

NextGen® Pay Services Schedule

To the extent there is a conflict between other sections of the Master Agreement and this Schedule, then, solely as it relates to the NextGen® Pay Service, this Schedule shall prevail. Capitalized terms shall have the meanings set forth in the third-party, independent contractor's Agreement or the Master Agreement with Company. To the extent of any conflict, solely as it relates to the NextGen Pay Service, the terms of the third-party, independent contractor's Agreement shall prevail.

1. **Commercial Transaction.** Client agrees that the Pay Services provided hereunder are commercial in nature, and do not constitute a consumer purpose transaction.
2. **Pricing and Payment.** Client hereby agrees to pay Company the fees that are assessed by Company against Client or are posted against Client's Merchant Account from time to time by Company in accordance with the terms of the Pay Service Schedule and the third-party, independent contractor's terms and conditions. Such fees are immediately due and payable at the time they are posted or assessed against Client. A description of the fees charged by Company for using the Pay Services is contained in the Client's Pay Service Application and is incorporated herein by reference ("**Pricing Schedule**"). In the event of any conflict between the amount of any fees shown in the Pricing Schedule and the Pay Service Application, the Pay Service Application shall control. Fees described in the Pricing Schedule are cumulative and may be in addition to fees assessed against Client by the Networks, if any. All fees due in connection with the Pay Services are non-refundable, whether such fees are set-up fees, transaction fees, monthly subscription fees or other fees. Client agrees to immediately pay to Company all fees set forth in the Client's Pay Service Application, the Pricing Schedule and/or other provisions of this Pay Service Schedule, the agreement with the third-party, independent contractor and/or any other agreements Client may have with Company. Client agrees that it will also be responsible for any Chargebacks and any fees, fines or penalties assessed to Company or to Client by any card or the Networks because of Client's use or misuse of the Pay Services. Client agrees that Company may collect fees and other amounts owed under this Pay Service Schedule including, but not limited to, by offsetting or otherwise netting against the proceeds of Client's processing activity; by debiting the Client's Merchant Account, Reserve Account or any other account Client may have at any financial institution, or by recouping such amounts from amounts owed to you under this Pay Service Schedule; or exercising any other legal rights and remedies Company may have under law or equity. Client agrees that if Client fails to pay Company the amounts owed to us under the Pay Service Schedule in a timely manner, Client will be responsible for all costs and expenses of collection against Client arising out of, or related to, any Event of Default under the Pay Service Schedule or our efforts to collect fees or other amounts owed to Company by Client under the Pay Service Schedule. In the event of a late payment, Company reserves the right to assess a late payment fee, plus a finance charge equal to one and one-half percent (1.5%) per month on the unpaid amount, or the highest rate allowable by law, whichever is less, determined and compounded daily from the date due until the date paid. Payment of a late payment fee and finance charges will not excuse or cure any breach or default for late payment. The fees set forth in the Client's Pay Service Application or in this Pay Service Schedule (including the Pricing Schedule) are subject to change upon at least thirty (30) days prior notice to Client.
3. **Client Representation and Warranties.** Without limiting any other warranties under this Pay Service Schedule and/or in the Master Agreement, Client represents and warrants that: (a) Client has the right, power, and ability to enter into the Pay Service Schedule; (b) that all information Client provides to Company is correct and accurate; (c) all transactions submitted by Client are bona fide transactions; (d) Client will fulfill all Client's obligations to Client's customers and will resolve any customer disputes or complaints directly; (e) Client will not use the Pay Services, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the operation of the Pay Services; and (f) Client's use of Pay Services is and will be in compliance with the Pay Service Schedule. Client further hereby represents and warrants that each payment transaction Client presents to Company for processing is genuine and is not the result of any fraudulent transaction and is not being deposited on behalf of any business other than Client's. Client warrants that each transaction is the result of a bona fide purchase of goods or services by Client's customer in the total amount stated on a transaction or customer receipt. Client agrees to perform or will perform all of Client's obligations to Client's customer in connection with the transaction evidenced by a transaction (or customer) receipt. Client agrees to comply with all applicable procedures related to accepting credit or debit cards, and the card payment transaction itself shall not involve any element of credit for any other purposes other than as set forth in the Pay Service Schedule and shall not be subject to any defense, dispute, offset or counter claim which may be raised by any payor or cardholder under any applicable laws or Operating Regulations. Client agrees that any reversal of a transaction initiated by Client represents a bona fide refund or adjustment on a payment transaction.
4. **Use of Services with Client's Mobile Device.** Use of these Pay Services may be available through a compatible mobile device and Internet access. Client agrees that Client is solely responsible for these requirements, including any applicable changes, updates, and fees as well as the terms of Client's agreement with Client's mobile device and telecommunications provider. COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, STATUTORY, OR IMPLIED AS TO: THE AVAILABILITY OF TELECOMMUNICATION SERVICES FROM THE CLIENT'S MOBILE OR INTERNET PROVIDER AND ACCESS TO THE PAY SERVICES AT ANY TIME OR FROM ANY LOCATION; ANY LOSS, DAMAGES, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES; AND ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS OR SETTINGS CONNECTED WITH THE PAY SERVICES.

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5. **Amendment.** This NextGen® Pay Service Schedule may only be amended by Client upon mutual written agreement. Company may amend this Schedule at any time via Company posting a revised version on its Website or within Success Community. The revised version will be effective at the time Company posts it. Client will be considered as having expressly consented to all changes to this Schedule if Client continues to use the NextGen® Pay Service. Client accepts the responsibility of a continuing review of the content of NextGen Healthcare's website and Success Community to determine whether any amendments or modifications have occurred. The parties hereto agree not to contest the validity of the Schedule under the provisions of any applicable law requiring documents to be in writing and signed by the party to be bound thereby.
6. **Term and Termination.** This NextGen® Pay Service Schedule shall become effective on the Effective Date of the applicable Order Form, and shall remain in effect until terminated by either party in accordance with the terms of this Schedule or applicable Order Form. Unless otherwise stated on an applicable Order form, either party may terminate this Schedule and associated Services in its sole discretion without cause by providing the other party with notice at least sixty (60) calendar days in advance of such termination. In addition to any right of termination set forth herein, Company may terminate this Schedule and associated Services, at any time, effective immediately and without prior written notice, under the following circumstances:
 - a) Any information obtained by Company through a credit investigation regarding Client is unsatisfactory to Company;
 - b) Any criminal act or act of fraud or dishonesty is committed by Client, its employees, licensees, successors, agents, and/or assigns;
 - c) Breach of any provision of the Agreement by Client;
 - d) Client's (or any applicable guarantor's) inability to meet its debts as they become due, receivership, administration, liquidation, or voluntary or involuntary bankruptcy; or the institution of any proceeding therefor, any assignment for the benefit of the other party's creditors, or anything analogous to the foregoing in any applicable jurisdiction;
 - e) Any termination, regardless of cause, by InstaMed of their Agreement directly with Client;
 - f) There is a change in the volume, character, or method of Client's transactions that is not satisfactory to Company;
 - g) A good faith belief by Company that the Client (or any applicable guarantor) is engaged in activities that are inconsistent with Company's policies, including, without limitation, the processing or transmitting of any data which includes viruses, worms, Trojan horse, spyware, back door, or other malicious code; or
 - h) A determination by Company, in its sole opinion, that termination is necessary or required by applicable legal, tax or regulatory requirements, or because of a court or regulatory agency order or proceeding.
7. **Export Restrictions.** Client acknowledges that the Pay Services, including the mobile application, and the underlying software may include U.S. technical data subject to restrictions under export control laws and regulations administered by the United States government. Client agrees that Client will comply with these laws and regulations and will not export or re-export any part of the Services, in violation of these laws and regulations, directly or indirectly.
8. **No Assignment.** The Pay Service Schedule is binding on Client and Company and Client and Company's heirs, successors, and assigns. Client agree that Client will not assign this Pay Service Schedule to any third party, nor any payments due, and all indebtedness arising from charges will be for bona fide sales of goods or services (or both) and free of any liens, claims, and encumbrances other than ordinary sales taxes; provided, however, Client may sell and assign future transaction receivables to Company, Company's affiliates, and any other cash advance funding source that works with Company or Company's affiliates. Company shall have the right to assign this Pay Service Schedule or any right to payment thereunder to any third party at any time.