain such cabling or wiring. If we perform this work, we may charge you for that service. You own the cabling or wiring inside the Premises, and if you are not the Premises owner, you are responsible for contacting your landlord or building manager about the installation, repair, or maintenance of such cabling/wiring.

7. Net Neutrality.

We employ limited network management techniques to provide the best possible service to all customers. We do not prioritize any content, application, or service. We may block access to content, application, or service, in our sole discretion. We do not cap the amount of data you may use. We do not collect the contents of the data packets that transit through our network. We do not throttle specific content, applications, and services. We do not prohibit you from attaching non-harmful devices to your connection. We may take steps to manage our network.

Despite our efforts, we cannot guarantee any particular amount of bandwidth on the Service or that any speed or throughput of your connection will be available at all times. The speed of the Service will vary depending upon a number of factors, including your computer system(s) and associated equipment, Internet traffic, and other factors such as system capacity limitations, governmental actions, events beyond the City's control, and system failures, modifications, upgrades, and repairs. Accordingly, we cannot guarantee that the Service will meet your requirements or expectations or will be uninterrupted, timely, secure, or error free.

8. Terms of Use.

You agree not to use or permit any other person to use the Service, directly or indirectly, for any purpose that is unlawful, tortious, abusive, or otherwise breaches the terms of this Agreement, including, but not limited to:

- (a) the transmission of software viruses or other harmful computer code, files or programs, or circumventing, disabling or otherwise interfering with security-related features of the Service or Equipment;
- (b) the collection or harvesting of any third party's personally identifiable information without authorization from such individual or the invasion of the privacy or other rights of any third party;
- (c) the removal, alteration, or obscuring of any copyright, trademark or other startup messages or proprietary notices from the Equipment or Service;
- (d) any activity or use of the Service which violates system or network security or integrity are prohibited and may result in criminal and civil liability;
- (e) the unauthorized access to or use of data, systems, or networks, including any attempt to probe, scan, or test the vulnerability of a system or network, or to breach security or authentication measures without express authorization of the owner of the system or network;
- (f) any unauthorized monitoring of data or traffic on any network or system without express authorization of the owner or network;
- (g) interfering with Internet service to any user, host, or network, including but not limited to mail bombing, flooding, or denial of service attacks;
- (h) forging the header of any transmitted information packet, email, or Usenet posting;
- (i) modifying or tampering with any hardware, software, or configuration provided by the City;
- (j) reselling or otherwise redistributing the Service; disrupting, degrading, or otherwise adversely affecting the City's network, the Equipment, or other equipment owned by the City or other City customers;
- (k) transmitting unsolicited bulk or commercial messages, commonly known as 'spam;' distributing in any way information, software, or other material obtained through the Service or otherwise that is protected by copyright or other proprietary right, without obtaining any required permission of the owner;
- (l) hosting public servers of any kind or using static IPv4 IP addresses; and using the Service in a manner that substantially affects our ability to provide Internet service to our other customers.

9. Damages from Use.

We take the security of our network seriously and actively monitor our network. When you use the Service to access the Internet or any other online network or service, there are certain risks that may enable other Internet users to gain access to or use of your equipment and information.

In addition to our efforts to operate a secure network, you should also take all appropriate security measures when using the Service. You assume sole responsibility for your equipment when you use it in conjunction with the Service, and for providing and configuring any 'firewall' or security measures to prevent damage from viruses, malware, or other similar malicious items. You are solely responsible for the effectiveness of these blocking and filtering technologies. We do not

warrant that others will be unable to gain access to your computer(s) and/or data, nor do we warrant that your data or files will be free from computer viruses or other harmful components, even if you utilize blocking and filtering technologies. We have no responsibility and assume no liability for the protections you may employ nor for any damages that may arise from accessing the Internet. WE ARE NOT RESPONSIBLE FOR ANY ACTIVITIES OF THIRD-PARTIES, ANY WEBSITES, OR ANY INFORMATION THAT YOU TRANSMIT OR RECEIVE VIA THE SERVICE.

10. Life Safety Devices and Systems.

You agree that the Services are not intended for use in certain situations, and shall not use the Service or the Equipment in connection with, or to provide access to the Internet for, life-safety, fire, or emergency communication devices or systems requiring fail-safe performance or in which a delay or interruption in the Service(s) could lead to severe injury to business, persons, property, or environment (collectively, "Life Safety Devices and Systems"). Life Safety Devices and Systems include audible and visual signals (e.g., bells, horns, speakers, and strobes); automatic detectors for fire protection and other life safety hazards (e.g., heat, smoke, flame, gas, and biohazards); paging systems and devices, including coded sound and visual type; smoke, carbon monoxide, and combination alarms; access control systems; elevator monitor status systems and elevator VoIP call systems; first responder interface systems; and mass notification systems.

You acknowledge and understand that the Service may be delayed or interrupted in the event we have scheduled maintenance, there is a power outage, or due to other reasons beyond our control. In the event Service is delayed or interrupted, any devices that you have connected to the Service will not be connected to the Internet.

You agree that the City will not be liable to you for any failure of Life Safety Devices and Systems, or any Wi-Fi enabled device connected to the Service, in the event the Service is delayed or interrupted. The City will not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the Services, directly or indirectly caused by, or proximately caused by the Services or impacts to any of Life Safety Devices and Systems.

11. Term, Termination, and Survival.

You may cancel the Service at any time by contacting customer support. Service will continue through the end of your current billing period, unless all utility services (e.g., broadband, electric, natural gas, water, sewer, trash) are being terminated at the service address.

We reserve the right to cancel the Service at any time for any reason not prohibited by law.

If the City is providing the Service as part of a market trial, the Service may be changed or cancelled at any time and for any reason, including for reasons outside of the City's control.

Upon termination of the Service, you agree to (1) arrange for the City (including a City employee, agent, or contractor) to collect the Equipment; or (2) to return the Equipment to us in accordance with the instructions below within fifteen (15) calendar days of the date that the Service is deactivated.

If you terminate your Service, or we terminate your Service for any reason other than nonpayment of amounts you owe to us under this Agreement, we will reimburse you for the pro rata portion of any previously paid Service fee attributable to any time period after the date the Service was terminated. We will pay you this pro rata reimbursement at the time at which your service is terminated.

You may return the Equipment to us by contacting hamiltonconnects@hamilton-oh.gov to arrange a date and time for a representative from the City may collect the Equipment. If you fail to return or arrange for our collection of the Equipment, then you agree that we may charge your credit or debit card for the cost of the Equipment and, in that event, you are not obligated to return the Equipment to us.

12. Promotions.

The City may, in its sole discretion, create and offer promotional codes that may be redeemed for credit or other features or benefits related to the Service (Promo Codes). Promo Codes are subject to the terms of this Agreement and any additional terms and conditions that the City may establish on a per-Promo Code basis. Promo Codes do not have any cash value and cannot be redeemed for cash or cash equivalent. Promo Codes are not transferable and may not be traded, duplicated, sold, copied, modified, or transferred in any manner, including, without limitation, between accounts, unless expressly permitted by the City.

Promo Codes cannot be applied retroactively for prior purchases and cannot be combined unless otherwise indicated. The City may revoke, cancel, or disable a Promo Code and any related credits, features, or benefits at any time for any reason in its sole discretion without liability to you, including without limitation prior to your redemption or use of a Promo Code or any related credits, features, or benefits. The City further reserves the right to terminate your account and/or withhold or deduct credits or other features or benefits obtained through the use of a Promo Code by you or any other user in the event that we determine or believe that your use or redemption of any Promo Code(s) was in error, fraudulent, illegal, or in violation of this Agreement or any specific terms and conditions applicable to the Promo Code(s).

13. Provider Warranties.

YOU EXPRESSLY AGREE AND UNDERSTAND THAT YOUR USE OF THE SERVICE AND THE EQUIPMENT IS AT YOUR SOLE RISK. THEY ARE PROVIDED ON AN 'AS IS' AND 'AS AVAILABLE' BASIS WITHOUT WARRANTIES OR GUARANTIES OF ANY KIND. THE CITY AND OUR EMPLOYEES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED

WARRANTIES OF TITLE MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY A COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, AND ACCORDINGLY THIS MAY NOT APPLY TO YOU DEPENDING ON YOUR LOCATION.

14. Limited Liability.

There is a limitation to our liability to you under this Agreement.

THIS LIMITATION OF LIABILITY APPLIES TO ANY ACTS, OMISSIONS, AND NEGLIGENCE OF THE CITY AND ITS THIRD-PARTY SERVICE PROVIDERS, AGENTS AND SUPPLIERS, AND EACH OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, AND REPRESENTATIVES.

UNDER NO CIRCUMSTANCES WILL THE CITY BE LIABLE TO YOU FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SERVICE OR ANY ACTS OR OMISSIONS ASSOCIATED WITH THE SERVICE, INCLUDING ANY ACTS OR OMISSIONS BY THIRD-PARTY SERVICE PROVIDERS, AGENTS, OR SUBCONTRACTORS OF THE CITY, OR RELATING TO ANY SERVICES FURNISHED, WHETHER SUCH CLAIM IS BASED ON BREACH OF WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND REGARDLESS OF THE CAUSES OF SUCH LOSS OR DAMAGES OR WHETHER ANY OTHER REMEDY PROVIDED IN THIS AGREEMENT FAILS. OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO THE USE OF THE SERVICES OR ANY BREACH BY US OF ANY OBLIGATION WE MAY HAVE UNDER THIS AGREEMENT OR APPLICABLE LAW, IS YOUR ABILITY TO TERMINATE THE SERVICE OR TO OBTAIN THE REPLACEMENT OR REPAIR OF ANY DEFECTIVE EQUIPMENT PROVIDED BY US. IN NO EVENT WILL OUR LIABILITY TO YOU FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNT PAID BY YOU DURING THE PRECEDING 30 DAY PERIOD.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF CERTAIN LIABILITIES, AND ACCORDINGLY THIS MAY NOT APPLY TO YOU DEPENDING ON YOUR LOCATION.

WE ARE NOT RESPONSIBLE AND DISCLAIM ALL LIABILITY FOR ANY SOFTWARE OR APPLICATIONS INSTALLED OR DOWNLOADED (INCLUDING ON YOUR CUSTOMER EQUIPMENT), OR AVAILABLE THROUGH THE INTERNET, INCLUDING ANY VIRUSES, MALWARE, TROJANS, OR OTHER HARMFUL FEATURES. WE MAY, IN OUR SOLE DISCRETION CHECK FOR VIRUSES AND OTHER HARMFUL PROGRAMS, INCLUDING ON YOUR CUSTOMER EQUIPMENT. WE MAKE NO REPRESENTATION OR WARRANTY THAT ANY VIRUS CHECK SOFTWARE WILL DETECT, CORRECT, OR RESOLVE ANY OR ALL VIRUSES.

15. Indemnity.

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD US HARMLESS FROM CLAIMS OR DAMAGES RELATING TO OR ARISING OUT OF YOUR BREACH OF THIS AGREEMENT OR YOUR AND YOUR USERS' USE OF THE SERVICE OR ANY EQUIPMENT, INCLUDING BUT NOT LIMITED TO ANY CLAIMS OR DAMAGES ARISING OUT OF (1) POSTINGS MADE USING THE SERVICE, INCLUDING FOR DEFAMATION, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHT INFRINGEMENT OR OTHERWISE; OR (2) THIRD-PARTY CLAIMS CAUSED BY YOUR VIOLATION OF THIS AGREEMENT OR OTHER CITY POLICIES. YOU AGREE THAT WE ARE NOT RESPONSIBLE FOR ANY THIRD-PARTY CLAIMS AGAINST US THAT ARISE FROM YOUR USE OF THE SERVICE OR THE EQUIPMENT. FURTHER, YOU AGREE TO REIMBURSE US FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS.

16. Changes to Service.

We may make changes to the Service. We will notify you in advance of any material adverse changes. Subject to applicable law and any express exceptions that we agree to in writing when you subscribe to the Service, such as a promotional price for a fixed term, we may, at any time and periodically:

- (a) Institute new or increase or otherwise change existing fees and charges for the Service;
- (b) Modify, supplement, or replace the terms, policies, practices, and procedures relevant to the Service;
- (c) Make changes affecting equipment or software;
- (d) Institute new or change the existing features, functions, characteristics, and specifications of the Service, including by instituting or changing limits and restrictions that affect Service features and functions, such as changing upstream or downstream speed, limiting usage of bandwidth or other resources, or imposing additional charges if limits are exceeded; and changing the number, kinds, or parameters of included features or services, such as the amount of bandwidth that may be used in a given level of Internet access service;
- (e) Make any other change relating to any Service contemplated or not expressly prohibited by this Agreement or applicable law.

We may give you advance notice of any such changes that materially adversely affect your rights or obligations under this Agreement by email to the email address you provide, by posting notice online at www.hamilton-oh.gov/utility-operations, by a mailing to your billing address, or by a text or phone call to the telephone number provided by you to us.

Your continued use of the Service after the effective date and following notice of any such change will be deemed your acceptance of that change.

17. Notice.

We will provide you with notices consistent with applicable law. We may send any required or desired notice under the Customer Agreements to your physical address of record by hand delivery, U.S. postal service, or overnight courier. Alternatively, we may send notice by email to the email address you provide to us or by text messaging to the phone number you provide to us. We may also provide notice by posting information in a newspaper or on our website. You agree that any one of the foregoing will constitute sufficient notice. You agree to regularly check your mail, email, and all postings on our website and bear the risk of failing to do so. By agreeing to these terms, you agree that we may send you text messages.

18. Intellectual Property.

You acknowledge that use of the Service does not give you any ownership or other rights in any Internet/on-line addresses provided to you, including, but not limited to, Internet Protocol (IP) addresses, email addresses, and Web addresses. We may modify or change these addresses at any time without notice and without compensation to you for these changes. Upon termination of your Service account, we reserve the right to permanently delete or remove permanently any or all addresses associated with your account.

You will not use, or allow others to use, the Service to send or receive, or otherwise use any information which infringes the patents, trademarks, copyrights, trade secrets, or proprietary rights of any other person or entity. This includes, but is not limited to, digitization of music, movies, photographs, or other copyrighted materials or software. You must obtain appropriate authorization from the appropriate persons or entities prior to sending, receiving, or using copyrighted materials. We assume no responsibility, and you assume all risks, regarding the determination of whether any material is in the public domain or may otherwise be used by you in the way that you intend to use it.

19. Confidential Information.

The Parties may have access to certain information, the ownership and confidential status of which is highly important to the other party and is treated or designated by one of the parties as confidential ("Confidential Information"). Neither Party will disclose the other PARTY'S Confidential Information, directly or indirectly, under any circumstances, to any third party without the express written consent of the other Party and neither Party will copy, transmit, reproduce, summarize, quote or make commercial or other use whatsoever of the other Party's Confidential Information, except as may be necessary to perform its duties herein. Either Party may disclose "Confidential Information" as required by law, in which case, the Party required to make the disclosure shall give the other Party prior notice of such disclosure immediately upon learning of the obligation to disclose. Furthermore, both Parties recognize the City is subject to Ohio Public Records law and any disclosure pursuant to such law shall not be a breach of this Section

“Confidential Information”. Each Party will exercise the highest degree of care in safeguarding the other Party’s Confidential Information against loss, theft or other inadvertent disclosure and take all steps necessary to maintain such confidentiality.

20. Force Majeure.

We will not be liable to you for any delay or failure of performance of the Service or Equipment due to causes beyond our control, including, but not limited to 'acts of God', fire, flood, explosion, or other catastrophes; any law, order, regulation, direction, action, or request of the United States government or of any other government, including state and local governments having or claiming jurisdiction over the City, or of any department, agency, commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments or of any military authority; preemption of existing service in compliance with national emergencies, acts of terrorism, insurrections, riots, wars, unavailability of rights-of-way, material shortages, strikes, lockouts, or work stoppages. For the purposes of this Agreement, we refer to any of these events as a 'Force Majeure' event or 'Force Majeure'.

21. Assignment.

This Agreement contains all of the terms and conditions that relate to our relationship. The terms of this Agreement are governed by Ohio law. You may not assign this Agreement to a third party.

22. No Joint Venture.

This Agreement is not intended to create nor shall it be construed to create any partnership, joint venture, employment or agency relationship between you and the City.

23. Interest of the Provider.

No member of the governing body of City of Hamilton, and no other officer, employee, or agent of the City of Hamilton who exercises any functions or responsibilities in connection with the carrying out of activities related this Agreement, shall have any personal interest, direct or indirect, in this Agreement.

24. Entire Agreement.

This Agreement and the other Customer Agreements incorporated by reference herein constitute the entire agreement and understanding between you and the City with respect to the subject matter of this Agreement, and supersede and nullify all prior written or verbal understandings, promises, agreements, or undertakings with respect to the Service. If any term or condition of this Agreement shall be adjudicated or determined as invalid or unenforceable by a court, tribunal, or arbitrator with appropriate jurisdiction over the subject matter, the remainder of the Agreement with respect to such claim shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law. The City does not waive any provision or right if it fails to insist

upon or enforce strict performance of any provision of this Agreement. Neither the course of conduct between you and us, nor trade practice, shall act to modify any provision of this Agreement. Any modification of this Agreement will be effective only if it is in a writing signed by the party to be charged.

25. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without reference to its conflicts of law provisions. Any dispute regarding this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in Butler County, in the State of Ohio, and the parties hereby irrevocably agree to submit to the personal and exclusive jurisdiction and venue of such courts.

26. Assignment.

This Agreement and the Service and Equipment furnished under this Agreement may not be assigned by you. You agree to notify us immediately of any changes of ownership or occupancy of the Premises. We may freely assign our rights and obligations under this Agreement with or without notice to you.

27. Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, facsimile and "pdf" signatures shall be deemed to be originals. Each Party may rely upon a facsimile or "pdf" counterpart of this Agreement signed by the other Party with the same effect as if such Party had received an original counterpart signed by such other Party.

28. Contact.

You may contact us by phone, email, or mail. For any inquiries or notices required in connection with this Agreement, you may contact us as follows:

By phone:

+1 513-785-7100

By email:

hamiltonconnects@hamilton-oh.gov

By mail:

Name: Utility Customer Service

Address: 345 High Street, Hamilton, OH 45011

29. Consent for Messaging.

You agree that the City, its agents, subcontractors, or third parties acting on behalf of the City may call or text you at the telephone number that you provide to us, for any purpose relating to your account and/or the Services. You expressly consent to receive such calls and texts and agree that these calls and texts are not unsolicited. You understand and acknowledge that these calls and texts may entail the use of an automatic telephone dialing system and/or artificial or prerecorded messages. If you do not wish to receive these communications and want to opt out, please contact Utility Customer Service at the contact information listed above in Section 28, Contact. You may not opt-out of receiving certain communications pertaining to your account, including but not limited to communications regarding emergencies, fraud or other violations of law, security issues, and harm caused to the network. Message frequency depends on your activity with your Services. Message and/or data rates may apply.

30. Consent To Use Electronic Records And Signatures

In this Consent:

- “Communication” means each disclosure, notice, agreement, statement, undertaking, fee schedule, record, document or other information we provide to you to review, or that you sign or submit or agree to at our request, which is related to your Transaction.
- “Platform” means the site you are using to electronically review and sign Communications.
- “Transaction” means the consumer or commercial transaction for which you are reviewing and signing Communications using the Platform.

You have indicated you wish to review and sign Communications electronically using the Platform. As part of this Transaction, you are entitled to receive certain Communications “in writing” – which means you are entitled to receive them on paper. With your consent these Communications may be provided electronically, instead. We also need your general consent to use electronic records and signatures in our relationship with you.

- A. Your Consent. You agree that any Communications delivered or presented on the Platform may be in electronic form. We may also use electronic signatures and obtain them from you on any Communication presented or delivered on the Platform. We may always, in our sole discretion, provide you with any Communication on paper, even if you have authorized electronic delivery. Sometimes the law, or our agreement with you, requires you to give us a written notice. You must still provide these notices to us on paper, unless we tell you how to deliver the notice to us electronically.
- B. How to Withdraw Consent. If you decide to withdraw your consent to before you complete the Transaction, you may do so by exiting the Platform and closing your browser window. If you withdraw consent before the Transaction is complete you will be unable to proceed

electronically. You may be required to restart the Transaction via paper, or you may be unable to complete the Transaction at all. You may also withdraw your consent by informing the notary signing agent present at any time during the transaction.

Your withdrawal of consent to use the Platform for this Transaction does not affect any other consent you have given at any other time to use electronic records and signatures.

- C. How to Update Your Contact Information. It is your responsibility to provide us with a current e-mail address and other contact information, and to promptly update any changes in this information. You can update your contact information with the City at any time by calling the City at the information provided above. You can update your contact information with any other person participating in the Transaction using the customer service contact information that person has given to you.
- D. Hardware and Software Requirements. To receive and sign electronic Communications on the Platform, you must have access to:
- a Current Version (defined below) of Internet Explorer, Chrome, Safari or Firefox,
 - a connection to the Internet,
 - a Current Version of a program that accurately reads and displays PDF files, and
 - a computer and an operating system capable of supporting all of the above. [any other hardware/software requirements?]

You will also need a printer if you wish to print out and retain records on paper, and electronic storage if you wish to retain records in electronic form. You must also have an active email address.

By “Current Version,” we mean a version of the software that is currently being supported by its publisher. From time to time, we may offer services or features that require that your Internet browser be configured in a particular way, such as permitting the use of JavaScript or cookies. If we detect that your Internet browser is not properly configured, we will provide you with a notice and advice on how to update your configuration. We reserve the right to discontinue support of a Current Version of software if, in our sole opinion, it suffers from a security flaw or other flaw that makes it unsuitable for use with your Transaction.

If our hardware or software requirements change, and that change would create a material risk that you would not be able to access or retain electronic Communications, we will give you notice of the revised hardware or software requirements. Continuing to use this service after receiving notice of the change is reaffirmation of your consent.

- E. Requesting Paper Copies. You can obtain a paper copy of any Communication we provide to you electronically in your account by printing it yourself, or by requesting that Customer Service mail you a paper copy. Requests for paper copies must be made within a reasonable time after we first provided the electronic Communication to you. To request

a paper copy, please call us at the contact information above in Section 28. There is no charge associated with requesting a paper copy of a Communication we sent you electronically.

- F. Retaining copies. We encourage you to print or download for your records a copy of all electronic Communications, as well as this ESIGN Consent disclosure and any other document that is important to you.

- G. Termination/Changes. We reserve the right, in our sole discretion, to discontinue the provision of your electronic Communications on the Platform, or to terminate or change the terms and conditions on which we provide electronic Communications. We will provide you with notice of any such termination or change as required by law.

By selecting the “I Consent” button below, you are consenting to the use of electronic records and signatures for Communications relating to your Transaction on the Platform, and also confirming that you have the hardware and software described above, that you are able to receive and review electronic records, and that you have an active email account and the ability to access and view PDF files. You are also confirming that you are authorized to, and do, consent on behalf of all of your co-applicants and co-owners of any product or service provided to you as part of this Transaction.