

RESOLUTION NO. 6294

A RESOLUTION OF THE ALBANY CITY COUNCIL, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, WAIVING COMPETITIVE BIDDING AND AUTHORIZING THE FINANCE DIRECTOR TO ENTER INTO A SOLE SOURCE AGREEMENT WITH VIZANT TECHNOLOGIES TO REVIEW FINANCIAL PAYMENT FEES AND CHARGES.

WHEREAS, the Albany City Council serves as the City's Local Contract Review Board; and

WHEREAS, the Local Contract Review Board may award a contract without competitive bidding when the contractor is the sole source of the goods and services required, Oregon Revised Statutes 279B.075 and Oregon Administrative Rules (OAR) 137-047-0275; and

WHEREAS, in fiscal year-end 2013, the City paid over \$76,000 in interchange fees, assessments, and bank charges to process credit card payments to the City; and

WHEREAS, the City has taken deliberate steps to minimize the cost of processing credit card payments by adopting pass through pricing and reviewing specific types of transactions to be sure the lowest cost interchange categories were being applied; and

WHEREAS, the steps that have been taken are good but there may be additional opportunities to reduce the cost of processing the financial payments; and

WHEREAS, the City has identified Vizant Technologies as a sole source provider offering consulting services specializing in finding ways to reduce the fees and charges associated with processing credit card and other financial payments; and

WHEREAS, Vizant Technologies is able to provide specialized analytical processes, proprietary information, and multiple U.S. patents specifically developed to analyze, review, manage and reduce the costs of processing financial payments; and

WHEREAS, the only cost Vizant Technologies charges for entering into a three-year agreement, as described in Exhibit A, is to share in the savings of any changes that they identify and recommend, and that the City actually implements that result in financial payment cost reductions.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

SECTION 1. The City of Albany City Council, acting as the Local Contract Review Board, adopts the following findings:

1. In 2013, the City paid over \$76,000 in interchange fees, assessments, and bank charges to process credit card payments to the City. The City has taken deliberate steps to minimize the cost of processing credit card payments, researching alternate options and available resources.
2. The City has identified Vizant Technologies as a sole source provider that offers consulting services specializing in finding ways to reduce the fees and charges associated with processing credit card and other financial payments.
3. Vizant Technologies offers a unique consulting service approach, they have specialized analytical processes, access to proprietary information, and multiple U.S. patents developed to assist with identifying cost reduction.

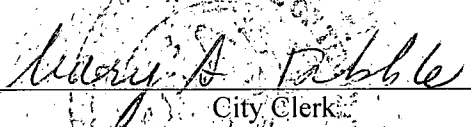
SECTION 2. The Finance Director is authorized to enter into a sole source agreement, and negotiate a contract with Vizant Technologies (Exhibit A) to conduct a review of the fees and charges associated with processing financial payments to the City. If no comments or protests are received within seven days from the date of the public notice, per OAR 137-047-0275, an award letter will be issued to Vizant Technologies.

DATED AND EFFECTIVE THIS 22ND DAY OF JANUARY 2014.

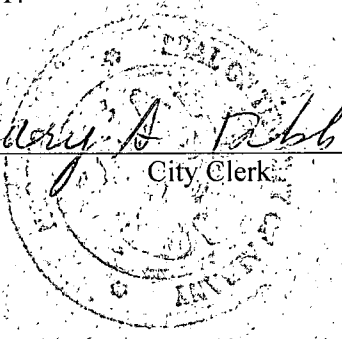


Mayor

ATTEST:



City Clerk



ALBANY PROFESSIONAL SERVICES AGREEMENT**STANDARD TERMS AND CONDITIONS
FOR AGREEMENT TO FURNISH
REVIEW OF PAYMENT CARD TRANSACTIONS
TO THE CITY OF ALBANY, OREGON****ARTICLE I: SCOPE**

For consideration set forth in Article V, Vizant Technologies LLC, a payments industry consulting firm, hereinafter referred to as CONSULTANT, agrees to provide services to the City of Albany, Oregon, a municipal corporation, hereinafter referred to as the CITY. This Agreement incorporates all the promises, representations, and obligations set forth in the Professional Services Agreement attached hereto as Attachment A

The contract shall be for a period of approximately 3 years, commencing XXX 1, XXXX, with an option to extend the contract an additional one-year term, upon agreement by both parties. If the City elects to renew the contract, a written notice shall be provided a minimum of thirty (30) days prior to the expiration of the current contract of its intent to do so.

ARTICLE II: RESPONSIBILITY OF CONSULTANT

- A. Notice to Proceed. CONSULTANT will not begin work on any of the duties and services listed in Article I until execution of the contract. Authorization to proceed on additional services not defined in Article I shall be in the form of an amendment as defined in Article II.
- B. Level of Competence. CONSULTANT is employed to render professional services and shall be responsible, to the level of competence presently maintained by other practicing payments industry consulting firms in good standing and engaged in the same type of professional personal services, for the professional and technical adequacy and accuracy of designs, drawings, specifications, documents, and other work products furnished under this Agreement.
- C. Lead Consultant. Vizant Technologies, LLC shall serve as the Lead Consultant for the payments industry consulting services under the terms of this Agreement. Any change in the designation of this role must be approved by the City.
- D. Documents Produced. CONSULTANT agrees that all work products produced by CONSULTANT in the fulfillment of its obligations under this Agreement, and all information, documents and material, gathered or compiled in meeting those obligations, shall be considered property of the CITY, and shall be provided to the CITY upon completion of this Agreement or termination of the Agreement pursuant to Article XII.
- E. State or Federal Requirements. CONSULTANT covenants and agrees to comply with all of the obligations and conditions applicable to public contracts of this type pursuant to ORS Chapter 279 A, and B, as though each obligation or condition were fully set forth herein. In addition, CONSULTANT covenants and agrees that in the performance of its duties hereunder, it will comply with all other state and federal requirements applicable to contracts of this type. If any provision of this Agreement shall be deemed to be not in compliance with any statute or role of law, such provision shall be deemed modified to ensure compliance with said statute or role of law.
- F. Oregon Workers' Compensation Law. CONSULTANT, its subconsultants, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

- G. Record Retention and Review. The CONSULTANT shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct costs of any nature expended in the performance of this Agreement. These records shall be subject during regular business hours of the CONSULTANT to inspection, review, or audit by personnel duly authorized by the City upon reasonable advance written notice from the City to the CONSULTANT. The CONSULTANT will retain all records related to this Agreement for six (6) years following the date of final payment or completion of any required audit, whichever is earlier, and make them available for inspection by persons authorized under this provision. The CONSULTANT shall be responsible for any audit exceptions or disallowed costs incurred by the CONSULTANT or any of its SUBCONSULTANTS.
- H. Oregon Identity Theft Protection Act. CONSULTANT, and its SUBCONSULTANTS to comply with the Oregon Identity Theft Protection Act (OITPA), ORS Sections 646A.600 through 646A.628.
- I. Taxpayer Identification Number. CONSULTANT agrees to complete a Request for Taxpayer Identification Number and Certification (W-9 Form) as a condition of the CITY'S obligation to make payment. If the CONSULTANT fails to complete and return the W-9 Form to the CITY, payment to CONSULTANT may be delayed, or the CITY may, in its discretion, terminate the Contract.

ARTICLE III: RESPONSIBILITY OF CITY

- A. Authorization to Proceed. CITY shall authorize CONSULTANT upon execution of the contract to start work on any of the services listed in Article I.
- B. Access to Records, Facilities and Property. CITY shall comply with reasonable requests from CONSULTANT for inspection or access to CITY'S records, facilities, and properties by providing any and all information within its possession or control that may be reasonably helpful in the performance of the services provided herein.
- C. Timely Review. CITY shall examine all studies, reports, specifications, proposals, and other documents presented by CONSULTANT, obtain advice of an attorney, insurance counselor, accountant, auditor, and other consultants as CITY deems appropriate for such examination and render in writing decisions pertaining thereto in a timely manner so as not to unreasonably delay the services of CONSULTANT.

ARTICLE IV: MODIFICATIONS

CITY or CONSULTANT shall not make modifications in the attached Agreement or these Standard Terms and Conditions except in writing as an amendment to the agreement. Said modifications shall be agreed to by both parties, with scope of work, schedule, and compensation to be negotiated at the time the modification is proposed by either party. Modifications that do not meet these requirements shall not be binding, and no further compensation will be allowed for any work performed.

ARTICLE V: COMPENSATION

City agrees to pay for the goods and services procured in Article I in accordance with the compensation provisions described in this Agreement and the Fee Schedule as set forth in Attachment A.

The City shall remit payment within thirty (30) days of receipt of a monthly billing from the CONSULTANT. Such billing shall be only for services provided to that point. If payment is not made within 30 days, interest on the unpaid balance will accrue beginning on the 31st day at the rate of one percent (1%) per month or the maximum interest rate permitted by law, whichever is less. Such interest is due and payable when the overdue payment is made, unless delay in payment is due to a contested billing. CITY has the right to appeal or ask for clarification on any CONSULTANT billing within 30 days of receipt of billing. Until said appeal is resolved or clarification is accepted, no interest will accrue on that portion of the billing. In the event of a contested billing, only that portion so contested shall be withheld, and the undisputed portion shall be paid in accordance with this Article V.

Notwithstanding anything in this Agreement to the contrary, the CITY'S obligation to pay money beyond the current fiscal year shall be subject to and dependent upon appropriations being made from time to time by the City Council for such purpose; provided, however, that the City Manager or other officer charged with the responsibility for preparing the City's annual budget shall include in the budget for each fiscal year the amount of the city financial obligation payable in such year and the City Manager or such other officer shall use his/her best efforts to obtain the annual appropriations required to authorize said payments.

ARTICLE VI: INDEMNIFICATION

The CONSULTANT agrees to indemnify, defend, and hold harmless the CITY, its agents, officers and employees, from and against any and all liability, claims, suits, loss, damages, costs, and expenses arising out of or resulting from the negligent or intentional acts, errors, or omissions of the CONSULTANT, its officers, employees, or agents.

ARTICLE VII: INSURANCE

Before the Agreement is executed and work begins, the CONSULTANT shall furnish the CITY a Certificate of Insurance for the coverage and limits set out below which is to be in force and applicable to the project for the duration of the contract. The issuing insurance companies must have a minimum current A.M. Best rating of A- VII or approved by the City. The Certificate must state that any insurance coverage shown cannot be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days prior written notice has been given to the CITY.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

Professional Liability insurance on an occurrence or claims made basis with 24 month tail coverage.

B. Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

Professional Liability Insurance	\$2,000,000 Per incident / Claim
	\$2,000,000 Annual Aggregate

C. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the CITY. At the option of the CITY, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects the CITY, its officers, employees and agents; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Clause - The Professional Liability Insurance coverage required for performance of this contract shall be endorsed to name CITY OF ALBANY and its officers, agents and employees as Additional Insured on any insurance policies required herein with respect to CONSULTANT'S or any sub-contractor's activities being performed under the Agreement. The Certificate of Insurance must include a copy of the Additional Insured endorsement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

2. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the CITY, its officers, employees, or agents.
3. Workers' Compensation and Employers Liability Coverage - The insurer shall agree to waive by endorsement, all rights of subrogation against the City of Albany, its officers, employees, and agents for losses arising from work performed by the CONSULTANT for the CITY.

ARTICLE VIII: ASSIGNMENT

This Agreement is to be binding upon the heirs, successors, and assigns of the parties hereto. Use of SUBCONSULTANTS by the CONSULTANT or subsidiary or affiliate Firms of the CONSULTANT for technical or professional services shall not be considered an assignment of a portion of this Agreement, and the CONSULTANT shall remain fully responsible for the work performed, whether such performance is by the CONSULTANT or SUBCONSULTANTS. No SUBCONSULTANTS shall be used without the written approval of the CITY.

Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CITY and CONSULTANT.

ARTICLE IX: INTEGRATION

These terms and conditions and the attachments represent the entire understanding of CITY and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The agreement may not be modified or altered except in writing as specified in Article IV.

ARTICLE XII: FORCE MAJEURE

Neither the CITY nor the CONSULTANT shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

ARTICLE XIII: DISPUTE COSTS

In the event either party brings action to enforce the terms of this Agreement or to seek damages for its breach, or arising out of any dispute concerning the terms and conditions hereby created, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs, and expenses, incurred therein, including such costs and fees as may be required on appeal.

ARTICLE XIV: CONFLICT AND SEVERABILITY

In the event of any inconsistency between the terms of this Agreement and the terms listed in any additional attachments to this Agreement, the terms of this Agreement shall control. Any provision of this document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the document.

ARTICLE XV: NON-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

During the term of this Agreement, the CONSULTANT agrees as follows:

The CONSULTANT will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the

presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

ARTICLE XVI: COURT OF JURISDICTION

The laws of the state of Oregon shall govern the validity of this Agreement, its interpretation and performance, and other claims related to it. Venue for litigation shall be in Linn County, Oregon.

CONSULTANT:

Date: _____

By: _____
CONSULTANT

By: _____

Title: _____

Mailing Address: _____

Telephone: _____

Fax: _____

Corporation Tax No. (if incorporated)

Social Security No. (if individual)

CITY OF ALBANY, OREGON:

Date: _____

By: _____
Finance Director

APPROVED AS TO FORM:

By: _____
City Attorney

Professional Services Agreement

This Professional Services Agreement ("Agreement") is made and entered into, effective as of _____, 2013 ("Effective Date", by and between Vizant Technologies, LLC ("Vizant"), a Delaware Limited Liability Company, located at 5 Christy Drive, Suite 202, Chadds Ford, PA 19317 and City of Albany Oregon doing business as City of Albany ("Client"), a governmental entity of the State of Oregon, located at 333 Broadalbin Street SW, Albany, OR 97321-0144. Client shall include all current and future locations, subsidiaries, parents, divisions, affiliates, successors and assigns of Client. Vizant and Client are jointly referred to as the "Parties" and individually as a Party.

Vizant is engaged in the business of providing professional services, as set forth in Section 1, and Client desires to have Vizant perform the professional services as set forth in Section 1;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties intending to be legally bound hereby, agree as follows:

1. **Professional Services:** Vizant will perform an evaluation, assessment and customized analytical review of Client's Payment Card Transactions and Other Payment Transactions, including its financial payments environment, payment acceptance, payment processing, payment channels, payment methods and payment types. In performing such services, Vizant will utilize its analytical tools, processes, methods, intellectual property, cost analyses expertise and price benchmarking, all with the goal of identifying and recommending solutions designed to result in Client attaining maximum cost efficiency and reduction of the Client's Financial Payment Costs.

Vizant will provide to Client specific and actionable strategies and solutions that will collectively result in the reduction of Client's Financial Payment Costs. The strategies and solutions to attain cost efficiency and reduce costs may include, but are not limited to, recommendations and actions to increase, decrease and/or reallocate Financial Payments from one payment channel, payment method or payment type to a different payment channel, payment method or payment type.

Vizant's services will include the delivery to Client of a comprehensive initial Financial Payments Analysis and Recommendations Report ("Report") and ongoing consultation, advice, analysis, education and reporting related to the strategies and solutions for reducing and recouping Client's Financial Payments Costs.

2. **Financial Payments:** means all payments accepted and received by Client and categorized as follows: Payment Card Transactions or Other Payment Transactions
3. **Payment Card Transactions:** means all payments received by Client from, with or via: consumer cards, commercial cards, credit cards, debit cards, prepaid cards and gift cards, including all card brands, card networks and all acceptance methods and all types of payment devices, whether via in-person, online or any other manner.
4. **Other Payment Transactions:** means all payments received by Client from, with or via: paper check payments, e-check payments, ACH payments, cash payments and any other types and methods of payment that are not a Payment Card Transaction.
5. **Financial Payment Costs:** means all of the Client's costs, charges and fees associated with the acceptance and processing of Financial Payments.
6. **Pre-Agreement Financial Payment Costs:** means the Financial Payment Costs that Client incurred on a monthly basis or average monthly basis, prior to the Effective Date.
7. **Post-Agreement Financial Payment Costs:** means the Financial Payment Costs that Client incurs on a monthly basis, as a result of the implementation of the strategies and solutions that have been identified and recommended by Vizant in performance of its professional services under this Agreement.
8. **Financial Payment Cost Reductions:** means any and all Financial Payment Costs that are reduced, recouped and realized by Client during the Agreement Term, provided that they have been identified and recommended by Vizant in performance of its professional services under this Agreement. On a monthly basis, during the term of this Agreement, the calculation of

Exhibit A

Financial Payment Cost Reductions shall be as follows: Utilizing the "Cost Reduction Calculation Methods", Vizant shall compare the Post-Agreement Financial Payment Costs to the Pre-Agreement Financial Payment Costs. If the Post-Agreement Financial Payment Costs are less than the Pre-Agreement Financial Payment Costs, then the differential shall be considered the "Financial Payment Cost Reductions" for the month. If the Post-Agreement Financial Payment Costs are more than the Pre-Agreement Financial Payment Costs, there are no "Financial Payment Cost Reductions" for that month.

9. **Cost Reduction Calculation Methods:** The method of calculating cost reductions shall be based on the most accurate measure of the Financial Payment Cost Reductions. Cost Reduction Calculation Methods shall be: 1) "Effective Rate" by payment channel, payment method or payment type; 2) "Per Transaction Rate" by payment channel, payment method or payment type; 3) "Elimination and/or Reduction of Cost" by payment channel, payment method or payment type 4) A combination of all of the above. "Effective Rate" shall be calculated as follows: total dollar cost for a particular payment channel, payment method or payment type divided by the total dollar volume of the financial payments for each payment channel, payment method or payment type. "Per Transaction Rate" shall be calculated as follows: the cost per transaction to accept and process financial payments for a particular payment channel, payment method or payment type. "Elimination and/or Reduction of Cost" shall be calculated as a cost or expense that Client incurred prior to the Effective Date, but that was eliminated and/or reduced after the Effective Date.
10. **Professional Services Fee:** Vizant shall invoice its professional services fee ("Services Fee") for Financial Payment Cost Reductions on a monthly basis during the Billing Term of this Agreement. The Services Fee shall be calculated by multiplying the applicable "monthly rate" times the applicable monthly "Financial Payment Cost Reductions". The monthly rates shall be as follows: 45% for months 1 through 12 of the Billing Term; 40% for months 13 through 24 of the Billing Term and 35% for months 25 through 36 of the Billing Term.
11. **Billing Term:** The Billing Term shall be the period of thirty six (36) months, commencing with the issuance of the first invoice by Vizant to Client for Financial Transaction Cost Reductions. The first invoice will be issued to Client in the month after the Client has realized Financial Payment Cost Reductions.
12. **Agreement Term:** The Agreement Term commences on the Effective Date and shall end with the conclusion of the Billing Term.
13. **Client Data and Information Obligations:** Client shall provide all of the data and information necessary for Vizant to perform its professional services under this Agreement. The data and information must be provided in electronic version and via electronic access. Vizant shall work to secure the data and information directly from Client's financial payment service providers whenever possible, and only with proper written authorization by Client. Any letters of authorization for Vizant to work on behalf of Client to obtain data shall be provided within 7 days of request.
The following data and information shall be provided by Client or its service providers within 10 days of request by Vizant and shall be required to produce and deliver the *Report*.

For Payment Card Transactions:

- a. Copies of all agreements, contracts, documentation and amendments to the same, that relate to the acceptance and processing of Payment Card Transactions.
- b. Monthly merchant processing statements that identify all Payment Card Transactions and associated fees, costs and charges, for the 12 months prior to the Effective Date.
- c. Monthly statements and billing for any and other costs associated with the acceptance and processing of payment cards from any other payment card service provider.

For Other Payment Transactions:

- a. Copies of all agreements, contracts, documentation and amendments to the same, that relate to the acceptance and processing of Other Payment Transactions.
- b. Monthly bank, financial and other schedules that identify Other Payment Transactions and associated fees, costs and charges, for the 12 months prior to the Effective Date.

The following data and information shall be provided by Client or its service providers on a monthly basis during the Agreement Term, within 5 days of request by Vizant, and shall be required for Vizant to provide its ongoing professional services.

For Payment Card Transactions:

- a. Copies of any agreements, contracts, documentation and amendments to the same, that relate to the acceptance and processing of Payment Card Transactions.
- b. Monthly merchant processing statements that identify all Payment Card Transactions and associated fees, costs and charges.
- c. Monthly statements and billing for any and other costs associated with the acceptance and processing of payment cards from any other payment card service provider.

For Other Payment Transactions:

- a. Copies of all agreements, contracts, documentation and amendments to the same, that relate to the acceptance and processing of Other Payment Transactions.
- b. Monthly bank, financial and other schedules that identify Other Financial Payments and associated fees, costs and charges.

In addition, Client shall provide to Vizant all data and information reasonably requested by Vizant to enable Vizant to perform its professional services under and during the Agreement Term.

14. **Election "Not to Implement" Recommendations:** The Client may elect "Not to Implement" the strategies and solutions recommended by Vizant to reduce its Financial Payment Costs. Client may make this election at any time within thirty (30) days of the presentation of the *Report* by Vizant. This election "not to implement" must be received in writing by Vizant, with signed acknowledgment of receipt.
In the event that the Client makes this election, the Client shall continue to be obligated to provide all of the data and information required under Section 13 and the Client shall continue to be obligated to pay the Services Fee to Vizant in accordance with this Agreement for Financial Payment Cost Reductions, if such Financial Payment Cost Reductions were identified by Vizant as part of its professional services. The Client's obligations to pay the Services Fee shall continue for the lesser of 36 months or the remaining Billing Term of the Agreement. The Client shall not be required to pay any Fees to Vizant with respect to any Financial Payment Cost Reductions that were not identified as part of Vizant's professional services.
15. **Payment Terms.** Payment by Client shall be due upon receipt of invoice from Vizant. Unpaid balances will accrue interest at the monthly rate of 1.0%.
16. **Confidentiality.** In performing their respective duties under this Agreement, each Party will disclose to the other, certain confidential, proprietary and trade secret information. All such information shall be treated as "Confidential Information for purposes of this Agreement. "Confidential Information" shall include all information created by Vizant not otherwise in the public domain prior to the execution of this Agreement, as well as information that was derived from the public domain but was subsequently collected into a list or other document of any kind or has been fashioned, manipulated, sorted, organized, categorized, and/or filtered by Vizant. The Parties agree that each shall hold all Confidential Information exchanged in strictest confidence and that such Confidential Information shall not be used by either Party nor revealed to any third party, including any subsidiaries or affiliates, for any purpose other than to facilitate the performance of the Parties' respective obligations under this Agreement. The provisions of this Section shall survive the termination of this Agreement.
17. **Automatic Renewal.** Unless Client notifies Vizant in writing within 90 days prior to the expiration of the Billing Term, the Billing Term of this Agreement shall automatically renew for 12 months at the Services Fee rates under this Agreement.
18. **Independent Contractor.** Client expressly acknowledges that Vizant is engaged by the Client as an independent contractor and consultant to the Client. Vizant shall not be considered an employee of the Client for any purposes, and Client shall not withhold payment of any amounts for federal, state or local income taxes, employment taxes, unemployment taxes, social security tax, or any other federal, state and/or local taxes from amounts due to Vizant; and further, Client shall not provide any health insurance coverage, life insurance, vacation pay, sick pay or other benefits to Vizant or any of its associates.

Exhibit A

19. **Successors and Assigns.** This Agreement shall be binding on all successors and permitted assigns of Client or Vizant. Neither Party shall assign this Agreement, or any of its rights or obligations hereunder, without the prior written consent of the other Party hereto, except that each of Client or Vizant shall have the right to assign this Agreement, without such consent, to any third party purchaser if the Client or Vizant, as the case may be, is purchased or acquired, whether by stock or asset sale, merger or otherwise, on the condition that the purchaser confirms in writing its assumption of the obligations of the assigning Party under this Agreement.
20. **Governing Law.** For any controversy, dispute, or claim arising out of or relating to this Agreement, the Parties expressly agree that the laws of the Commonwealth of Pennsylvania will control. The prevailing Party shall be entitled to attorney fees and costs, including expert witness fees.
21. **Authority and Merger.** The undersigned hereby warrants that he/she has the authority to enter into this Agreement on behalf of Client. This Agreement represents the entire agreement between the Parties and shall supersede any prior proposals, offers, negotiations, revisions, unincorporated written communications or oral discussions, statements, representations or agreements.
22. **Handwriting and Modifications:** The entirety of this Agreement is typed. Should any handwritten modifications, notations or the like appear on this Agreement, without being signed by an authorized representative of each Party, said handwriting is expressly not a part of this Agreement and shall be ignored in interpreting this Agreement. This Agreement may not be altered, amended or modified except by a written instrument signed by an authorized representative of each Party.
23. **Enforceability.** Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court of competent jurisdiction, the validity and enforceability of the other provisions shall not be affected.
24. **Non-Waiver; Amendments.** Failure by a Party to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision or the right to enforce such provision. Any waiver of any right by a Party, or any breach by the other Party, under this Agreement must be in writing and signed by the Party to be charged with providing such waiver. This Agreement may be amended only by a written instrument signed by an authorized representative of each Party.
25. **Legal Construction.** Each Party has participated in negotiating and drafting this Agreement, so if an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party.
26. **Drafting Conventions.** The headings in this Agreement are for convenience only and do not affect its meaning. The words "include," "includes," and "including" are to be read as if they were followed by the phrase "without limitation." Any reference to an agreement means that agreement as amended or supplemented, subject to any restrictions on amendment contained in that agreement.
27. **Execution Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which when taken together, shall constitute one and the same agreement. Facsimile transmission and/or validated electronic transmission to one Party of a true copy of a counterpart duly executed by the other Party shall constitute valid delivery of such counterpart.

Vizant Technologies, LLC

City of Albany Oregon

Print Name: _____

Client Name

Print Name: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____