

Resolution of the City of Jersey City, N.J.

City Clerk File No. Res. 17-805
Agenda No. 10.P
Approved: OCT 11 2017
TITLE:



RESOLUTION AUTHORIZING A CLAIMS RESOLUTION AND SETTLEMENT AGREEMENT WITH MESSEAGEONE INC FOR ACCESS AND EXPORT OF CITY ARCHIVES

COUNCIL
resolution:

offered and moved adoption of the following

WHEREAS, the City of Jersey City (the "City") has been in a contractual dispute with MessageOne, the entity which currently has in its possession/ Jersey City's archival data going back to March 2005; and

WHEREAS, previously, the City entered into a one-year contract with MessageOne on March 23, 2016, via Resolution 16.183 for "support of proprietary computer hardware and software systems" in the amount of \$77,450 (the "Contract"); and

WHEREAS, MessageOne and its predecessor, Dell Marketing, L.P. ("Dell"), have stored the City's electronic data/archives for a number of years, more specifically from March 2005 to present ("City Data"); and

WHEREAS, Aurea Software ("Aurea") manages MessageOne; and

WHEREAS, the City's contract with MessageOne expired in February 2017, the City currently has no contract with MessageOne but needs access to and permanent control over its archival data; and

WHEREAS, MessageOne claims that it is owed overage fees for the City's access to the City Data under the Contract; and

WHEREAS, the City Data must be transferred from MessageOne to another cloud location owned and/or managed by Jersey City; and

WHEREAS, MessageOne has agreed to settle the overages fees and to permit the City to have access to the City Data until February 28, 2017 for a fixed price of \$37,500 (the "Settlement Amount") which access will allow the City to export all of City Data; and

WHEREAS, as part of the settlement agreement, attached in substantially final form as Exhibit A, the City agrees to pay the Settlement Amount upfront; and

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NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the City of Jersey City that:

1. The Mayor or Business Administrator is hereby authorized to execute a settlement agreement in substantially the form attached subject to such modification as the Corporation Counsel deems appropriate or necessary.
2. The total amount of the settlement is **\$37,500**.
3. The Business Administrator and the Purchasing Agent are hereby authorized to take such other actions that are necessary to effectuate the purposes of this resolution.

BD
10/03/17

APPROVED: _____

APPROVED AS TO LEGAL FORM

APPROVED: _____

Business Administrator

Corporation Counsel

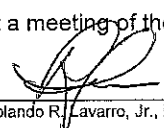
Certification Required ☐Not Required ☐**APPROVED 8-0**

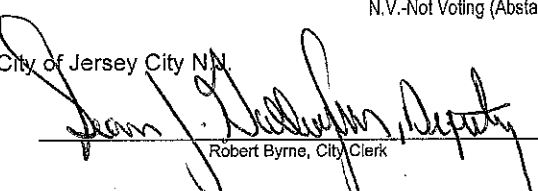
| RECORD OF COUNCIL VOTE ON FINAL PASSAGE 10.11.17 | | | | | | | | | | | |
|--|-----|-----|------|---------------|-----|-----|------|---------------|-----|--------|------|
| COUNCILPERSON | AYE | NAY | N.V. | COUNCILPERSON | AYE | NAY | N.V. | COUNCILPERSON | AYE | NAY | N.V. |
| GAJEWSKI | ✓ | | | YUN | ✓ | | | RIVERA | | ABSENT | |
| GADSDEN | ✓ | | | OSBORNE | ✓ | | | WATTERMANN | ✓ | | |
| BOGGIANO | ✓ | | | ROBINSON | ✓ | | | LAVARRO, PRES | ✓ | | |

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted at a meeting of the Municipal Council of the City of Jersey City NJ.


Rolando R. Lavarro, Jr., President of Council


Robert Byrne, City Clerk

805

RESOLUTION FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance/Resolution

**RESOLUTION AUTHORIZING A CLAIMS RESOLUTION AND SETTLEMENT AGREEMENT
WITH MESSAGEONE INC FOR ACCESS AND EXPORT OF CITY ARCHIVES**

Initiator

| | | |
|---------------------|----------------|-------------------------------|
| Department/Division | Law Department | |
| Name/Title | Bhavini Doshi | Assistant Corporation Counsel |
| Phone/email | (201) 547-5178 | Bdoshi@icnj.org |

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Resolution Purpose

The City is in a contract dispute with MessageOne, the carrier of the City's electronic data archives. It is essential that the City have access to and control over its electronic archives. To resolve the matter and to export all of the City archives such that the City will have permanent control and access to such data, the attached Settlement Agreement has been reached.

I certify that all the facts presented herein are accurate.

Signature of Department Director

Date

10/11/17-805

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This is a Settlement Agreement and General Release ("Agreement") by and between: the City of Jersey City ("Jersey City") and MessageOne Inc. ("MessageOne"). Jersey City and MessageOne will sometimes collectively be referred to herein as "the Parties" and individually as a "Party."

RECITALS

WHEREAS, Jersey City entered into a one-year contract with MessageOne on March 23, 2016, via Resolution 16.183 for "support of proprietary computer hardware and software systems" in the amount of \$77,450 (the "Contract"); and

WHEREAS, MessageOne and its predecessor, Dell Marketing, L.P. ("Dell"), have stored Jersey City's electronic data/archives for a number of years, more specifically from March 2005 to present ("City Data"); and

WHEREAS, Jersey City needs continued access to the City Data and must transfer over the City Data from MessageOne to another cloud location owned and/or managed by Jersey City (the "Export Location");

WHEREAS, Jersey City did not desire to renew the Contract with MessageOne and a dispute arose between the Parties with respect to the export of the City Data, enforceability of the automatic renewal language in the Contract and fees for a renewal term and overages which MessageOne claims are owed to it by Jersey City (the "Dispute"); and

WHEREAS, Jersey City had asked MessageOne for other solutions to resolve the matter; and

WHEREAS, MessageOne presented several options to Jersey City including the within settlement that will permit Jersey City to keep access to the archived data until February 28, 2018 and will permit transfer/replication/copy by Jersey City of the City Data to the Export Location; and

WHEREAS, MessageOne also agrees that such settlement includes any outstanding overage costs and/or fee issues and that the license for Jersey City will be retroactive to February 11, 2017; and

WHEREAS, Jersey City has reiterated that continued access to the City Data is essential until all City Data is exported, and Jersey City estimates that it can export all of Jersey City's data in approximately sixty (60) days; and

WHEREAS, the total cost for this Agreement shall be \$37,500 (the "Settlement Amount"); and

WHEREAS, the Parties desire resolve the outstanding Dispute and transfer back to Jersey City the City Data.

NOW THEREFORE, in consideration of the foregoing, and of the promises and mutual covenants herein contained, the parties agree as follows:

I. SETTLEMENT TERMS

A. MessageOne agrees to the following:

1. Grant Jersey City a license to utilize its EMS Archive SaaS Application which will allow Jersey City to access and export all of City Data from the date of receipt of the Settlement Amount until and through February 28, 2018 (the "Term").
2. MessageOne agrees the City Data is the sole property of Jersey City and MessageOne has no ownership or rights whatsoever with regard to such City Data.
3. Permit Jersey City to fully export/replicate/copy all City Data, without caveats or exceptions, to the Export Location at any time, speed and manner as determined by Jersey City. Jersey City intends to move all City Data to the Export Location within two months, however, will be permitted to do so any time prior to expiration of the Term. MessageOne acknowledges that the City utilizes NMS for network support and Dell/PTS migration support (together, "City Third-Party Vendors"). MessageOne acknowledges and accepts that City Third-Party Vendors will be permitted to be involved in the access and export process on behalf of the City. MessageOne acknowledges and accepts that City Third-Party Vendors may assist in export of City Data and that the Third-Party Vendors may not be located at Jersey City's place of business or be in the presence of Jersey City personnel.
4. Cooperate with Jersey City and provide reasonable administrative support, where necessary, to facilitate the access to the City Data and the export of City Data to the Export Location.
5. MessageOne shall complete all purchasing forms as required by the Jersey City Purchasing Department.
6. MessageOne understands that the Jersey City Resolution accompanying this Agreement approved/to be approved by the Municipal Council encumbers the total funds necessary for this Agreement (\$37,500.00) and indicates the availability of funds duly appropriated for these purposes.
7. MessageOne agrees to perform this agreement for a total amount of \$37,500. MessageOne will be entitled to the funds upon approval by City Council.
8. As part of the resolution, MessageOne agrees to waive all other outstanding fees due from Jersey City under the Contract including but not limited to the charges attached hereto as Exhibit A ("Overages").

B. Jersey City agrees to the following:

1. Pay to MessageOne, after approval by City Council, the Settlement Amount, which amount includes all labor, service hours, materials, charges, fees, expenses, etc. No additional costs for any reason whatsoever will be acceptable.

2. Jersey City understands and agrees that MessageOne is not responsible for any loss or corruption of the City Data resulting from the export.
3. At no added cost or charge to Jersey City, Jersey City or its City Third-Party Vendor shall utilize MessageOne's data extraction tool called "Export Manager" or other such MessageOne standard extraction tools and / or dashboards available to Jersey City via the EMS Portal to perform the extraction of City Data.
4. Jersey City acknowledges that the standard method by which customers extract their data is as follows: first, the customer creates archives through the EMS Portal (Archive Section) (the status of these archives (completed, failed or in progress) will be reported in the Admin Console); second, once the archives have been completed, the customer downloads the archives via Export Manager.
5. Jersey City acknowledges that MessageOne has no control over the speed at which the Export Location's equipment, services and/or network can ingest the City Data. Accordingly, MessageOne is not responsible for any delays caused by Jersey City or the Export Location.
6. Additionally, Jersey City acknowledges that MessageOne does not and cannot control the flow of data to or from MessageOne's network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt Jersey City's or MessageOne's connections to the Internet (or portions thereof). Although MessageOne will use reasonable efforts to take actions it deems appropriate to remedy and avoid such events, MessageOne cannot guarantee that such events will not occur. Accordingly, MessageOne disclaims any and all liability resulting from or related to such events.

C. The Parties agrees to the following:

1. The Agreement is supplemented by the MessageOne "Software as a Service" Terms and Conditions and accompanying Support Addendum attached hereto as **Exhibit B** and which are incorporated herein in their entirety ("MessageOne Software Terms").
2. In the event of a conflict between the terms of this Agreement and the MessageOne Software Terms, the terms of this Agreement shall prevail.

II. SUFFICIENCY OF CONSIDERATION

- A. The Parties acknowledge and agree that the consideration provided by Jersey City, i.e., the Settlement Amount, and by MessageOne, as set forth above, to each other pursuant to this Agreement constitutes good and valuable consideration for the general release and the other promises and terms in this Agreement.
- B. MessageOne understands and agrees that it is not eligible for or entitled to any other benefit or consideration from Jersey City except as provided in this Agreement.

III. MUTUAL RELEASE

- A. In exchange for the Settlement Terms set forth above in Section I, and upon receipt of the Settlement Amount, the MessageOne, and its subsidiaries, affiliates, agents, successors and assigns agree, intending to be legally bound, to the maximum extent permitted by law, to release and forever discharge Jersey City and its subsidiaries, affiliates, divisions, agents, servants, officers, directors, employees, insurers, benefit plan fiduciaries, agents, or successors (collectively, the "Jersey City Released Parties") individually and collectively, from any and all claims, causes of action, complaints, lawsuits or liabilities of any kind (collectively "the Jersey City Claims"), which MessageOne, its agents, successors, assigns, heirs, agents, administrators or executors may have against the Jersey City Released Parties that exist as of the date this Agreement is signed.
- B. In exchange for the Settlement Terms set forth above in Section I, the Jersey City agrees, intending to be legally bound, to the maximum extent permitted by law, to release and forever discharge the MessageOne and its subsidiaries, affiliates, divisions, agents, servants, officers, directors, employees, insurers, benefit plan fiduciaries, agents, or successors (collectively, the "MessageOne Released Parties") individually and collectively, from any and all claims, causes of action, complaints, lawsuits or liabilities of any kind (collectively "the MessageOne Claims"), which the Jersey City, agents, successors, assigns, heirs, agents, administrators or executors may have against the MessageOne Released Parties that exist as of the date this Agreement is signed.
- C. By agreeing to this Mutual Release, the Parties are waiving, to the maximum extent permitted by law, any and all Jersey City Claims and MessageOne Claims (together, the "Released Claims") which it has or may have against the Jersey City Released Parties and/or the MessageOne Released Parties (together, the "Released Parties") arising out of or relating to any conduct, matter, event or omission existing or occurring prior to their signing of this Agreement, including but not limited to the following:
 - 1. any Claims relating to or arising out of Jersey City's contracts with MessageOne (including MessageOne's assigned contracts from or to Dell);
 - 2. any Claims for reimbursement of expenses of any kind;
 - 3. any Claims for attorneys' fees, costs or expenses; and
 - 4. any Claims related to the Dispute or the Overages.

IV. COVENANT NOT TO SUE

- A. The Parties agree not to file or initiate a lawsuit in any court, initiate an arbitration proceeding, or opt into any collective action or class action, asserting any of the Released Claims against any of the Released Parties.
- B. The Parties agree that if one Party breaches this Section, the other Party shall be entitled to any legal fees that it incurs.

V. NO ADMISSION OF WRONGDOING

The Parties agree that this Agreement does not constitute an admission by Jersey City, MessageOne or any of the Released Parties of any of the matters alleged in the Dispute or of any violation by them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Jersey City or any of its subsidiaries, affiliates, divisions, agents, servants, officers, directors, employees, insurers, benefit plan fiduciaries, agents, or successors, or by MessageOne, or any of its subsidiaries, affiliates, divisions, agents, servants, officers, directors, employees, insurers, benefit plan fiduciaries, agents, or successors.

VI. TERMINATION OF THE CONTRACT

The Parties agree and understand that except for provisions that by their terms survive termination, the Contract is terminated and the Parties only obligations to one another as of the Effective Date hereof stem from this Agreement.

VII. NON-DISPARAGEMENT

Jersey City, on the one hand, and MessageOne, on the other hand, acknowledge and agree that each shall not hereafter utter, publish, disclose or convey to any person or entity, any negative or disparaging comment about the other, or do anything that a reasonable person would expect to diminish, disparage or constrain the good will or good reputation of the other.

VIII. GOVERNING LAW

This Agreement shall be governed by and conformed in accordance with the laws of the State of New Jersey without regard to its conflict of laws provisions.

IX. COUNTERPARTS

This Agreement may be executed in counterparts and by facsimile or pdf/electronic signature by the undersigned and all such counterparts so executed shall together be deemed to constitute one final agreement, as if one document had been signed by all parties hereto; and each such counterpart shall be deemed to be an original, binding the party subscribed thereto, and multiple signature pages (including facsimiles of signature pages) affixed to a single copy of this Agreement shall be deemed to be a fully executed original Agreement.

X. SECTION HEADINGS

Section headings contained in this Agreement are for convenience of reference only and shall not affect the meaning of any provision herein.

XI. SEVERABILITY

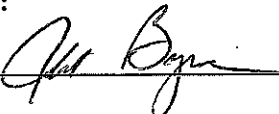
Should any term or provision of this Agreement be declared illegal, invalid or unenforceable by any court of competent jurisdiction and if such provision cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties.

XII. ENTIRE AGREEMENT

This Agreement, including all attached Exhibits, sets forth the entire agreement between the parties hereto and fully supersedes any and all prior and/or supplemental understandings, whether written or oral, between the parties concerning the subject matter of this Agreement. Any modification to this Agreement must be in writing and signed by Jersey City's Corporation Counsel and MessageOne's counsel.

AGREED AND ACCEPTED:

Attest:



NAME: ROBERT BYRNE

TITLE: CITY CLERK

CITY OF JERSEY CITY



BY:

NAME: ROBERT KAKOLESKI

TITLE: BUSINESS ADMINISTRATOR

AGREED AND ACCEPTED:

Date: 10/19/2017

MESSAGEONE, INC.



BY:

NAME: Andrew S. Price

TITLE: CFO

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This is a Settlement Agreement and General Release ("Agreement") by and between: the City of Jersey City ("Jersey City") and MessageOne Inc. ("MessageOne"). Jersey City and MessageOne will sometimes collectively be referred to herein as "the Parties" and individually as a "Party."

RECITALS

WHEREAS, Jersey City entered into a one-year contract with MessageOne on March 23, 2016, via Resolution 16.183 for "support of proprietary computer hardware and software systems" in the amount of \$77,450 (the "Contract"); and

WHEREAS, MessageOne and its predecessor, Dell Marketing, L.P. ("Dell"), have stored Jersey City's electronic data/archives for a number of years, more specifically from March 2005 to present ("City Data"); and

WHEREAS, Jersey City needs continued access to the City Data and must transfer over the City Data from MessageOne to another cloud location owned and/or managed by Jersey City (the "Export Location");

WHEREAS, Jersey City did not desire to renew the Contract with MessageOne and a dispute arose between the Parties with respect to the export of the City Data, enforceability of the automatic renewal language in the Contract and fees for a renewal term and overages which MessageOne claims are owed to it by Jersey City (the "Dispute"); and

WHEREAS, Jersey City had asked MessageOne for other solutions to resolve the matter; and

WHEREAS, MessageOne presented several options to Jersey City including the within settlement that will permit Jersey City to keep access to the archived data until February 28, 2018 and will permit transfer/replication/copy by Jersey City of the City Data to the Export Location; and

WHEREAS, MessageOne also agrees that such settlement includes any outstanding overage costs and/or fee issues and that the license for Jersey City will be retroactive to February 11, 2017; and

WHEREAS, Jersey City has reiterated that continued access to the City Data is essential until all City Data is exported, and Jersey City estimates that it can export all of Jersey City's data in approximately sixty (60) days; and

WHEREAS, the total cost for this Agreement shall be \$37,500 (the "Settlement Amount"); and

WHEREAS, the Parties desire resolve the outstanding Dispute and transfer back to Jersey City the City Data.

NOW THEREFORE, in consideration of the foregoing, and of the promises and mutual covenants herein contained, the parties agree as follows:

I. SETTLEMENT TERMS

A. MessageOne agrees to the following:

1. Grant Jersey City a license to utilize its EMS Archive SaaS Application which will allow Jersey City to access and export all of City Data from the date of receipt of the Settlement Amount until and through February 28, 2018 (the "Term").
2. MessageOne agrees the City Data is the sole property of Jersey City and MessageOne has no ownership or rights whatsoever with regard to such City Data.
3. Permit Jersey City to fully export/replicate/copy all City Data, without caveats or exceptions, to the Export Location at any time, speed and manner as determined by Jersey City. Jersey City intends to move all City Data to the Export Location within two months, however, will be permitted to do so any time prior to expiration of the Term. MessageOne acknowledges that the City utilizes NMS for network support and Dell/PTS migration support (together, "City Third-Party Vendors"). MessageOne acknowledges and accepts that City Third-Party Vendors will be permitted to be involved in the access and export process on behalf of the City. MessageOne acknowledges and accepts that City Third-Party Vendors may assist in export of City Data and that the Third-Party Vendors may not be located at Jersey City's place of business or be in the presence of Jersey City personnel.
4. Cooperate with Jersey City and provide reasonable administrative support, where necessary, to facilitate the access to the City Data and the export of City Data to the Export Location.
5. MessageOne shall complete all purchasing forms as required by the Jersey City Purchasing Department.
6. MessageOne understands that the Jersey City Resolution accompanying this Agreement approved/to be approved by the Municipal Council encumbers the total funds necessary for this Agreement (\$37,500.00) and indicates the availability of funds duly appropriated for these purposes.
7. MessageOne agrees to perform this agreement for a total amount of \$37,500. MessageOne will be entitled to the funds upon approval by City Council.
8. As part of the resolution, MessageOne agrees to waive all other outstanding fees due from Jersey City under the Contract including but not limited to the charges attached hereto as Exhibit A ("Overages").

B. Jersey City agrees to the following:

1. Pay to MessageOne, after approval by City Council, the Settlement Amount, which amount includes all labor, service hours, materials, charges, fees, expenses, etc. No additional costs for any reason whatsoever will be acceptable.

2. Jersey City understands and agrees that MessageOne is not responsible for any loss or corruption of the City Data resulting from the export.
3. At no added cost or charge to Jersey City, Jersey City or its City Third-Party Vendor shall utilize MessageOne's data extraction tool or other such MessageOne standard extraction tools and / or dashboards as directed by MessageOne to perform the extraction of City Data.
4. Jersey City acknowledges that MessageOne has no control over the speed at which the Export Location's equipment, services and/or network can ingest the City Data. Accordingly, MessageOne is not responsible for any delays caused by Jersey City or the Export Location.
5. Additionally, Jersey City acknowledges that MessageOne does not and cannot control the flow of data to or from MessageOne's network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt Jersey City's or MessageOne's connections to the Internet (or portions thereof). Although MessageOne will use reasonable efforts to take actions it deems appropriate to remedy and avoid such events, MessageOne cannot guarantee that such events will not occur. Accordingly, MessageOne disclaims any and all liability resulting from or related to such events.

C. The Parties agrees to the following:

1. The Agreement is supplemented by the MessageOne "Software as a Service" Terms and Conditions and accompanying Support Addendum attached hereto as **Exhibit B** and which are incorporated herein in their entirety ("MessageOne Software Terms").
2. In the event of a conflict between the terms of this Agreement and the MessageOne Software Terms, the terms of this Agreement shall prevail.

II. SUFFICIENCY OF CONSIDERATION

- A. The Parties acknowledge and agree that the consideration provided by Jersey City, i.e., the Settlement Amount, and by MessageOne, as set forth above, to each other pursuant to this Agreement constitutes good and valuable consideration for the general release and the other promises and terms in this Agreement.
- B. MessageOne understands and agrees that it is not eligible for or entitled to any other benefit or consideration from Jersey City except as provided in this Agreement.

III. MUTUAL RELEASE

- A. In exchange for the Settlement Terms set forth above in Section I, and upon receipt of the Settlement Amount, the MessageOne, and its subsidiaries, affiliates, agents, successors and assigns agree, intending to be legally bound, to the maximum extent permitted by law, to release and forever discharge Jersey City and its subsidiaries, affiliates, divisions, agents, servants, officers, directors,

employees, insurers, benefit plan fiduciaries, agents, or successors (collectively, the "Jersey City Released Parties") individually and collectively, from any and all claims, causes of action, complaints, lawsuits or liabilities of any kind (collectively "the Jersey City Claims"), which MessageOne, its agents, successors, assigns, heirs, agents, administrators or executors may have against the Jersey City Released Parties that exist as of the date this Agreement is signed.

- B. In exchange for the Settlement Terms set forth above in Section I, the Jersey City agrees, intending to be legally bound, to the maximum extent permitted by law, to release and forever discharge the MessageOne and its subsidiaries, affiliates, divisions, agents, servants, officers, directors, employees, insurers, benefit plan fiduciaries, agents, or successors (collectively, the "MessageOne Released Parties") individually and collectively, from any and all claims, causes of action, complaints, lawsuits or liabilities of any kind (collectively "the MessageOne Claims"), which the Jersey City, agents, successors, assigns, heirs, agents, administrators or executors may have against the MessageOne Released Parties that exist as of the date this Agreement is signed.
- C. By agreeing to this Mutual Release, the Parties are waiving, to the maximum extent permitted by law, any and all Jersey City Claims and MessageOne Claims (together, the "Released Claims") which it has or may have against the Jersey City Released Parties and/or the MessageOne Released Parties (together, the "Released Parties") arising out of or relating to any conduct, matter, event or omission existing or occurring prior to their signing of this Agreement, including but not limited to the following:
1. any Claims relating to or arising out of Jersey City's contracts with MessageOne (including MessageOne's assigned contracts from or to Dell);
 2. any Claims for reimbursement of expenses of any kind;
 3. any Claims for attorneys' fees, costs or expenses; and
 4. any Claims related to the Dispute or the Overages.

IV. COVENANT NOT TO SUE

- A. The Parties agree not to file or initiate a lawsuit in any court, initiate an arbitration proceeding, or opt into any collective action or class action, asserting any of the Released Claims against any of the Released Parties.
- B. The Parties agree that if one Party breaches this Section, the other Party shall be entitled to any legal fees that it incurs.

V. NO ADMISSION OF WRONGDOING

The Parties agree that this Agreement does not constitute an admission by Jersey City, MessageOne or any of the Released Parties of any of the matters alleged in the Dispute or of any violation by them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this

Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Jersey City or any of its subsidiaries, affiliates, divisions, agents, servants, officers, directors, employees, insurers, benefit plan fiduciaries, agents, or successors, or by MessageOne, or any of its subsidiaries, affiliates, divisions, agents, servants, officers, directors, employees, insurers, benefit plan fiduciaries, agents, or successors.

VI. TERMINATION OF THE CONTRACT

The Parties agree and understand that except for provisions that by their terms survive termination, the Contract is terminated and the Parties only obligations to one another as of the Effective Date hereof stem from this Agreement.

VII. NON-DISPARAGEMENT

Jersey City, on the one hand, and MessageOne, on the other hand, acknowledge and agree that each shall not hereafter utter, publish, disclose or convey to any person or entity, any negative or disparaging comment about the other, or do anything that a reasonable person would expect to diminish, disparage or constrain the good will or good reputation of the other.

VIII. GOVERNING LAW

This Agreement shall be governed by and conformed in accordance with the laws of the State of New Jersey without regard to its conflict of laws provisions.

IX. COUNTERPARTS

This Agreement may be executed in counterparts and by facsimile or pdf/electronic signature by the undersigned and all such counterparts so executed shall together be deemed to constitute one final agreement, as if one document had been signed by all parties hereto; and each such counterpart shall be deemed to be an original, binding the party subscribed thereto, and multiple signature pages (including facsimiles of signature pages) affixed to a single copy of this Agreement shall be deemed to be a fully executed original Agreement.

X. SECTION HEADINGS

Section headings contained in this Agreement are for convenience of reference only and shall not affect the meaning of any provision herein.

XI. SEVERABILITY

Should any term or provision of this Agreement be declared illegal, invalid or unenforceable by any court of competent jurisdiction and if such provision cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties.

XII. ENTIRE AGREEMENT

This Agreement, including all attached Exhibits, sets forth the entire agreement between the parties hereto and fully supersedes any and all prior and/or supplemental understandings, whether written or oral, between the parties concerning the subject matter of this Agreement. Any modification to this Agreement must be in writing and signed by Jersey City's Corporation Counsel and MessageOne's counsel.

AGREED AND ACCEPTED:

CITY OF JERSEY CITY

Date: _____

By: _____

NAME: _____

TITLE: _____

AGREED AND ACCEPTED:

MESSAGEONE, INC.

Date: _____

By: _____

NAME: Andrew S. Price

TITLE: CFO

EXHIBIT A

The following terms apply to the Settlement Agreement entered into by and between the City of Jersey City ("Customer") and the MessageOne, Inc. ("Service Provider"). Capitalized terms used but not defined in this document have the meanings assigned to them in the Settlement Agreement.

Language: The services are provided in English.

1. DEFINITIONS

"Support" means the support services to be provided by the Service Provider to the Customer in accordance with this Addendum.

"Response Time Goal" means the time period in which the assigned support resource shall endeavour to provide Customer with an initial technical response as a result of an issue reported by Customer.

"Term" means the duration set forth in the Settlement Agreement.

2. SUPPORT

Support includes the following during the applicable Term:

2.1 "Support" Defined. Support consists of assistance via the Internet or telephone with respect to use of the Application and to resolve issues limited to those set forth in the Settlement Agreement. Support cases are tracked and managed through access to a Call Management System operated by Service Provider's support center (the "Customer Support Portal"). Basic Support is available Monday through Friday from 8 am to 6 pm, Customer's local time, excluding local holidays.

2.2 Severity Classification. Issues are classified according to severity of impact on the use of the Application, according to the chart below. All disputes regarding severity classification will be resolved by Service Provider in its sole discretion.

Basic Support Response Time Goals

| Severity | Impact | Response Time Goal |
|----------|--|--|
| 1 | Production system is down impacting all applications and associated business systems. No Workaround exists. | 1 business day (via the Customer Support Portal) |
| 2 | Production system performance is degraded, but operational; Issue affects essential functions and no Workaround exists; or Issue is blocking critical systems tests or deliverables. | 2 business days |
| 3 | General product questions relating to development, feature issues, or documentation. | 4 business days |

EXHIBIT B

These 'Software as a Service' Terms and Conditions ("SaaS Terms") supplement the Settlement Agreement and set forth the terms and conditions under which MessageOne, Inc. ("MessageOne") will provide the City of Jersey City ("Customer") with access to certain applications as set forth on the Settlement Agreement ("Application(s)") and user documentation that MessageOne makes generally available in hard copy or electronic form to its general customer base in conjunction with the licensing of such Applications ("Documentation"). The Applications and the Documentation shall hereinafter collectively be referred to as the "Software."

1. LICENSE GRANT AND RIGHT OF USE

- 1.1. **License Grant.** Subject to all limitations and restrictions contained herein and the Settlement Agreement, MessageOne grants Customer a subscription, software as a service ("SaaS"), nonexclusive, and nontransferable right to access and operate the object code form of Applications (and use its Documentation) as hosted by MessageOne as described in the Settlement Agreement ("Use") and solely to perform those functions described in the Documentation. For clarity, an "Application" means MessageOne's proprietary software that is specifically licensed to Customer pursuant to a Settlement Agreement.
- 1.2. **Use.** Customer shall have a limited right and license to Use the Application solely for its internal business purposes, to perform the functions described in the Documentation. Customer shall not allow any website that is not fully owned by Customer to frame, syndicate, distribute, replicate, or copy any portion of Customer's web site that provides direct or indirect access to the Application. Customer shall not allow any website, that is not fully owned by Customer, to frame, syndicate, distribute, replicate, or copy any portion of Customer's web site that provides direct or indirect access to the Software. Unless otherwise expressly permitted in the Settlement Agreement and subject to Section **Error! Reference source not found.**, Customer shall not permit any subsidiaries, affiliated companies, or third parties to access the Software.
- 1.3. **License Type.** Unless otherwise specifically stated in the Settlement Agreement, the type of license granted is a Named User Subscription. A "Named User Subscription" means that the Software licensed pursuant to the Settlement Agreement may be Used by a limited number of individual users, each identified by a unique user id (the "Named User"), the maximum number of which is specified in the Settlement Agreement. Customer may designate different Named Users at any time without notice to MessageOne so long as the permitted number of Named Users is not exceeded. If the Settlement Agreement identifies the scope of the license to be a "Site Subscription," a "Site Subscription" means that the Software licensed pursuant to the Settlement Agreement may be Used by

an unlimited number of individual users solely for the internal Use and benefit of Customer, subject to the terms of these SAAS Terms. A "Device Subscription" means that the Software licensed pursuant to the Settlement Agreement may be Used on the number of devices indicated in the Settlement Agreement. A "Server Subscription" means that the Software licensed pursuant to the Settlement Agreement may be Used on no more than the number of servers indicated in the Settlement Agreement. The scope of any license other than a Named User Subscription, Site Subscription, Device Subscription, or Server Subscription must be expressly designated and defined in detail in a Settlement Agreement. In no event will any of the licenses denoted above be construed to mean a concurrent user license.

- 1.4. **Additional Restrictions.** In no event shall Customer disassemble, decompile, or reverse engineer the Application or Confidential Information (as defined herein) or permit others to do so. Disassembling, decompiling, and reverse engineering include, without limitation: (i) converting the Application from a machine-readable form into a human-readable form; (ii) disassembling or decompiling the Application by using any means or methods to translate machine-dependent or machine-independent object code into the original human-readable source code or any approximation thereof; (iii) examining the machine-readable object code that controls the Application's operation and creating the original source code or any approximation thereof by, for example, studying the Application's behavior in response to a variety of inputs; or (iv) performing any other activity related to the Application that could be construed to be reverse engineering, disassembling, or decompiling. To the extent any such activity may be permitted pursuant to written agreement, the results thereof shall be deemed Confidential Information subject to the requirements of these SaaS Terms. Customer may use MessageOne's Confidential Information solely in connection with the Application and pursuant to the terms of these SaaS Terms.
- 1.5. **Authorized Users.** Unless otherwise specifically provided in the Settlement Agreement, "Authorized Users" will only consist of: (i) employees of Customer, and (ii) subject to Section 5, "Confidentiality," third

party contractors of Customer who do not compete with MessageOne ("Permitted Contractors"). Permitted Contractors may Use the Software only at Customer's place of business or in the presence of Customer personnel. Customer is fully liable for the acts and omissions of Permitted Contractors under the SaaS Terms and applicable Settlement Agreement.

2. PAYMENT

2.1. **Fees.** Customer shall pay MessageOne the fees indicated in the Settlement Agreement.

2.2. **Taxes.** The license, service fees, and other amounts required to be paid hereunder do not include any amount for taxes or levy (including interest and penalties). Customer shall reimburse MessageOne and hold MessageOne harmless for all sales, use, VAT, excise, property or other taxes or levies which MessageOne is required to collect or remit to applicable tax authorities. This provision does not apply to MessageOne's income or franchise taxes, or any taxes for which Customer is exempt, provided Customer has furnished MessageOne with a valid tax exemption certificate.

3. HOSTING

3.1. **Service Availability.** During the Term of the applicable SaaS Subscription Agreement MessageOne will use reasonable efforts to make the services available to Customer.

3.2. **Support Services.** Upon payment of the relevant fees in the Settlement Agreement, Customer may receive certain support services for the Application pursuant to 'Description of Support Addendum for SaaS.'

3.3. **Third Parties.** MessageOne shall have the right to use third parties, including, but not limited to, employees of MessageOne's affiliates and subsidiaries ("Subcontractors") in performance of its obligations and services hereunder and, for purposes of this Section, all references to MessageOne or its employees shall be deemed to include such Subcontractors.

3.4. **Technical Data.** Customer shall not provide to MessageOne any technical data as that term is defined in the International Traffic in Arms Regulations ("ITAR") at 22 CFR 120.10. Customer shall certify that all information provided to MessageOne has been reviewed and scrubbed so that all technical data and other sensitive information relevant to Customer's ITAR regulated project has been removed and the information provided is only relevant to bug reports on MessageOne products.

4. OWNERSHIP

4.1. **Reservation of Rights.** By signing the Settlement Agreement, Customer irrevocably acknowledges that, subject to the licenses granted herein, Customer has no ownership interest in the Software or MessageOne materials provided to Customer. MessageOne shall own all right, title, and interest in such Software and MessageOne materials, subject to any limitations associated with intellectual property rights of third parties. MessageOne reserves all rights not specifically granted herein.

4.2. **Marks and Publicity.** MessageOne and Customer trademarks, trade names, service marks, and logos, whether or not registered ("Marks"), are the sole and exclusive property of the respective owning party, which owns all right, title and interest therein.

5. CONFIDENTIALITY

5.1. **Definition.** "Confidential Information" includes all information marked pursuant to this Section and disclosed by either party, before or after the Effective Date, and generally not publicly known, whether tangible or intangible and in whatever form or medium provided, as well as any information generated by a party that contains, reflects, or is derived from such information. For clarity, the term 'Confidential Information' does not include any personally identifiable information. Obligations with respect to such information (if any) are set forth in the 'Global Data Privacy Addendum.'

5.2. **Confidentiality of Software.** All Confidential Information in tangible form shall be marked as "Confidential" or the like or, if intangible (e.g., orally disclosed), shall be designated as being confidential at the time of disclosure and shall be confirmed as such in writing within thirty (30) days of the initial disclosure. Notwithstanding the foregoing, the following is deemed MessageOne Confidential Information with or without such marking or written confirmation: (i) the Software and other related materials furnished by MessageOne; and, (ii) the oral and visual information relating to the Application.

5.3. **Exceptions.** Without granting any right or license, the obligations of the parties hereunder shall not apply to any material or information that: (i) is or becomes a part of the public domain through no act or omission by the receiving party; (ii) is independently developed by the other party without use of the disclosing party's Confidential Information; (iii) is rightfully obtained from a third party without any obligation of confidentiality; or (iv) is already known by the receiving party without any obligation of confidentiality prior to obtaining the Confidential Information from the disclosing party. In addition, neither party shall be liable for disclosure of Confidential Information if made in response to a valid order of a court or authorized agency of government, provided that notice is promptly given to the disclosing party so that the disclosing party may seek a protective order and engage in other efforts to minimize the required disclosure. The parties shall cooperate fully in seeking such protective order and in engaging in such other efforts.

5.4. **Ownership of Confidential Information.** Nothing in these SaaS Terms shall be construed to convey any title or ownership rights to the Software or other Confidential Information to Customer or to any patent, copyright, trademark, or trade secret embodied therein, or to grant any other right, title, or ownership interest to the MessageOne's Confidential Information. Neither party shall, in whole or in part, sell, lease, license, assign, transfer, or disclose the Confidential Information to any third party and shall not copy,

reproduce or distribute the Confidential Information except as expressly permitted in these SaaS Terms. Each party shall take every reasonable precaution, but no less than those precautions used to protect its own Confidential Information, to prevent the theft, disclosure, and the unauthorized copying, reproduction or distribution of the Confidential Information.

- 5.5. **Non-Disclosure.** Each party agrees at all times to keep strictly confidential all Confidential Information belonging to the other party. Each party agrees to restrict access to the other party's Confidential Information only to those employees or Subcontractors who: (i) require access in the course of their assigned duties and responsibilities; and (ii) have agreed in writing to be bound by provisions no less restrictive than those set forth in this Section.
- 5.6. **Injunctive Relief.** Each party acknowledges that any unauthorized disclosure or use of the Confidential Information would cause the other party imminent irreparable injury and that such party shall be entitled to, in addition to any other remedies available at law or in equity, temporary, preliminary, and permanent injunctive relief in the event the other party does not fulfill its obligations under this Section.
- 5.7. **Suggestions/Improvements to Software.** Notwithstanding this Section, unless otherwise expressly agreed in writing, all suggestions, solutions, improvements, corrections, and other contributions provided by Customer regarding the Software or other MessageOne materials provided to Customer shall be owned by MessageOne, and Customer hereby agrees to assign any such rights to MessageOne. Nothing in these SaaS Terms shall preclude MessageOne from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by MessageOne in the performance of services hereunder.
6. **WARRANTY**
- 6.1. **No Malicious Code.** To the knowledge of MessageOne, the Application does not contain any malicious code, program, or other internal component (e.g. computer virus, computer worm, computer time bomb, or similar component), which could damage, destroy, or alter the Application, or which could reveal, damage, destroy, or alter any data or other information accessed through or processed by the Application in any manner. This warranty will be considered part of and covered under the Support and Enhancement Services provisions of the SaaS Terms. Customer must: (i) notify MessageOne promptly in writing of any nonconformance under this warranty; (ii) provide MessageOne with reasonable opportunity to remedy any nonconformance under the Support and Enhancement Services provisions; and (iii) provide reasonable assistance in identifying and remedying any nonconformance.
- 6.2. **Authorized Representative.** Customer and MessageOne warrant that each has the right to enter into these SaaS Terms and that the SaaS Terms and Settlement Agreements executed hereunder shall be

executed by an authorized representative of each entity.

- 6.3. **Services Warranty.** MessageOne warrants that all services performed hereunder shall be performed in a workmanlike and professional manner.
- 6.4. **Disclaimer of Warranties.** ANY AND ALL OF SOFTWARE, SERVICES, CONFIDENTIAL INFORMATION AND ANY OTHER TECHNOLOGY OR MATERIALS PROVIDED BY MESSAGEONE TO THE CUSTOMER ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, EXCEPT AS OTHERWISE EXPRESSLY STATED IN SECTION 6 OF THESE SAAS TERMS. MESSAGEONE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.
- 6.5. **Modifications.** Notwithstanding anything to the contrary in this Section, any and all warranties under these SaaS Terms are VOID if Customer has made changes to the Software or has permitted any changes to be made other than by or with the express, written approval of MessageOne.
7. **INDEMNIFICATION**
- 7.1. **MessageOne Indemnity.** MessageOne will defend at its expense any cause of action brought against Customer, to the extent that such cause of action is based on a claim that the Software, as hosted by MessageOne to Customer, infringes a United States patent, copyright, or trade secret of a third party. MessageOne will pay those costs and damages finally awarded against Customer pursuant to any such claim or paid in settlement of any such claim if such settlement was approved in advance by MessageOne. Customer may retain its own counsel at Customer's own expense.
- 7.2. **No Liability.** MessageOne shall have no liability for any claim of infringement based on: (i) Software which has been modified by parties other than MessageOne where the infringement claim would not have occurred in the absence of such modification; (ii) Customer's use of the Application in conjunction with data where use with such data gave rise to the infringement claim; or (iii) Customer's use of the Software outside the permitted scope of these SaaS Terms.
- 7.3. **Remedies.** Should the Software become, or in MessageOne's opinion is likely to become, the subject of a claim of infringement, MessageOne may, at its option, (i) obtain the right for Customer to continue using the Software, (ii) replace or modify the Software so it is no longer infringing or reduces the likelihood that it will be determined to be infringing, or (iii) if neither of the foregoing options is commercially reasonable, terminate the access and Use of the Software. Upon such termination, Customer shall cease accessing the Software and MessageOne will refund to Customer, as Customer's sole remedy for such license termination, the subscription fees paid by Customer for the terminated license for the past twelve (12) months. THIS SECTION 7 STATES THE ENTIRE

The following terms apply to the Settlement Agreement entered into by and between the City of Jersey City ("Customer") and the MessageOne, Inc. ("Service Provider"). Capitalized terms used but not defined in this document have the meanings assigned to them in the Settlement Agreement.

Language: The services are provided in English.

1. DEFINITIONS

"Support" means the support services to be provided by the Service Provider to the Customer in accordance with this Addendum.

"Response Time Goal" means the time period in which the assigned support resource shall endeavour to provide Customer with an initial technical response as a result of an issue reported by Customer.

"Term" means the duration set forth in the Settlement Agreement.

2. SUPPORT

Support includes the following during the applicable Term:

2.1 "Support" Defined. Support consists of assistance via the Internet or telephone with respect to use of the Application and to resolve issues limited to those set forth in the Settlement Agreement. Support cases are tracked and managed through access to a Call Management System operated by Service Provider's support center (the "Customer Support Portal"). Basic Support is available Monday through Friday from 8 am to 6 pm, Customer's local time, excluding local holidays.

2.2 Severity Classification. Issues are classified according to severity of impact on the use of the Application, according to the chart below. All disputes regarding severity classification will be resolved by Service Provider in its sole discretion.

Basic Support Response Time Goals

| Severity | Impact | Response Time Goal |
|----------|--|--|
| 1 | Production system is down impacting all applications and associated business systems. No Workaround exists. | 1 business day (via the Customer Support Portal) |
| 2 | Production system performance is degraded, but operational; Issue affects essential functions and no Workaround exists; or Issue is blocking critical systems tests or deliverables. | 2 business days |
| 3 | General product questions relating to development, feature issues, or documentation. | 4 business days |

LIABILITY OF MESSAGEONE WITH RESPECT TO ANY CLAIM OF INFRINGEMENT REGARDING THE SOFTWARE.

- 7.4. **Customer Indemnity.** Customer agrees to defend, indemnify, and hold MessageOne and its officers, directors, employees, consultants, and agents harmless from and against any and all damages, costs, liabilities, expenses (including, without limitation, reasonable attorneys' fees), and settlement amounts incurred in connection with any claim arising from or relating to Customer's: (i) breach of any of its obligations set forth in Section 10, "Customer Obligations," and/or (ii) Customer's gross negligence or willful misconduct.
- 7.5. **Indemnification Procedures.** Each indemnifying party's obligations as set forth in this Section are subject to the other party: (i) giving the indemnifying party prompt written notice of any such claim or the possibility thereof; (ii) giving the indemnifying party sole control over the defense and settlement of any such claim; and (iii) providing full cooperation in good faith in the defense of any such claim.
8. **LIMITATION OF LIABILITY**
- 8.1. **Liability Cap.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MESSAGEONE BE LIABLE UNDER ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), ATTORNEYS FEES AND COSTS, OR OTHERWISE, FOR DAMAGES WHICH, IN THE AGGREGATE, EXCEED THE AMOUNT OF THE FEES PAID BY CUSTOMER FOR THE SERVICES WHICH GAVE RISE TO SUCH DAMAGES.
- 8.2. **Disclaimer of Damages.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MESSAGEONE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND AND HOWEVER CAUSED INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES AND COSTS, BUSINESS INTERRUPTION OR LOSS OF PROFITS, BUSINESS OPPORTUNITIES, OR GOODWILL.
- 8.3. THE FOREGOING LIMITATIONS APPLY EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.
9. **TERM AND TERMINATION**
- 9.1. **Subscription Term.** The term of these SaaS Terms will continue until the termination of the last Settlement Agreement.
- 9.2. **Termination by MessageOne.** These SaaS Terms and any license created hereunder may be terminated by MessageOne: (i) if Customer fails to make any payments due hereunder within fifteen (15) days of the due date; (ii) on thirty (30) days written notice to Customer if Customer fails to perform any other

material obligation required of it hereunder, and such failure is not cured within such thirty (30) day period; or (iii) Customer files a petition for bankruptcy or insolvency, has an involuntary petition filed against it, commences an action providing for relief under bankruptcy laws, files for the appointment of a receiver, or is adjudicated a bankrupt concern.

- 9.3. **Termination by Customer.** These SaaS Terms may be terminated by Customer on ninety (90) days written notice to MessageOne if MessageOne fails to perform any material obligation required of it hereunder, and such failure is not cured within ninety (90) days from MessageOne's receipt of Customer's notice or a longer period if MessageOne is working diligently towards a cure.
- 9.4. **Effect of Termination.** Upon termination of the SaaS Terms, Customer shall no longer access the Software and Customer shall not circumvent any security mechanisms contained therein.
- 9.5. **Other Remedies.** Termination of SaaS Terms shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve Customer's obligation to pay all fees that have accrued or are otherwise owed by Customer under these SaaS Terms.
10. **CUSTOMER OBLIGATIONS**
- 10.1. Customer agrees that no employees of MessageOne shall be required to individually sign any agreement in order to perform any services hereunder including, but not limited to, access agreements, security agreements, facilities agreements or individual confidentiality agreements.
- 10.2. Customer agrees to comply with all applicable laws, regulations, and ordinances relating to these SaaS Terms. Customer shall ensure that each Web site for which the Application is engaged contains or is linked to a privacy policy that governs its data collection and use practices.
- 10.3. The Customer shall be obliged to inform its Authorized Users before the beginning of use of the Software about the rights and obligations set forth in these SaaS Terms. The Customer shall be liable for any violation of obligations by its Authorized Users or by other third parties who violate obligations within the Customer's control.
- 10.4. The Customer shall be obliged to keep the login names and the passwords required for the use of the Application confidential, to keep it in a safe place, and to protect it against unauthorized access by third parties with appropriate precautions, and to instruct its Authorized Users to observe copyright regulations. Personal access data must be changed at regular intervals.
- 10.5. Before entering its data and information, the Customer shall be obliged to check the same for viruses or other harmful components and to use state of the art anti-virus programs for this purpose. In addition, the Customer itself shall be responsible for the entry and the maintenance of its data.

- 10.6. In the case of serious violations of the duties according to this sub-paragraph on the part of the Customer, MessageOne shall be entitled to block access to the Software.

11. MISCELLANEOUS

- 11.1. **Assignment.** Customer may not assign these SaaS Terms or otherwise transfer any license created hereunder whether by operation of law, change of control, or in any other manner, without the prior written consent of MessageOne. Any purported assignment of these SaaS Terms, or any license or rights in violation of this Section will be deemed void.
- 11.2. **Compliance with Laws.** Both parties agree to comply with all applicable laws, regulations, and ordinances relating to such party's performance under these SaaS Terms.
- 11.3. **Survival.** The provisions set forth in Sections 2, 4, 5, 6.4, 8, 9.3, 9.4 and 11 of these SaaS Terms shall survive termination or expiration of these SaaS Terms and any applicable license hereunder.
- 11.4. **Notices.** Any notice required under these SaaS Terms shall be given in writing and shall be deemed effective upon delivery to the party to whom addressed. All notices shall be sent to the applicable address specified on the Settlement Agreement or to such other address as the parties may designate in writing. Any notice of material breach shall clearly define the breach including the specific contractual obligation that has been breached.
- 11.5. **Force Majeure.** MessageOne shall not be liable to Customer for any delay or failure of MessageOne to perform its obligations hereunder if such delay or failure arises from any cause or causes beyond the reasonable control of MessageOne. Such causes shall include, but are not limited to, acts of God, floods, fires, loss of electricity or other utilities, or delays by Customer in providing required resources or support or performing any other requirements hereunder.
- 11.6. **Restricted Rights.** Use of the Software by or for the United States Government is conditioned upon the Government agreeing that the Software is subject to Restricted Rights as provided under the provisions set forth in FAR 52.227-19. Customer shall be responsible for assuring that this provision is included in all agreements with the United States Government and that the Software, when accessed by the Government, is correctly marked as required by applicable Government regulations governing such Restricted Rights as of such access.
- 11.7. **Modifications.** The parties agree that these SaaS Terms cannot be altered, amended or modified, except by a writing signed by an authorized representative of each party.
- 11.8. **Nonsolicitation.** During the term of these SaaS Terms and for a period of two (2) years thereafter, Customer agrees not to hire, solicit, nor attempt to solicit, the services of any employee or Subcontractor of MessageOne without the prior written consent of MessageOne. Customer further agrees not to hire,

solicit, nor attempt to solicit, the services of any former employee or Subcontractor of MessageOne for a period of one (1) year from such former employee's or Subcontractor's last date of service with MessageOne. Violation of this provision shall entitle MessageOne to liquidated damages against Customer equal to two hundred percent (200%) of the solicited person's gross annual compensation.

- 11.9. **Headings.** Headings are for reference purposes only, have no substantive effect, and shall not enter into the interpretation hereof.
- 11.10. **No Waiver.** No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy.
- 11.11. **Severability and Reformation.** Each provision of these SaaS Terms is a separately enforceable provision. If any provision of the SaaS Terms is determined to be or becomes unenforceable or illegal, such provision shall be reformed to the minimum extent necessary in order for the SaaS Terms to remain in effect in accordance with its terms as modified by such reformation.
- 11.12. **Independent Contractor.** MessageOne is an independent contractor and nothing in these SaaS Terms shall be deemed to make MessageOne an agent, employee, partner, or joint venturer of Customer. Neither party shall have authority to bind, commit, or otherwise obligate the other party in any manner whatsoever.
- 11.13. **UCITA.** The United Nations Convention on Contracts for the International Sale of Goods (1980) and the Uniform Computer Information Transactions Act (UCITA) are hereby excluded in their entirety from application to these SaaS Terms.
- 11.14. **Dispute Resolution.**

Negotiations. Where there is a dispute, controversy, or claim arising under, out of, or relating to these SaaS Terms, the aggrieved party shall notify the other party in writing of the nature of such dispute with as much detail as possible about the deficient performance of the other party. A representative from senior management of each of the parties shall meet in person or communicate by telephone within five (5) business days of the date of the written notification in order to reach an agreement about the nature of the deficiency and the corrective action to be taken by the respective parties.

Mediation. Any dispute, controversy, or claim arising under, out of, or relating to these SaaS Terms, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach, or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The language to be used in the mediation will be English. Mediation will be held in Austin, Texas, USA.

Opportunity to Cure. Notwithstanding anything contained hereunder, Customer agrees and acknowledges that no dispute resolution or litigation

shall be pursued by Customer for any breach of these SaaS Terms until and unless MessageOne has had an opportunity to cure any alleged breach. Customer agrees to provide MessageOne with a detailed description of any alleged failure and a description of the steps that Customer understands must be taken by MessageOne to resolve the failure. MessageOne shall have thirty (30) days from MessageOne's receipt of Customer's notice to complete the cure.

Injunctive Relief. The choice of venue does not prevent a party from seeking injunctive relief in any appropriate jurisdiction with respect to a violation of intellectual property rights or confidentiality obligations. For clarity, the parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief as necessary, without breach of this Section and without abridgment of the powers of the mediator.

- 11.15. **Country-Specific Terms.** The country-specific provisions described in the Country-Specific Terms Addendum replace or supplement the equivalent provisions above as noted therein where the Customer is located in one of the countries identified in the Addendum and, in any case, where the law of the jurisdiction listed in the Addendum gets applied.

MessageOne[®]

Sales Invoice

MessageOne Inc.

401 Congress Ave #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-1690
INVOICE DATE: 09/30/2016
DUE DATE: 10/30/2016

BILL City of Jersey City
TO: 1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP City of Jersey City
TO: Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | PO DATE | PAYMENT TERMS | SHIP DATE |
|---|-------------|---------------|------------|
| City of Jersey City 2016 SaaS Renewal - C/BB/A/S | 30-Sep-2016 | Net 30 days | 10/30/2016 |

| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
|--------------------------------------|---|------|-----|------------|----------|
| M1 Variable Overages | Email Archive overages for Apr'16 -Qty:66 | Each | 1 | \$212.81 | \$212.81 |
| M1 Variable Overages | Email Continuity overages for Apr'16 - Qty:65 | Each | 1 | \$137.21 | \$137.21 |
| SUBTOTAL | | | | | \$350.02 |
| Sales Tax | | | | | \$0.00 |
| 1) NEW JERSEY NJ STATE TAX (0) | | | | | \$0.00 |
| VAT | | | | | \$0.00 |
| VAT/Sales Tax | | | | | \$0.00 |
| TOTAL | | | | | \$350.02 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 350.02

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | | 96,810.00 |

| REMIT CHECK TO: | ACH/WIRE IN USD & OTHER CURRENCIES |
|---|---|
| MESSAGEONE INC. PO BOX 671116 DALLAS TX 75267-1116 UNITED STATES | Bank : Comerica Bank Account number : 1881815904 ABA/ROUTING # : 111000753 SWIFT : MNBDUS33 Bank Address : 300 West, 6th St. #1300 Austin, TX 78701 USA |

"All software is delivered electronically."

If you have any questions concerning this invoice send in your queries to
billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 09/30/2016 Terms: Net 30 days Ship Date: 10/30/2016 Customer ID: CUS-86195



Sales Invoice

MessageOne Inc.

401 Congress Ave #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-1800
INVOICE DATE: 09/30/2016
DUE DATE: 10/30/2016

BILL TO: City of Jersey City
1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP TO: City of Jersey City
Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | PO DATE | PAYMENT TERMS | SHIP DATE |
|---|-------------|---------------|------------|
| City of Jersey City 2016 SaaS Renewal - C/BB/A/S | 30-Sep-2016 | Net 30 days | 10/30/2016 |

| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
|--------------------------------------|---|------|-----|------------|----------|
| M1 Variable Overages | Email Archive overages for May'16 - Qty:60 | Each | 1 | \$193.46 | \$193.46 |
| M1 Variable Overages | Continuity add-on overages for May'16 - Qty:947 | Each | 1 | \$0.00 | \$0.00 |
| M1 Variable Overages | Email Continuity overages for May'16 - Qty:57 | Each | 1 | \$120.32 | \$120.32 |
| M1 Variable Overages | Email Storage for May'16 - Qty:0 | Each | 1 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | \$313.78 |
| Sales Tax | | | | | \$0.00 |
| 1) NEW JERSEY NJ STATE TAX (0) | | | | | \$0.00 |
| VAT | | | | | \$0.00 |
| VAT/Sales Tax | | | | | \$0.00 |
| TOTAL | | | | | \$313.78 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 313.78

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | | 96,810.00 |

| REMIT CHECK TO: | ACH/WIRE IN USD & OTHER CURRENCIES |
|-----------------|------------------------------------|
|-----------------|------------------------------------|

"All software is delivered electronically."

If you have any questions concerning this invoice send in your queries to
billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 09/30/2016 Terms: Net 30 days Ship Date: 10/30/2016 Customer ID: CUS-86195

MessageOne[®]

Sales Invoice

MessageOne Inc.

401 Congress Ave #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-1800
INVOICE DATE: 09/30/2016
DUE DATE: 10/30/2016

MESSAGEONE INC.

PO BOX 671116
DALLAS TX 75267-1116
UNITED STATES

Bank : Comerica Bank
Account number : 1881815904
ABA/ROUTING # : 111000753
SWIFT : MNBDUS33
Bank Address : 300 West, 6th St. #1300 Austin, TX 78701 USA

"All software is delivered electronically."

If you have any questions concerning this invoice send in your queries to
billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 09/30/2016 Terms: Net 30 days Ship Date: 10/30/2016 Customer ID: CUS-86195

MessageOne®

Sales Invoice

MessageOne Inc.

401 Congress Ave #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-1910
INVOICE DATE: 09/30/2016
DUE DATE: 10/30/2016

BILL City of Jersey City
TO: 1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP City of Jersey City
TO: Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | PO DATE | PAYMENT TERMS | SHIP DATE |
|---|-------------|---------------|------------|
| City of Jersey City 2016 SaaS Renewal - C/BB/A/S | 30-Sep-2016 | Net 30 days | 10/30/2016 |

| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
|--------------------------------------|---|------|-----|------------|----------|
| M1 Variable Overages | Email Archive overages for Jun'16 - Qty:64 | Each | 1 | \$206.35 | \$206.36 |
| M1 Variable Overages | Continuity add-on overages for Jun'16 - Qty:954 | Each | 1 | \$0.00 | \$0.00 |
| M1 Variable Overages | Email Continuity overages for Jun'16 - Qty:64 | Each | 1 | \$135.09 | \$135.10 |
| M1 Variable Overages | Email Storage overages for Jun'16 - Qty:#N/A | Each | 1 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | \$341.46 |
| Sales Tax | | | | | \$0.00 |
| 1) NEW JERSEY NJ STATE TAX (0) | | | | | \$0.00 |
| VAT | | | | | \$0.00 |
| VAT/Sales Tax | | | | | \$0.00 |
| TOTAL | | | | | \$341.46 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 341.46

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | | 96,810.00 |

| REMIT CHECK TO: | ACH/WIRE IN USD & OTHER CURRENCIES |
|-----------------|------------------------------------|
| | |

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 09/30/2016 Terms: Net 30 days Ship Date: 10/30/2016 Customer ID: CUS-86195

MessageOne[®]

Sales Invoice

MessageOne Inc.

401 Congress Ave #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-1910
INVOICE DATE: 09/30/2016
DUE DATE: 10/30/2016

MESSAGEONE INC.

PO BOX 671116
DALLAS TX 75267-1116
UNITED STATES

Bank : Comerica Bank
Account number : 1881815904
ABA/ROUTING # : 111000753
SWIFT : MNBDUS33
Bank Address : 300 West, 6th St. #1300 Austin, TX 78701 USA

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 09/30/2016 Terms: Net 30 days Ship Date: 10/30/2016 Customer ID: CUS-86195

MessageOne®

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2043
INVOICE DATE: 10/13/2016
DUE DATE: 11/12/2016

BILL City of Jersey City
TO: 1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP City of Jersey City
TO: Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | | PO DATE | PAYMENT TERMS | | SHIP DATE |
|---|--|-------------|---------------|------------|------------|
| City of Jersey City 2016 SaaS Renewal - C/BB/A/S | | 13-Oct-2016 | Net 30 days | | 11/12/2016 |
| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
| M1 Variable Overages | Email Archive overages for July'16 - Qty: 76 | Each | 1 | \$245.05 | \$245.05 |
| M1 Variable Overages | Continuity Add- on overages for July'16 - Qty: 966 | Each | 1 | \$0.00 | \$0.00 |
| M1 Variable Overages | Email Continuity overages for July'16 - Qty: 76 | Each | 1 | \$160.43 | \$160.43 |
| M1 Variable Overages | Blackberry Device overages for July'16 - Qty: 0 | Each | 1 | \$0.00 | \$0.00 |
| M1 Variable Overages | Email Storage overages for July'16 - Qty: 0 | Each | 1 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | \$405.48 |
| Sales Tax | | | | | \$0.00 |
| 1) NEW JERSEY NJ STATE TAX (0) | | | | | \$0.00 |
| VAT | | | | | \$0.00 |
| VAT/Sales Tax | | | | | \$0.00 |
| TOTAL | | | | | \$405.48 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 405.48

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | | 96,810.00 |

REMIT CHECK TO:

ACH/WIRE IN USD & OTHER CURRENCIES

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If you have any questions concerning this invoice send in your queries to
billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 10/13/2016 Terms: Net 30 days Ship Date: 11/12/2016 Customer ID: CUS-86195

MessageOne[®]

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2043
INVOICE DATE: 10/13/2016
DUE DATE: 11/12/2016

MESSAGEONE INC.

PO BOX 671116
DALLAS TX 75267-1116
UNITED STATES

Bank : Comerica Bank
Account number : 1881815904
ABA/ROUTING # : 111000753
SWIFT : MNBDUS33
Bank Address : 300 West, 6th St. #1300 Austin, TX 78701 USA

"All software is delivered electronically."

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 10/13/2016 Terms: Net 30 days Ship Date: 11/12/2016 Customer ID: CUS-86195

MessageOneSM

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2123
INVOICE DATE: 10/14/2016
DUE DATE: 11/13/2016

BILL TO: City of Jersey City
1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP TO: City of Jersey City
Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | PO DATE | PAYMENT TERMS | SHIP DATE |
|---|-------------|---------------|------------|
| City of Jersey City 2016 SaaS Renewal - C/BB/A/S | 14-Oct-2016 | Net 30 days | 11/13/2016 |

| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
|--------------------------------------|---|------|-----|------------|----------|
| M1 Variable Overages | Email Archive overages for Aug'16 - Qty: 92 | Each | 1 | \$296.64 | \$296.64 |
| M1 Variable Overages | Continuity Add- on overages for Aug'16 - Qty: 976 | Each | 1 | \$0.00 | \$0.00 |
| M1 Variable Overages | Email Continuity overages for Aug'16 - Qty: 86 | Each | 1 | \$181.53 | \$181.54 |
| M1 Variable Overages | Blackberry Device overages for Aug'16 - Qty: 0 | Each | 1 | \$0.00 | \$0.00 |
| M1 Variable Overages | Email Storage overages for Aug'16 - Qty: 0 | Each | 1 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | \$478.18 |
| Sales Tax | | | | | \$0.00 |
| 1) NEW JERSEY NJ STATE TAX (0) | | | | | \$0.00 |
| VAT | | | | | \$0.00 |
| VAT/Sales Tax | | | | | \$0.00 |
| TOTAL | | | | | \$478.18 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 478.18

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | | 96,810.00 |

REMIT CHECK TO:

ACH/WIRE IN USD & OTHER CURRENCIES

"All software is delivered electronically."

If you have any questions concerning this invoice send in your queries to
billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 10/14/2016 Terms: Net 30 days Ship Date: 11/13/2016 Customer ID: CUS-86195

MessageOne[®]

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2123
INVOICE DATE: 10/14/2016
DUE DATE: 11/13/2016

MESSAGEONE INC.

PO BOX 671116
DALLAS TX 75267-1116
UNITED STATES

Bank : Comerica Bank
Account number : 1881815904
ABA/ROUTING # : 111000753
SWIFT : MNBDUS33
Bank Address : 300 West, 6th St. #1300 Austin, TX 78701 USA

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 10/14/2016 Terms: Net 30 days Ship Date: 11/13/2016 Customer ID: CUS-86195



Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2219
INVOICE DATE: 10/14/2016
DUE DATE: 11/13/2016

BILL City of Jersey City
TO: 1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP City of Jersey City
TO: Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | PO DATE | PAYMENT TERMS | SHIP DATE |
|---|-------------|---------------|------------|
| City of Jersey City 2016 SaaS Renewal - C/BB/A/S | 14-Oct-2016 | Net 30 days | 11/13/2016 |

| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
|--------------------------------------|---|------|-----|------------|----------|
| M1 Variable Overages | Email Archive overages for Sep'16 - Qty: 97 | Each | 1 | \$312.76 | \$312.76 |
| M1 Variable Overages | Continuity Add- on overages for Sep'16 - Qty: 987 | Each | 1 | \$0.00 | \$0.00 |
| M1 Variable Overages | Email Continuity overages for Sep'16 - Qty: 97 | Each | 1 | \$204.76 | \$204.76 |
| M1 Variable Overages | Blackberry Device overages for Sep'16 - Qty: 0 | Each | 1 | \$0.00 | \$0.00 |
| M1 Variable Overages | Email Storage overages for Sep'16 - Qty: 0 | Each | 1 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | \$517.52 |
| Sales Tax | | | | | \$0.00 |
| 1) NEW JERSEY NJ STATE TAX (0) | | | | | \$0.00 |
| VAT | | | | | \$0.00 |
| VAT/Sales Tax | | | | | \$0.00 |
| TOTAL | | | | | \$517.52 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 517.52

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | | 96,810.00 |

REMIT CHECK TO:

ACH/WIRE IN USD & OTHER CURRENCIES

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 10/14/2016 Terms: Net 30 days Ship Date: 11/13/2016 Customer ID: CUS-86195

MessageOne[®]

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2219
INVOICE DATE: 10/14/2016
DUE DATE: 11/13/2016

MESSAGEONE INC.

PO BOX 671116
DALLAS TX 75267-1116
UNITED STATES

Bank : Comerica Bank
Account number : 1881815904
ABA/ROUTING # : 111000753
SWIFT : MNBDUS33
Bank Address : 300 West, 6th St. #1300 Austin, TX 78701 USA

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 10/14/2016 Terms: Net 30 days Ship Date: 11/13/2016 Customer ID: CUS-86195

MessageOne®

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2491
INVOICE DATE: 12/31/2016
DUE DATE: 01/30/2017

BILL City of Jersey City
TO: 1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP City of Jersey City
TO: Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | | PO DATE | PAYMENT TERMS | | SHIP DATE |
|---|---|-------------|---------------|------------|------------|
| City of Jersey City 2016 SaaS Renewal - C/BB/A/S | | 31-Dec-2016 | Net 30 days | | 01/30/2017 |
| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
| M1 Variable Overages | Email Archive overages for Oct'16 - Your contracted quantities are 890 and you have used 998. Excess quantity used: 108 | Each | 1 | \$348.23 | \$348.23 |
| M1 Variable Overages | Continuity overages for Oct'16 - Your contracted quantities are 890 and you have used 993. Excess quantity used: 103 | Each | 1 | \$217.42 | \$217.43 |
| SUBTOTAL | | | | | \$565.66 |
| Sales Tax | | | | | \$0.00 |
| 1) NEW JERSEY NJ STATE TAX | | | | | \$0.00 |
| (0) | | | | | |
| VAT | | | | | \$0.00 |
| VAT/Sales Tax | | | | | \$0.00 |
| TOTAL | | | | | \$565.66 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 565.66

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | | 96,810.00 |

| REMIT CHECK TO: | | ACH/WIRE IN USD & OTHER CURRENCIES | |
|----------------------|--|------------------------------------|--|
| MESSAGEONE INC. | | Bank | Comerica Bank |
| PO BOX 671116 | | Account number | 1881815904 |
| DALLAS TX 75267-1116 | | ABA/ROUTING # | 111000753 |
| UNITED STATES | | SWIFT | MNBDUS33 |
| | | Bank Address | 300 West, 6th St. #1300 Austin, TX 78701 USA |

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 12/31/2016 Terms: Net 30 days Ship Date: 01/30/2017 Customer ID: CUS-86195

MessageOne[®]

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2491
INVOICE DATE: 12/31/2016
DUE DATE: 01/30/2017

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 12/31/2016 Terms: Net 30 days Ship Date: 01/30/2017 Customer ID: CUS-86195

MessageOne®

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2552
INVOICE DATE: 12/31/2016
DUE DATE: 01/30/2017

BILL TO: City of Jersey City
1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP TO: City of Jersey City
Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | | PO DATE | PAYMENT TERMS | | SHIP DATE |
|---|---|-------------|---------------|--------------------------------------|------------|
| City of Jersey City 2016 SaaS Renewal - C/BB/A/S | | 31-Dec-2016 | Net 30 days | | 01/30/2017 |
| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
| M1 Variable Overages | Email Archive overages for Nov'16 - Your contracted quantities are 890 and you have used 998. Excess quantity used: 108 | Each | 1 | \$348.23 | \$348.23 |
| M1 Variable Overages | Continuity overages for Nov'16 - Your contracted quantities are 890 and you have used 996. Excess quantity used: 106 | Each | 1 | \$223.75 | \$223.76 |
| | | | | SUBTOTAL | \$571.99 |
| | | | | Sales Tax | \$0.00 |
| | | | | 1) NEW JERSEY NJ STATE TAX (0) | \$0.00 |
| | | | | VAT | \$0.00 |
| | | | | VAT/Sales Tax | \$0.00 |
| | | | | TOTAL | \$571.99 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 571.99

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | | 96,810.00 |

| REMIT CHECK TO: | | ACH/WIRE IN USD & OTHER CURRENCIES | |
|----------------------|----------------|------------------------------------|--|
| MESSAGEONE INC. | Bank | : | Comerica Bank |
| PO BOX 671116 | Account number | : | 1881815904 |
| DALLAS TX 75267-1116 | ABA/ROUTING # | : | 111000753 |
| UNITED STATES | SWIFT | : | MNBDUS33 |
| | Bank Address | : | 300 West, 6th St. #1300 Austin, TX 78701 USA |

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 12/31/2016 Terms: Net 30 days Ship Date: 01/30/2017 Customer ID: CUS-86195

MessageOne®

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2552
INVOICE DATE: 12/31/2016
DUE DATE: 01/30/2017

"All software is delivered electronically."

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billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 12/31/2016 Terms: Net 30 days Ship Date: 01/30/2017 Customer ID: CUS-86195

MessageOne®

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2749
INVOICE DATE: 03/08/2017
DUE DATE: 04/07/2017

BILL TO: City of Jersey City
1 Journal Square Plaza 3rd Floor, IT Division
Jersey City, NJ 07306
United States

SHIP TO: City of Jersey City
Information Technology
1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306
United States

| PURCHASE ORDER # | | PO DATE | PAYMENT TERMS | | SHIP DATE |
|--------------------------------------|--|-------------|---------------|-------------|-------------|
| AR | | 08-Mar-2017 | Net 30 days | | 04/07/2017 |
| ITEM # | DESCRIPTION | UNIT | QTY | UNIT PRICE | AMOUNT |
| M1- | MessageOne Basic Support | | | | |
| | Archive | | | | |
| | - Up to 1000 Mailboxes | | | | |
| | - Up to 250 GB | | | | |
| | Continuity | | | | |
| | - Up to 1000 Mailboxes | | | | |
| | - Up to 250 GB | Each | 1 | \$96,810.00 | \$96,810.00 |
| | Security | | | | |
| | - Up to 1000 Mailboxes | | | | |
| | Blackberry Continuity | | | | |
| | - 17 Mailboxes | | | | |
| | Term: February 11, 2017 to February 15, 2018 | | | | |
| SUBTOTAL | | | | | \$96,810.00 |
| Sales Tax | | | | | \$0.00 |
| 1) NEW JERSEY NJ STATE TAX (0) | | | | | \$0.00 |
| VAT | | | | | \$0.00 |
| VAT/Sales Tax | | | | | \$0.00 |
| TOTAL | | | | | \$96,810.00 |

TOTAL PAID : \$0.00

TOTAL BALANCE DUE : \$ 96,810.00

| CURRENT | 1 - 30 DAYS OVERDUE | 31 - 60 DAYS OVERDUE | 61 - 90 DAYS OVERDUE | 91 - 120 DAYS OVERDUE | 121 DAYS OVERDUE | TOTAL |
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-------|
|---------|------------------------|-------------------------|-------------------------|--------------------------|------------------|-------|

"All software is delivered electronically."

If you have any questions concerning this invoice send in your queries to
billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 03/08/2017 Terms: Net 30 days Ship Date: 04/07/2017 Customer ID: CUS-86195

MessageOne®

Sales Invoice

MessageOne Inc.

401 Congress Ave. #2650
Austin, TX 78701
TAX ID: 47-3671276

INVOICE #: SI-ONE-2749
INVOICE DATE: 03/08/2017
DUE DATE: 04/07/2017

| | | | | | |
|------|------|------|------|-----------|-----------|
| 0.00 | 0.00 | 0.00 | 0.00 | 96,810.00 | 96,810.00 |
|------|------|------|------|-----------|-----------|

REMIT CHECK TO:

MESSAGEONE INC.

PO BOX 671116
DALLAS TX 75267-1116
UNITED STATES

ACH/WIRE IN USD & OTHER CURRENCIES

Bank : Comerica Bank
Account number : 1881815904
ABA/ROUTING # : 111000753
SWIFT : MNBDUS33
Bank Address : 300 West, 6th St. #1300 Austin, TX 78701 USA

"All software is delivered electronically."

If you have any questions concerning this invoice send in your queries to
billings@aurea.com or call us on +1 (512) 333-2482

THANK YOU FOR YOUR BUSINESS!

Order Date: 03/08/2017 Terms: Net 30 days Ship Date: 04/07/2017 Customer ID: CUS-86195

Dell IT Management SaaS **U.S. Change Order Form**

Dell Marketing L.P. ("Dell")
One Dell Way
Round Rock, TX 78682

Reseller name (enter if applicable): -na-

DATE (IN MMM/DD/YYYY FORMAT) : FEB / 18 / 2015

City of Jersey City ("Customer")

Address: 1 Journal Square Plaza 3rd Floor
Jersey City, NJ 07306

Phone: 201-547-4274
Fax: 201-369-7213
Email: bobm@jcni.org

The above Customer and Dell Marketing, L.P. ("Dell") enter into this Change Order Form ("Change Order Form") as of the date above; to make the following changes to the Services Customer currently receives from Dell:

| IT MANAGEMENT SaaS PRODUCT(S) | ORIGINAL QUANTITY | END OF ORIGINAL TERM | REVISED QUANTITY | START OF ADDITIONAL TERM | END OF ADDITIONAL TERM | UPGRADE FEES PER BILLING PERIOD (if applicable) | REVISED SERVICE FEES PER BILLING PERIOD |
|--|-------------------|----------------------|------------------|--------------------------|------------------------|---|---|
| | | | | | | | |
| Email Continuity | 824 Mailboxes | Feb / 10 / 2015 | 824 Mailboxes | Feb / 11 / 2015 | Feb / 10 / 2016 | \$ | \$ 16,949.68 |
| Blackberry Continuity | 17 Mailboxes | Feb / 10 / 2015 | 17 Mailboxes | Feb / 11 / 2015 | Feb / 10 / 2016 | \$ | \$ 753.00 |
| Continuity End-User-Pack | Mailboxes | / / / | Mailboxes | / / / | / / / | \$ | \$ |
| Rapid Archive | Mailboxes | / / / | Mailboxes | / / / | / / / | \$ | \$ |
| Rapid Archive End-User-Pack | Mailboxes | / / / | Mailboxes | / / / | / / / | \$ | \$ |
| Enterprise Archive | 824 Mailboxes | Feb / 10 / 2015 | 824 Mailboxes | Feb / 11 / 2015 | Feb / 10 / 2016 | \$ | \$ 25,890.08 |
| Email Security | 824 Mailboxes | Feb / 10 / 2015 | 824 Mailboxes | Feb / 11 / 2015 | Feb / 10 / 2016 | \$ | \$ 14,683.68 |
| Additional TLS Connections | / / / | / / / | / / / | / / / | / / / | \$ | \$ |
| Email Management Services (EMS) | incl'd GB Yr 1 | Feb / 10 / 2015 | incl'd GB Yr 1 | Feb / 11 / 2015 | Feb / 10 / 2016 | \$ | \$ included |
| | GB Yr 2 | | GB Yr 2 | | | | |
| | GB Yr 3 | | GB Yr 3 | | | | |
| Data Import (one-time) (From Exchange and / or .PST Only) | GB | / / / | GB | / / / | / / / | \$ | \$ |
| SUBTOTAL FOR FIRST BILLING PERIOD (INCLUDES ONE-TIME CHARGES) (PRE-TAX) | | | | | | | |
| SUBTOTAL FOR SUBSEQUENT BILLING PERIOD(S) (EXCLUDES ONE-TIME CHARGES) (PRE-TAX) | | | | | | | |
| SUBTOTAL FOR SUBSEQUENT BILLING PERIOD(S) (EXCLUDES ONE-TIME CHARGES) (PRE-TAX) | | | | | | | |
| TOTAL CONTRACT VALUE OF DEAL FOR ENTIRE DURATION (INCLUDES ONE-TIME CHARGES) (PRE-TAX) | | | | | | | |

Additional Details: Customer agrees that the PO required for this Change Order will be received by Dell no later

*DECLINE AUTO-RENEW ☐ than April 22, 2015.

| | | |
|-------------------|--|--|
| BILLING FREQUENCY | <input checked="" type="checkbox"/> FULL-TERM UP-FRONT PAYMENT | <input checked="" type="checkbox"/> ANNUAL |
|-------------------|--|--|

Please have an authorized representative sign below to acknowledge your agreement to the terms contained in this Change Order Form

| | |
|--|---|
| CUSTOMER (OR RESELLER) | DELL MARKETING L.P. |
| By: <u><i>[Signature]</i></u> Name: <u>Robert M. Nease</u> Title: <u>VP Operations</u> Date: <u>2-25-15</u> | By: <u><i>[Signature]</i></u> Name: <u>Scott E. Bialek</u> Title: <u>Scott Bialek, Contracts Director</u> |

* The Dell IT Management SaaS Services selected above (the "Services") are licensed to Customer (defined as the person or entity that purchases the Service, whether for its direct internal use or for resale) or the end user, if Customer is purchasing the Services for resale, on a subscription basis. Customer's access to and use of (or right to re-sell) the Services, and access to maintenance and support for the Services, will automatically expire at the end of the term specified on this Order Form if the Auto Renewal option is declined. In such case, Customer's subscription to the Services may be renewed upon the mutual, written agreement of the parties. To renew Customer's subscription, Customer must submit an additional Change Order Form for the applicable Services at the agreed-upon rates for such Services, and deliver the signed agreement to Dell at least thirty (30) days prior to the expiration of the then-current subscription term.

ORDER FORM TERMS AND CONDITIONS

1. This Order Form is governed by and subject to the following terms and conditions:
 (a) If Customer is purchasing the Services for its internal use, Customer's separate signed services agreement with Dell that authorizes the purchase and use of the Services for resale, in the absence of such an agreement, the Dell Cloud Solutions Agreement ("CSA"), available at www.dell.com/csaa/terms, or (ii) if Customer is purchasing the Service for resale, Dell's Reseller Terms of Sale (available at www.dell.com/reseller/terms), unless Customer and Dell have signed a separate Master Services Agreement for Channel Partners ("MSACP") and related Service Addendum that specifically apply to the Services, in which case the Services are governed by and subject to the MSACP and the related Service Addendum; and
 (b) The Offer Specifications for the Dell IT Management SaaS Service(s) ordered above (available at <http://content.dell.com/aw/home/services-contacts-saas-cloud-services>); the Offer Specifications, together with the documents referred to in clause (a) above, are referred to as the "Service Agreements".
 The Service Agreements are incorporated by reference in their entirety herein. If Customer uses the Services to provide configuration or other services to its end-user customer, Customer agrees to comply with the CSA terms and conditions with respect to Customer's use of the Services. Customer may contact its Dell sales representative for assistance with obtaining any Service Agreement.
 Fees for the Services shall be payable annually in advance in accordance with the Service Agreements, but pro-rated on an initial invoice in order for subsequent payments to be made simultaneously with the amounts originally charged under the Service Agreements. The Fees for the Services do not include any applicable taxes or fees assessed or imposed upon the Services, which will be listed on the final invoice.
 All software used in connection with Dell IT Management SaaS is delivered via download and no tangible media will be provided to Customer.
 This Order Form may be executed in counterparts, and all such counterparts shall together constitute one and the same instrument. An electronic copy (facsimile or PDF/image file) of an executed counterpart of this Order Form shall be sufficient to evidence the binding agreement of each party to these terms.
 Dell reserves the right to cancel orders as a result of pricing or other errors.
 By signing and submitting this Order Form, Customer acknowledges having read, and agrees to be bound by, these terms and conditions. Dell may reject this Order Form and decline to accept your order if: (1) the signatory does not have the authority to bind Customer to this Order Form, (2) changes have been made to this Order Form (other than completion of the requested information and the signature block), or (3) the requested information or signature block is incomplete or does not align with other information contained in the Order Form.



QUOTATION

QUOTE #: 701935291

Customer #: 69796111

Contract #: 70137

Customer Agreement #: Dell Std Terms

Quote Date: 2/18/15

Date: 2/19/15 3:49:49 AM

Customer Name: CITY OF JERSEY CITY

| | | | |
|----------------------------|--------------------|--------------------------------|---|
| TOTAL QUOTE AMOUNT: | \$58,276.44 | | |
| Product Subtotal: | \$58,276.44 | | |
| Tax: | \$0.00 | | |
| Shipping & Handling: | \$0.00 | | |
| Shipping Method: | 3rd Day | Total Number of System Groups: | 0 |

| SOFTWARE & ACCESSORIES | | | |
|--|----------|----------------------------------|-------------|
| Product | Quantity | Unit Price | Total |
| Dell EMS Services: EMS Archive With Storage for 1 mailbox with Annual Billing for 1 year, Tier 3 (972-4224) | 824 | \$31.42 | \$25,890.08 |
| Dell EMS Services: EMS Archive Continuity Add-On for 1 mailbox with Annual Billing for 1 year, Tier 3 (972-4161) | 824 | \$20.57 | \$16,049.68 |
| Dell Modular Services: Base Wireless Continuity for 1 Year (992-8988) | 1 | \$600.00 | \$600.00 |
| Dell Modular Services: Wireless Continuity for 1 Mailbox for 1 Year (992-9008) | 17 | \$9.00 | \$153.00 |
| Dell EMS Services: Email Security for 1 Mailbox for 1 Year, Tier 4 (971-0056) | 824 | \$17.82 | \$14,683.68 |
| Number of S & A Items: 5 | | S&A Total Amount: \$58,276.44 | |

| | | | |
|----------------|-----------------------|------------|--------------|
| SALES REP: | Bret Spencer | PHONE: | 512-723-8980 |
| Email Address: | bret_spencer@dell.com | Phone Ext: | 7238980 |

Please review this quote carefully. You may order online by signing into Premier at www.premier.dell.com. Click on the eQuotes link. To order without Premier, go to www.dell.com/qto.

If you do not have a separate agreement with Dell that applies to your order, please refer to www.dell.com/terms as follows:

If purchasing for your internal use, your order will be subject to Dell's Terms and Conditions of Sale-Direct including Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. If purchasing for resale, your order will be subject to Dell's Terms and Condition of Sale for Persons or Entities Purchasing to Resell, and other terms of Dell's PartnerDirect program at www.dell.com/partner. If your order includes services, visit www.dell.com/servicecontracts for service descriptions and terms.

Quote information is valid for U.S. customers and U.S. addresses only, and is subject to change. Sales tax on products shipped is based on "Ship To" address, and for downloads is based on "Bill To" address. Please indicate any tax-exempt status on your PO, and fax your exemption

certificate, with seller listed as *Dell Marketing L.P.*, to Dell's Tax Department at 800-433-9023 ☎.
Please include your Customer Number.

For certain products shipped to end-users in California, a State Environmental Fee will be applied.
For Asset Recovery/Recycling Services, visit www.dell.com/assetrecovery.