

ATTACHMENT

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ADP, LLC
MASTER SERVICES AGREEMENT
(cover page)

(Effective Date)

ADP, LLC: 400 W. Covina Blvd., MS 208
San Dimas, CA 91773

(referred to herein as "ADP")

CLIENT: Township of West Orange
66 Main St
West Orange, NJ, 07052

(referred to herein as "Client")

Attention: Anne DeSantis
FEIN:

Client desires ADP to provide to Client the services set forth in this Agreement and ADP desires to provide such services to Client, all as provided in this Agreement.

Therefore, upon the terms and subject to the conditions set forth in this Agreement and intending to be legally bound, the parties hereto agree as follows:

ADP will provide to Client and Client will receive from ADP, all upon the terms and conditions set forth in this Agreement, the Services (as such term is defined in Annex A) specified in this Agreement. This Agreement includes the Annexes marked with an "X" below and each Amendment (as such term is defined in Annex A) attached hereto. Each Annex marked with an "X" below and each Amendment attached hereto is incorporated into this Agreement by this reference as if set forth in this Agreement in full.

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|---|-------------------|--|
| X | Annex A: | General Terms and Conditions |
| X | Annex E: | ADP Employment Tax |
| X | Annex G: | ADP Print and Online Pay Statements |
| X | Annex T: | ADP Wage Payments: ALINE Pay Traditional |
| X | Annex W: | ADP Wage Garnishments (Disbursement) |
| X | Pricing Appendix: | Service and Fee Schedule |
| X | Payment Services: | Payment Services |

IN WITNESS WHEREOF, ADP and Client have executed this Agreement to be effective as of the Effective Date set forth above.

ADP, LLC  (Signature of Authorized Representative) Gary Lott (Name - Please Print) DVP/GM (Title) <u>7/28/16</u> (Date)	TOWNSHIP OF WEST ORANGE (Signature of Authorized Representative) ROBERT D. PARISI (Name - Please Print) MAYOR (Title) (Date)
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ADP Proprietary and Confidential

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SECTION 1 THE CLIENT GROUP.

Township of West Orange

SECTION 2 ADDRESS OF ADP FOR NOTICES.

ADP, LLC
400 W. Covina Blvd., MS 208
San Dimas, CA 91773

SECTION 3 TERMINATION DATE.

The termination date is that date which is the 3 year anniversary of the Effective Date.

SECTION 4 FEE EFFECTIVENESS; FEE CHANGES.

The fees set forth on the Pricing Appendix will remain fixed for 1 year following the Effective Date. Thereafter, ADP may modify the fees for the Services and will give Client at least 60 days prior written notice of any changes in such fees.

SECTION 5 COMPLIANCE ASSURANCE PACKAGE SERVICES AND FEES.

COMPLIANCE ASSURANCE PACKAGE SERVICES

Processing Assumptions

ERP	Kronos WF Ready
Employees.....	400
ADP Company Codes	1
Billable Jurisdictions	1
Processed Payments per employee per month	2
Disbursements per month	.10
Aline Cards	.0

Processing

Compliance Assurance Package	\$2.90 per employee per month
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Overage

Company Codes in excess of 4.....	\$75.00 per Company Code per month
Jurisdiction in excess of 24.....	\$37.50 per Jurisdiction per month
Payments per employee in excess of 7.....	\$0.50 per Payment per month

Implementation

Set-Up Fee and ADP Transporter Interface Base Fee.....	\$2,500.00
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Optional Items / Services

Amended Quarterly Return	\$100.00 per return
Amended Annual Reconciliation Return.....	\$100.00 per return
Amended W-2 (agency filing copy)	\$2.50 per employee per jurisdiction
Applied for Fee	\$25.00 per Company Code per month
Report Reproductions	\$25.00 per report, plus \$1.00 per page
Hard Copy Closes and Exceptions.....	\$100.00 per occurrence
Tax Registration	\$150.00 per tax ID Applied for
Split Wrap Fee.....	\$4.00 per split
ALINE Card Kit	\$2.00 per kit
Promotion: ALINE Cardholder Kit fee waived for all cards activated and loaded within the first 90 Days of the Wage Payment Service go live date.	
Territories Included (Guam, Puerto Rico, Virgin Islands).....	\$500.00 minimum per file processed
W2 Reissue:	
W2-Reissue	\$7.00 per reissue
Annual Base Fee	\$500.00
W2 Reruns.....	\$1.30 per rerun
W2C:	





Pricing Appendix
Service and Fee Schedule

Client: Township of West Orange

W2C	\$2.50 per W2C printed
W2C Printing by ADP	\$150.00 minimum
Annual Base Fee	\$500.00

All delivery charges are the responsibility of the Client during implementation and production processing. Once ADP provides the printed documents to the client's designated carrier (e.g. courier or USPS) ADP has fulfilled distribution requirements

ALINE Net Pay Impounding Schedule

- All ALINE net pay will be provided to ADP via reverse wire.
- All ALINE net pay funding will be provided to ADP two business days prior to associated payroll check date.
- For all reverse wire clients, funds must be available by 6:00 AM PST.

Tax Liability Impounding Schedule

- All tax liabilities will be provided to ADP via reverse wire.
- Federal withholding, FICA EE/ER, Medicare EE/ER state withholding and local withholding, FUTA and SUI withholding and local withholding taxes will be provided to ADP one business day prior to the associated payroll check date.
- For all reverse wire clients, funds must be available by 6:00 AM PST.

Wage Garnishment Impounding Schedule

Client will transmit disbursement information, deductions and liabilities to ADP one business day prior to the associated payroll check date via reverse wire.

- For all reverse wire clients, funds must be available by 6:00 AM PST.

SECTION 6 EXPENSES.

In addition to the fees listed in this Pricing Appendix, postage, delivery charges, other similar third party charges, and reasonable travel and out-of-pocket expenses are payable by Client.





SECTION 1 DEFINITIONS.

Capitalized words in this Agreement that are not otherwise defined have the meanings shown below, for both singular and plural forms. Unless otherwise specified, any reference in this Annex to a section or other subdivision is a reference to a section or subdivision of this Annex.

- 1.1 **"ADP Products"** means the Application Programs, tutorials and related documentation delivered to Client by ADP.
- 1.2 **"Amendment"** means a written supplement to this Agreement, signed by Client and ADP, describing additional Services to be provided by ADP to Client.
- 1.3 **"Agreement"** means this Master Services Agreement, each Annex marked on the cover page and each Amendment that supplements this Master Services Agreement, as amended from time to time.
- 1.4 **"Application Programs"** means the computer software programs and modules delivered to Client by ADP as part of the Services but excludes pre-packaged third party software and custom programs developed by ADP for Client.
- 1.5 **"Business Day"** means any day except a Saturday, a Sunday, or a Federal holiday.
- 1.6 **"Client Group"** means Client, Client's majority owned subsidiaries, and affiliates of Client. Affiliates are listed in Section 1 of the Pricing Appendix.
- 1.7 **"Client Infringement Exclusion"** means (i) any change, or enhancement in the ADP Products made by Client or any third party for the Client other than at the direction of ADP, (ii) Client's use of the ADP Products except as permitted under this Agreement or in combination with any hardware, software or other materials not expressly authorized by ADP where absent such combination the ADP Products would be non-infringing, (iii) Client's use of other than the most current release of the ADP Products that results in a claim or action for infringement that could have been avoided by use of the current release, provided that ADP has supplied Client with the most current release at no additional fee, or (iv) the provision by Client to ADP of materials, designs, know-how, software or other intellectual property with instructions to ADP to use the same in connection with the Services.
- 1.8 **"Confidential Information"** means all information that is confidential or proprietary provided by the disclosing party to the receiving party for use in connection with the Services or in connection with any additional services proposed to be provided by ADP, but does not include (i) information the receiving party already knows (ii) information that becomes generally available to the public except as a result of disclosure by the receiving party in violation of this Agreement, and (iii) information that becomes known to the receiving party from a source other than the disclosing party on a non-confidential basis. Confidential Information also includes the terms of this Agreement, non-public personal or financial information relating to a party's employees, customers or clients, all trade secrets, processes, proprietary data, information or documentation or any pricing or product information the disclosing party provides to the receiving party.
- 1.9 **"Effective Date"** means the date written in the space marked "Effective Date" on the cover page of this Agreement.
- 1.10 **"Services"** means the services described in each Annex, the services in each Amendment, and any other services that ADP provides to Client at Client's request.
- 1.11 **"Termination Event"** means with respect to any party, (i) that party becomes the subject of a proceeding under the Bankruptcy Code, (a) seeking the appointment of a trustee, receiver or custodian or (b) seeking the liquidation, winding-up, dissolution, reorganization or the like of such party, and the proceeding is not dismissed within 30 days of its commencement, or (ii) that party's Dun & Bradstreet Financial Stress Score is 4 or 5. If part (i) of this Section occurs with respect to Client, Client agrees to promptly use commercially reasonable efforts to seek court authorization to pay all post-petition fees as an administrative expense.

SECTION 2 THE SERVICES.

- 2.1 **Use of Services.** Client agrees to use the Services only for the internal business purposes of the Client and the Client Group and that it will be responsible for ensuring that each of the entities included in the Client Group comply with each of the provisions contained in this Agreement applicable to the Client. If interfaces to software being used by Client are to be delivered or maintained by ADP as part of the Services, then Client agrees to obtain and maintain appropriate licenses to such software and other works.
- 2.2 **Accuracy of Client Information, Review of Output.** Client is responsible for the accuracy and timely input of all information provided to ADP by Client or on Client's behalf. Client will promptly review documents and reports provided by ADP and notify ADP of any error or omission discovered by Client or any discrepancy between the information provided by ADP and Client's records, and ADP will correct such error, omission or discrepancy.
- 2.3 **Compliance with Laws.** ADP shall design the Services to assist Client in complying with federal and state legal and regulatory requirements applicable to the Services, and ADP will be solely responsible for any failure of such design. Client will be solely responsible (i) for compliance by Client with all laws and governmental regulations affecting Client's business and (ii) for using the Services in a manner to assist it in complying with same. The Services are not a substitute for the advice of an attorney and do not include any legal, regulatory, accounting or tax advice and each Client Group member will rely solely upon its own advisors with respect to any such advice. Client agrees and acknowledges that ADP is not a law firm, does not provide legal advice or representation, and that no attorney-client relationship exists or will be formed between ADP and Client.





2.4 Data Security. ADP will take commercially reasonable precautions to prevent the loss of or alteration to Client's data files in ADP's possession. In addition, ADP will establish and follow security measures designed to prevent unauthorized access to Client's data files. ADP maintains appropriate security measures to protect Client's personal information consistent with applicable federal and state laws.

2.4.1 If ADP becomes aware of a security breach (as defined in any applicable law) or any other event that compromises the security, confidentiality or integrity of Client's sensitive personal information (an "Incident"), ADP will take appropriate actions to contain and mitigate the Incident, including notifying Client as soon as possible to enable Client to expeditiously implement its response program. At Client's request, ADP will reasonably cooperate with Client to investigate the nature and scope of any Incident.

2.4.2 In the event that applicable law requires notification to individuals and others of such an Incident, ADP will take additional mitigation steps including providing assistance with the drafting and mailing of such notifications, as well as offering to provide one year of industry standard credit monitoring services and identity theft insurance to each affected individual at no cost to Client. The requirement to offer such monitoring and insurance will only exist for consumers in those jurisdictions where such products are available.

2.5 Disaster Recovery. ADP maintains a commercially reasonable disaster recovery plan ("DR Plan"), a copy of the summary of which is available to the Client upon request. ADP agrees to follow its DR Plan. ADP may amend its DR Plan at any time, provided that ADP shall not reduce its disaster recovery ability to less than the disaster recovery ability in effect pursuant to the DR Plan in existence on the Effective Date of this Agreement.

2.6 Source Documents. Except as otherwise set forth in this Agreement, Client will, to the extent it deems necessary, keep copies of all source documents of the information delivered to ADP or inputted by Client or on behalf of Client into the ADP system.

2.7 Client Instructions. Client will be responsible for the consequences of any instructions Client may give to ADP, provided that ADP has followed such instructions.

2.8 Additional Services. If Client requests additional services offered by ADP on a commercial basis not included in this Agreement, (i) those services will be included in an Amendment, (ii) any Services provided to Client but not included in an Amendment will be provided subject to the terms of this Agreement at ADP's then prevailing fees.

2.9 Errors and Omissions. Upon the request of Client, ADP will correct any error or omission made by ADP in connection with the Services at no additional charge to Client.

SECTION 3 FEES, TAXES AND PAYMENT TERMS.

3.1 Fees for Services. Client agrees to pay ADP for the Services provided to any member of the Client Group at the fees shown in the Pricing Appendix.

3.2 Changes in Scope. The fees in the Pricing Appendix may be revised by mutual agreement (not to be unreasonably withheld) if Client's actual requirements, specifications, volumes or quantities vary materially from those communicated to ADP as of the Effective Date of this Agreement (e.g., a material change in the number of pays or the pay frequency).

3.3 Payment Terms. Client will pay all invoices in full within 30 days of invoice date. All amounts not paid when due are subject to a late payment charge of 1½% per month (not to exceed the maximum allowed by law) of the past due amount from the due date until the date paid. All fees are shown in U.S. Dollars and all payments will be made in U.S. Dollars. In the event that Client's Dun & Bradstreet Financial Stress Score is 4 or 5, then upon ADP's request Client will pay all invoices via direct debit of funds ("DDF"). Client will reimburse ADP for all expenses ADP may incur in collecting any amounts past due under this Agreement.

SECTION 4 WARRANTIES; DISCLAIMER.

ADP warrants: (i) that it will perform the Services in a good, diligent and professional manner, utilizing personnel with a level of skill commensurate with the Services to be performed; and (ii) that it will comply with all applicable laws and regulations affecting the operation of ADP's business, including any applicable export restrictions and data protection laws. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ADP EXPRESSLY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, NON-INTERRUPTION OF USE, AND FREEDOM FROM PROGRAM ERRORS WITH RESPECT TO THE SERVICES, THE ADP PRODUCTS, CUSTOM PROGRAMS OR ANY THIRD-PARTY SOFTWARE DELIVERED BY ADP.

SECTION 5 INTELLECTUAL PROPERTY.

5.1 Ownership of Proprietary Rights. Client owns and shall own all rights to Client's data provided to or accessed by ADP, including such Client data as processed or manipulated by ADP in connection with the Services. The ADP Products will at all times remain the exclusive, sole and absolute property of ADP or the third parties from whom ADP has obtained the right to use the ADP Products. Except for the license granted to Client in this Agreement, Client will have no interest in the ADP Products. All rights, title and interest in or to any copyright, trademark, service mark, trade secret, and other proprietary right relating to the ADP Products and the related logos, product names, etc. are reserved and all rights not expressly granted are reserved by ADP and such third parties. Client may not obscure, alter or remove any copyright, trademark, service mark or proprietary rights notices on any ADP Products, and Client will not, and will require that its vendors and subcontractors will not, copy, recompile, disassemble, reverse engineer, or make or distribute any other form of or any derivative work from, the ADP Products.





5.2 ADP Infringement Indemnity. Subject to Section 5.5, ADP will defend Client in any suit or cause of action, and indemnify and hold Client harmless against, and pay on behalf of Client, any damages awarded to third parties in any such suit or cause of action (including reasonable attorneys' fees awarded to such third parties and settlement amounts) alleging that the ADP Products as provided by ADP and used in accordance with the terms of this Agreement infringe upon any United States patent, copyright, trade secret, or other proprietary right of a third party, *provided that*, the foregoing infringement indemnity will not apply and ADP will not be liable for any damages assessed in any suit or cause of action to the extent resulting from a Client Infringement Exclusion. If any ADP Product is held or believed to infringe on any third party's intellectual property rights, ADP may, in its sole discretion, (a) modify the ADP Product to be non-infringing, (b) obtain for Client a license to continue using such ADP Product, or (c) if neither (a) nor (b) are practical, terminate this Agreement as to the infringing ADP Product and return to Client any unearned fees paid by Client to ADP in advance. This Section 5.2 states ADP's entire liability and Client's exclusive remedies for infringement of intellectual property rights of any kind.

5.3 Client Infringement Indemnity. Subject to Section 5.5, Client will defend ADP in any suit or cause of action, and indemnify and hold ADP harmless against, and pay on behalf of ADP, any damages awarded to third parties in any such suit or cause of action (including reasonable attorneys' fees awarded to such third parties and settlement amounts) alleging infringement upon any United States patent, copyright, trade secret, or other proprietary right of a third party, to the extent that any such suit or cause of action results from an allegation of a Client Infringement Exclusion. This Section 5.3 states Client's entire liability and ADP's exclusive remedies for infringement arising from a Client Infringement Exclusion.

5.4 ADP General Indemnity. Subject to Section 5.5 and the limits on monetary damages set forth in Section 7.3 and 7.4 of this Annex A, ADP will defend Client in any suit or cause of action, and indemnify and hold Client harmless against, and pay on behalf of Client, any damages awarded to third parties in any such suit or cause of action (including reasonable attorneys' fees awarded to such third parties and settlement amounts) arising from the acts, errors or omissions of ADP in the provision of the Services provided such acts, errors or omissions are attributable to ADP's failure to comply with its obligations set forth in this Agreement.

5.5 Indemnity Conditions. The indemnities set forth in this Agreement are conditioned upon the following: (i) the indemnitee ("the Indemnitee") promptly notifies the indemnitor ("the Indemnitor") in writing of such suit or cause of action, (ii) the Indemnitor controls any negotiations or defense and the Indemnitee assists the Indemnitor as reasonably required by the Indemnitor, and (iii) the Indemnitee takes all reasonable steps to mitigate any potential damages that may result.

SECTION 6 GENERAL PROVISIONS.

6.1 Service Organization Control I Reports. At Client's request, ADP will at no charge provide Client with copies of any routine Service Organization Control ("SOC") I reports ("SOC I Reports") which are both directly related to those Services provided hereunder for Client and already released to ADP by the public accounting firm performing the Statement on Standards for Attestation Engagements #16 review.

6.2 Employee and Plan Participant Access. ADP may suspend or discontinue access to the Services by any of Client's employees or plan participants ("Users") if ADP reasonably believes that such User is using the Services in an inappropriate or illegal manner and will promptly advise Client of same. Client shall take all commercially reasonable actions necessary to maintain the privacy of User names and passwords for the Services.

6.3 Nondisclosure. All Confidential Information disclosed under this Agreement will remain the exclusive and confidential property of the disclosing party. The receiving party will not disclose the Confidential Information of the disclosing party and will use at least the same degree of care, discretion and diligence in protecting the Confidential Information of the disclosing party as it uses with respect to its own confidential information. The receiving party will limit access to Confidential Information to its employees with a need to know the Confidential Information and will instruct those employees to keep the information confidential. It is understood, however, that ADP may disclose the Client's Confidential Information on a need to know basis to its subcontractors who are performing Services, provided those subcontractors have executed confidentiality agreements and further provided that ADP shall remain liable for any unauthorized disclosure of the Client's Confidential Information by those subcontractors. Notwithstanding Section 5.1 of Annex A, ADP may use the Client's and its employees' and participants' information for purposes other than the performance of the Services but only in an aggregated, anonymized form, such that neither Client nor its employees or participants may be identified, and Client will have no ownership interest in such aggregated, anonymized data. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (i) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it, (ii) as appropriate to respond to any summons or subpoena or in connection with any litigation and (iii) to the extent necessary to enforce its rights under this Agreement. Upon the request of the disclosing party, the receiving party will return or destroy all Confidential Information of the disclosing party that is in its possession, provided that ADP may maintain archival copies subject to the terms of this Section 6.3.

6.4 No Solicitation of Employees. Neither party will recruit or solicit (other than as part of a general solicitation in newspapers, websites or similar media) the other's personnel or employees that have become known to a party as a result of the Services performed until the earlier of one year after (i) the termination of this Agreement or (ii) that person is no longer employed by the other party. The provisions of this Section 6.4 will survive the termination of this Agreement.

6.5 U.S. Government Restricted Rights. ADP asserts that the Services, the ADP Products and the related materials are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions in FAR §52.227-14, FAR §52.227-19, or DFARS §252.227-7013(c)(1)(ii), as applicable. Contractor is ADP, LLC, 5800 Windward Parkway, Alpharetta, GA 30005.





6.6 Independent Contractors. The performance by ADP of its duties and obligations under this Agreement will be that of an independent contractor and nothing contained in this Agreement will create or imply an agency, joint venture or partnership between ADP and Client. Neither the employees of ADP nor ADP's subcontractors will be considered employees or agents of Client. Unless expressly stated in this Agreement, none of ADP, its employees or its subcontractors may enter into contracts on behalf of, bind, or otherwise obligate Client in any manner whatsoever.

6.7 Services and the Internet. Data transmitted by ADP in connection with the Services through the Internet is encrypted for Client's protection. However, the security of transmissions over the Internet can never be guaranteed. ADP is not responsible for Client's access to the Internet, for any interception or interruption of any communications through the Internet, or for changes to or losses of data through the Internet. ADP may suspend Client's use of the Services via the Internet immediately, without notice, pending an investigation, if any breach of security is suspected. If Client elects ADP's "Federated Single Sign-On" service, additional mutually agreed upon terms and conditions will apply.

6.8 Use Outside the U.S. Client will use the Services and the ADP Products only in the U.S. For any agreed upon use of the Services or the ADP Products outside the U.S., Client agrees to comply with any applicable export restrictions, laws and regulations imposed from time to time by the governments of the U.S. or the other country, if any, in which the ADP Products will be used by Client.

6.9 Client Vendors. Client will at its own cost make all necessary arrangements with its third party vendors to cause such vendors to send data to and receive data from ADP as required for ADP to provide the Services. Client shall reimburse ADP for any costs ADP is required to bear in connection with or arising out of any such transmissions of data from and/or to such third party vendors.

SECTION 7 LIMITATION OF LIABILITY.

7.1 Restoration of Funds. If the negligent acts or omissions of ADP's officers, employees or agents result in a loss or misdirection of Client funds in the possession or control of ADP under the terms of this Agreement, ADP will restore the funds to the Client.

7.2 Mitigation of Damages. ADP and Client will each use reasonable efforts to mitigate any potential damages or other adverse consequences arising from or related to the Services.

7.3 Limit on Monetary Damages. Notwithstanding anything to the contrary contained in this Agreement, but subject to the limited exceptions set forth in the last sentence of this Section 7.3, ADP's aggregate liability hereunder in any calendar year will not exceed: (i) for damages other than as a result of ADP's breach of Section 6.3 (Nondisclosure), an amount equal to twelve (12) times the average monthly fee for ongoing Services paid by Client to ADP for the affected Service during such calendar year (the "**Ordinary Limit**") and (ii) for damages arising from ADP's breach of Section 6.3 (Non-Disclosure), a separate amount equal to twelve (12) times the average monthly fee for ongoing Services paid by Client to ADP for the affected Service during such calendar year (the "**Confidentiality Breach Limit**"). For the avoidance of doubt, the foregoing creates two separate and distinct sums describing ADP's aggregate liability, the Ordinary Limit and the Confidentiality Breach Limit. The aggregate limit set forth herein shall not apply to Sections 5.2 or 7.1 of Annex A, and (if applicable) Section 4 of Annex C, Section 3 of Annex E, Section 5.10 of Annex II, or to ADP's criminal or fraudulent misconduct.

7.4 No Consequential Damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NEITHER ADP NOR CLIENT WILL BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES (INCLUDING LOST PROFITS) THAT THE OTHER PARTY MAY INCUR OR EXPERIENCE IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, HOWEVER CAUSED AND UNDER WHATEVER THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The foregoing exclusion shall not apply to claims for consequential damages arising from ADP's breach of Section 6.3 of Annex A; provided however, that any consequential damages recovered by Client in a calendar year for such claims will be subject to the Confidentiality Breach Limit set forth in Section 7.3 of Ann





8.6 Effect of Termination. Upon expiration or termination of this Agreement, or any Annex or Amendment or any Services for any reason, (i) all licenses and other rights granted to Client under the respective Annex or Amendment or in connection with the terminated Services, will become null and void, (ii) subject to the last sentence of Section 6.3 of Annex A, all materials provided by either party to the other under the respective Annex or Amendment or in connection with the terminated Services, will be returned within five Business Days after the effective date of termination, and (iii) all earned and unpaid fees and expenses will become immediately due and payable. Each party's termination rights in this Agreement are cumulative and are in addition to all other rights and remedies available to the parties.

8.7 Termination Assistance. Upon termination of this Agreement, ADP will return copies of Client's data at ADP's standard rates and will cooperate with Client to provide for an orderly transfer of the Services to Client or Client's successor vendor ("Termination Assistance"). Such Termination Assistance will be provided at ADP's standard rates then in effect, and in no event will ADP be required to provide any ADP Confidential Information in connection with providing any Termination Assistance.

8.8 Termination for Convenience. ADP or Client can terminate this Agreement for convenience, without cause, upon at least 90 days prior written notice to the other party.

SECTION 9 MISCELLANEOUS PROVISIONS.

9.1 Amendment. This Agreement may not be modified except by a writing signed by the authorized representatives of ADP and Client.

9.2 Notices. All communications required to be sent or given under this Agreement will be in writing and will be duly given and effective immediately if delivered in person or upon confirmation of signature recording delivery, if sent via a nationally recognized overnight courier service with signature notification requested, to Client at the address shown on the cover page of this Agreement or to ADP at the address shown in the Pricing Appendix or to any other address a party may identify in writing from time to time. A copy of all communications to ADP of a legal nature must be sent to ADP, LLC, 400 W. Covina Blvd., MS 208, San Dimas, California 91773, Attention: Legal Department.

9.3 Injunctive Relief. In the event of an actual or impending breach of Section 6.3 or 6.4, the non-breaching party, in addition to any remedy available at law, will be entitled to seek equitable relief, including injunction and specific performance.

9.4 Entire Agreement/Subcontractors. This Agreement, including the Annexes and Amendments, is the entire agreement and understanding between ADP and Client with respect to the subject matter and merges and supersedes all prior discussions, agreements and understandings of every kind and nature between them, and no party will be bound by any representation, warranty, covenant, term or condition other than as expressly stated in this Agreement. If any provision of an Annex or Amendment conflicts with a provision of another Annex or Amendment, the provision of each Annex or Amendment will govern, but solely with respect to the Services covered by such Annex or Amendment. Purchase Orders submitted by Client are for Client's internal administrative purposes only and the terms and conditions contained in those purchase orders will have no force and effect. The parties agree that this Agreement may be executed in multiple original copies, identically worded, and that each such executed copy shall constitute an original. Facsimile signatures, or signatures transferred in .pdf or similar format for scanned copies of documents, shall be treated as original signatures for all purposes. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns. Certain of the Services to be provided by ADP may be provided by subsidiaries of Automatic Data Processing, Inc. or by ADP's subcontractors, and ADP shall be responsible for the performance of those subsidiaries and subcontractors. Mailing and delivery service providers are not ADP's subcontractors, and ADP will not be responsible for the acts or omissions of such mailing and delivery service providers.

9.5 No Third Party Beneficiaries. Nothing in this Agreement creates, or will be deemed to create, third party beneficiaries of or under this Agreement. CLIENT AGREES THAT OTHER THAN ADP'S OBLIGATIONS TO CLIENT IN THIS AGREEMENT, ADP HAS NO OBLIGATION TO ANY THIRD PARTY (INCLUDING, WITHOUT LIMITATION, CLIENT'S EMPLOYEES AND/OR ANY TAXING AUTHORITIES) BY VIRTUE OF THIS AGREEMENT.

9.6 Force Majeure. Any party to this Agreement will be excused from performance under this Agreement for any period of time that the party is prevented from performing its obligations under this Agreement due to an act of God, war, earthquake, civil disobedience, court order, or other cause beyond the party's reasonable control. Such non-performance will not constitute grounds for default.

9.7 Waiver/Headings/Severability/Survival/Governing Law. The failure by any party to this Agreement to insist upon strict performance of any provision of this Agreement will not constitute a waiver of that provision. The section headings in this Agreement are intended for convenience of reference and will not affect its interpretation. If any provision of this Agreement is held invalid, illegal, or unenforceable, the validity, legality or enforceability of the remainder of this Agreement will not in any way be affected or impaired. The provisions of Section 6.3, 7.3 and 7.4 will survive the termination of this Agreement. This Agreement will be governed by and construed in accordance with the internal laws of the State of New Jersey.

9.8 ADP's Client List. ADP may include Client's name and corporate logo on ADP's client list.

9.9 Insurance. During the term of this Agreement, ADP shall (directly or through Automatic Data Processing, Inc. its ultimate corporate parent entity) maintain the following insurance coverage in at least the following amounts:

9.9.1 Workers' Compensation with statutory limits required by each state exercising jurisdiction over the ADP associates engaged in performing services under this agreement.

9.9.2 Employer's Liability coverage with a minimum limit of \$500,000 for bodily injury by accident or disease.





9.9.3 Commercial General Liability coverage (including products and completed operations, blanket or broad form contractual, personal injury liability and broad form property damage) with minimum limits of one million dollars (\$1,000,000) per occurrence for bodily injury/property damage and one million dollars (\$1,000,000) for personal injury and products/completed operations.

9.9.4 Business Automobile Liability coverage (covering the use of all owned, non owned and hired vehicles) with minimum limits (combined single limit) of one million dollars (\$1,000,000) for bodily injury and property damage.

9.9.5 Excess or Umbrella Liability coverage with a minimum limit of two million dollars (\$2,000,000) coverage in excess of the coverage as set forth in items 2, 3, and 4 above.

9.9.6 Employee Dishonesty (Fidelity) and Computer Crime coverage (for losses arising out of or in connection with any fraudulent or dishonest acts committed by employees of ADP, acting alone or in collusion with others) with a minimum limit of ten million dollars (\$10,000,000).

9.9.7 Errors & Omissions coverage (including Cyber Liability) in the amount of ten million dollars (\$10,000,000).

Subject to ADP's right to self-insure coverage as set forth below, the foregoing coverages shall be maintained with insurers which have an A.M. Best rating of A- or better and /or an equivalent rating from a recognized insurance company rating agency.

ADP's policies shall be primary and any insurance maintained by Client is excess and noncontributory. Within five (5) business days of the execution of this Agreement, ADP shall cause its insurers or insurance brokers to issue certificates of insurance evidencing that the coverages required under this Agreement are maintained and in force. ADP agrees to add Client as an additional insured to the coverages set forth in Sections 9.9.3 (Commercial General Liability) and 9.9.4 (Business Automobile Liability) only. In addition, ADP's insurers or insurance brokers will use reasonable efforts to give thirty days' notice to Client prior to cancellation or non-renewal of any of the policies providing such coverage; provided, however that ADP shall not be obligated to provide such notice if, concurrently with such cancellation or non-renewal, ADP provides self-insurance coverage as described below or obtains coverage from another insurer meeting the requirements described above.

Notwithstanding the foregoing, ADP reserves the right to self-insure coverage (directly or through the corporate risk management programs of its ultimate corporate parent, Automatic Data Processing, Inc.), in whole or in part, in the amounts and categories designated above, in lieu of ADP's obligations to maintain insurance as set forth above, at any time.

This section does not replace or otherwise amend, in any respect, the limitations on ADP's liability as set forth elsewhere in this Agreement.





Client desires to receive and ADP agrees to provide the following Services to Client in addition to those already provided under the Agreement.

1. **Definitions.** Unless a capitalized term used herein is defined herein, it shall have the same meaning ascribed that term in the Agreement.
 - 1.1. **"Client Content"** means all information and materials provided by Client, its agents or employees, regardless of form.
 - 1.2. **"Employment Tax Services"** means the coordination of payroll-related tax and/or regulatory agency deposits, filings and reconciliations on behalf of employers.
 - 1.3. **"Tax Locator"** has the meaning set forth in Section 3.1.
2. **Service Summary.**
 - 2.1. **Employment Tax Services.** Coordination of payroll-related tax and/or regulatory agency deposits, filings, and reconciliations on behalf of employers.
3. **Additional Terms.** The following additional terms and conditions apply to the Employment Tax Services:
 - 3.1. **ADP Tax Locator.** The Employment Tax Services in the United States shall include access to the tax locator, a tool which helps Client locate municipal, school district, county and state codes and tax rates for new hires and transferred employees based upon their work and home addresses ("**Tax Locator**"). Client is solely responsible for the accuracy of data Client inputs into the Tax Locator, and the data Client generates and uses from the Tax Locator.
 - 3.2. **Important Tax Information (IRS Disclosure).** Notwithstanding Client's engagement of ADP to provide the Employment Tax Services in the United States, please be aware that Client remains responsible for the timely filing of payroll tax returns and the timely payment of payroll taxes for its employees. The Internal Revenue Service recommends that employers enroll in the U.S. Treasury Department's Electronic Federal Tax Payment System (EFTPS) to monitor their accounts and ensure that timely tax payments are being made for them, and that online enrollment in EFTPS is available at www.eftps.gov; an enrollment form may also be obtained by calling (800) 555-4477; that state tax authorities generally offer similar means to verify tax payments; and that Client may contact appropriate state offices directly for details.
 - 3.3. **Additional Termination Provisions for Employment Tax Services.** If the Employment Tax Services are terminated, Client's access to ADP websites containing Client's data will expire 90 days from the effective date of the termination, and Client will be responsible for downloading all relevant data, including Statements of Deposit (SODs) prior to the expiration of such access. ADP may terminate the Tax Locator feature of the Employment Tax Services at any time by providing 30 days written notice to Client.
 - 3.4. **Further Limitation of Liability.** The provisions of this Section 3.4 supplement the provisions of Section 7.3 of Annex A. The limit on ADP's liability set forth in Section 7.3 of Annex A shall not apply to (i) interest charges imposed by an applicable taxing authority on Client for the failure by ADP to pay funds to the extent and for the period that such funds were held by ADP and (ii) all tax penalties resulting from ADP's error or omission in the performance of the Employment Tax Services. The provisions of this Section 3.4 shall only apply if (x) Client permits ADP to act on Client's behalf in any communications and negotiations with the applicable taxing authority that is seeking to impose any such penalties or interest and (y) Client assists ADP as reasonably required by ADP.





ANNEX G
ADP PRINT AND ONLINE PAY STATEMENTS

Client: Township of West Orange

Client desires to receive and ADP agrees to provide the following Services to Client in addition to those already provided under the Agreement.

1. Service Summary.

1.1. Print and Online Statement Services. Print and distribution of payroll checks, pay statements, and/or year-end statements, as well as online posting of pay statements and/or year-end statements.

2. Additional Terms. The following additional terms and conditions apply to the Print and Online Statement Services:

2.1. Online Statements. If Client instructs ADP to provide online pay statements, Forms W2, or Forms 1099 without physical copies thereof, Client will be exclusively responsible for determining if and to what extent Client's use of online pay statements, Forms W2 or Forms 1099 satisfies Client's obligations under applicable laws and the consequences resulting from such determinations.



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Client desires to receive and ADP agrees to provide the following Services to Client in addition to those already provided under the Agreement.

1. **Definitions.** Unless a capitalized term used herein is defined herein, it shall have the same meaning ascribed that term in the Agreement.
 - 1.1. **"ADPCheck"** means checks printed and distributed by ADP to Payees pursuant to Client's direction.
 - 1.2. **"ADPCheck Services"** refers to ADP's payment of Client's Payees for Permitted Payments through ADPCheck.
 - 1.3. **"ADP Direct Deposit Services"** means ADP's full service direct deposit services which includes ADP's payment of Client's Payees who have elected to receive Permitted Payments by direct deposit into an account at a financial institution of such Payee's selection.
 - 1.4. **"ALINE Card"** means the pre-paid card issued to Client's Payees for Permitted Payments.
 - 1.5. **"ALINE Card Services"** refers to ADP's payment of Client's Payees through an ALINE Card issued by the Issuing Bank.
 - 1.6. **"ALINE Cardholder"** means the Payees of Client who receives an ALINE Card.
 - 1.7. **"Identity Verification Documents"** means the documents that meet the federal requirements for verifying a Payee's identity and eligibility to work in the U.S. (e.g., (i) a passport, (ii) a U.S. issued driver's license or picture identification card issued by a state or U.S. federal agency and social security card, or (iii) a U.S. issued driver's license and birth certificate).
 - 1.8. **"Issuing Bank"** means the financial institution selected by ADP that issues the ALINE Card.
 - 1.9. **"NACHA"** means the National Automated Clearing House Association.
 - 1.10. **"Payee"** means any intended recipient of payments under the Payment Services and may include Client's employees, taxing authorities, governmental agencies, suppliers, benefit carriers and/or other third parties; provided that in the case of Wage Payment Services, Payee shall be limited to Client's employees and independent contractors.
 - 1.11. **"Permitted Payment"** means the legal payment of wages, commissions, consulting fees or similar compensation or work-related expenses in the employment context.
 - 1.12. **"Regulation E"** means the Federal Reserve Board, Regulation E (12 CFR 1005).
2. **Service Summaries.**
 - 2.1. **Wage Payment Services.** Payment of wages, commissions, consulting fees or similar compensation or work-related expenses in the employment context to employees and independent contractors via direct deposit, check, or payroll debit cards, in each case to the extent the method of payment delivery is in scope, and online posting of pay statements. Such services may be provided via ADPCheck Services, ADP Direct Deposit Services and ALINE Card Services.
3. **Additional Terms.** The following additional terms and conditions apply to the Wage Payment Services:
 - 3.1. **ADPCheck Services.** Client agrees not to distribute any ADPChecks to Payees in a manner that would allow Payees to access the associated funds before pay date. With respect to ADPChecks drawn on an ADP bank account, to request a stop payment, Client shall provide ADP with a written stop payment order request in the form provided by ADP and ADP shall place a stop payment order in accordance with its standard operating procedures.
 - 3.2. **ALINE Card Services.** To the extent received, Client will be responsible for securing all welcome kits to prevent unauthorized access or use.





- 3.2.1. ALINE Cardholder Set-Up.** Client will set-up (or cause ADP to set-up) each Payee as a ALINE Cardholder using data and procedures required by the Issuing Bank or ADP. Client shall obtain all necessary consents of each Payee included in submitted set-up data that is required under applicable law and rules, including NACHA, for Payee to (i) receive payments from Client on its ALINE Card and (ii) participate in the ALINE Card Services, and Client is responsible for reviewing and confirming that all enrollment information supplied to ADP is accurate and complete.

Prior to set-up of any Payee on the ALINE Cardholder database and distribution of an ALINE Card to the Payee, Client will verify the Identity Verification Documents. Client shall obtain from the Payee and provide to ADP the following information: (a) name; (b) residential address (a P.O. Box is not acceptable); (c) date of birth; (d) social security number; and (e) personal telephone number. Client agrees to provide any additional information as may be required by ADP or the Issuing Bank. Client will not provide ALINE Card to individuals outside the United States without the express written consent of ADP. Client further agrees that ADP or Issuing Bank (directly or through a subcontractor) may seek identity information and legal documentation directly from the Payee to verify the identity of any Payee and that a Payee may be denied ALINE Card Services for several reasons, including failure to validate the personal information of the Payee. For each ALINE Cardholder, Client will make and preserve either of the following: (1) a copy of the Identity Verification Documents; or (2) a description of the Identity Verification Documents, noting the date reviewed, type of document, and if applicable, the document's identification number, place of issuance and issuance and expiration date, provided Client will preserve a copy of all Identity Verification Documents for Payees who are form 1099 independent contractors. Client shall retain such documentation during the time that such Payee is a ALINE Cardholder until the earlier of (x) five years from termination of Client's obligation to make payments to such Payee or (y) five years from termination of such Payee's ALINE Card account; provided, however, that in the event a longer retention period is required for the Issuing Bank or ADP to meet its legal obligations, as a result of a change in applicable law or official interpretations thereof, ADP shall provide notice of such longer retention period and Client shall retain such documentation for such longer retention period.

- 3.2.2. Enrolling Employees for Cards.** Prior to providing Payee's information to ADP to issue a permanent ALINE Card or Client enrolling a Payee for an instant issue ALINE Card, Client shall provide each Payee with the notice required under the USA Patriot Act which reads as follows: **"IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW PREPAID CARD ACCOUNT.** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open a prepaid card account, we may require your name, address, date of birth, social security number, tax identification number and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents." The USA Patriot Act notice may be updated from time to time by ADP or the Issuing Bank.

Prior to or in conjunction with distributing an ALINE Card to any Payee, Client shall remove the account routing information from the card kit. Client shall not, disclose or make available the account routing (ABA/DDA) number to any Payee and shall always direct Payees to the ALINE Cardholder services telephone number to obtain such account routing (ABA/DDA) number. Payees must accept the ALINE Cardholder Terms and Conditions, and the ALINE Card may be cancelled by ADP or the Issuing Bank at any time in accordance with the ALINE Cardholder Terms and Conditions. Client will provide ALINE Cardholders with any other information and materials regarding the ALINE Card Services provided to it from time to time as determined by ADP. The amounts to be loaded to each ALINE Cardholder's ALINE Card will be provided to ADP by Client through one of ADP's standard payroll transmission methods available to Client or another means agreed to by ADP and Client.

- 3.2.3. ALINE Card Status, Services and Communications.** Client is responsible for ensuring that ALINE Cardholders are paid via an alternate pay method in such instances where a ALINE Cardholder's ALINE Card has not been activated, has terminated, cancelled or is in inactive status and even if a Payee has consented to receive their Permitted Payments by the ALINE Card. Client will direct ALINE Cardholders to ADP's ALINE Cardholder services with respect to any Card inquiries, to resolve all disputes regarding ALINE Card and to report any lost or stolen ALINE Cards, provided Client will resolve disputes by ALINE Cardholders regarding amounts credited or debited to the ALINE Cards at the request of Client (e.g., credits as a result of payroll). Client understands that it is not entitled to access or review any ALINE Cardholder transaction information and that it has no right to draw back any amounts funded to the ALINE Card other than due to an error. Notwithstanding the foregoing, in limited circumstances (e.g., where necessary to investigate or prevent fraud) and consistent with the applicable ALINE Cardholder privacy notice, ADP may provide certain ALINE Cardholder transaction information to Client. ALINE Cardholders may receive notices, mailings and other communications related to the Card and Card features (e.g., secondary cards, card portability, reward programs, etc.) from or on behalf of ADP or the Issuing Bank.

- 3.2.4. Issuing Bank.** All ALINE Cards issued to ALINE Cardholders are the property of the Issuing Bank and are subject to cancellation by the Issuing Bank at any time in accordance with the Issuing Bank's ALINE Cardholder Terms and Conditions.





The ALINE Card Services may be modified as required by the Issuing Bank and as ADP may deem appropriate to assist ADP or the Issuing Bank in complying with its obligations, including legal and regulatory obligations.

- 3.2.5. ALINE Cardholder Fees.** Client acknowledges that separate fees as set forth on the fee schedule provided in the card kit prior to activation of the ALINE Card will be applied to the ALINE Card and are the responsibility of the ALINE Cardholder. Such ALINE Cardholder fees are subject to change in accordance with the ALINE Cardholder Terms and Conditions applicable to the ALINE Cards.
- 3.2.6. Information Requests.** Client agrees that upon prior notice from ADP or the Issuing Bank, ADP, the Issuing Bank and any regulatory authorities with jurisdiction over the Issuing Bank or ADP shall have the right to inspect Client's books and records related to Client's use of the ALINE Card Services and Client's performance of its obligations with respect thereto.
- 3.2.7. Third Party Beneficiary.** Notwithstanding anything to the contrary in Annex A, Client agrees that the Issuing Bank (and its respective successors and assigns) is a third party beneficiary of this Agreement, but solely as it relates to the ALINE Card Services, and is entitled to enforce each of the applicable provisions Client as well as the limit on liability provisions of Section 7 of Annex A, including in equity and in law, as if it or they were a party hereto.
- 3.2.8. Compliance.** Notwithstanding anything to the contrary in Section 2.3 of Annex A, ADP shall be responsible for compliance with requirements of Regulation E applicable to financial institutions with respect to payroll card accounts, provided Client will fulfill the compliance responsibilities of Regulation E that Client controls, including: (a) Client will distribute to its Payees all documentation (including without limitation, ALINE Card fee schedule and ALINE Cardholder Terms and Conditions) that ADP makes available to Client for distribution purposes, and (b) Client will not mandate or unduly influence that any Payee receive Permitted Payments only on the ALINE Card; in lieu of such mandate, Client will provide to Payees other legally permissible options for payment of Permitted Payments. Client agrees that it will not rely solely on its use of the ALINE Card Services in complying with any laws and governmental regulations and that it will comply with the financial industry rules and compliance standards imposed by various card/payment networks or associations (e.g., related to such things as card security and fraudulent or impermissible use of ALINE Cards).
- 3.2.9. Additional Termination Provisions for ALINE Card Services.** In addition to any other terms and conditions of the Agreement, ADP may terminate the ALINE Card Services as follows: (i) the ALINE Card Services (or any feature thereof) in any designated jurisdiction may be terminated on 60 days' notice to Client if ADP or the Issuing Bank believes that any changes in any Network Rules or NACHA rules, or changes to, or interpretations of, applicable law by any federal, state or local governmental authority, or any formal or informal order, instruction or directive communicated to ADP or the Issuing Bank by such authority make it commercially impractical to continue to provide the ALINE Card Services (or any feature thereof) in such jurisdiction; or (ii) the Issuing Bank cancels the ALINE Cards issued on behalf of Client (e.g., due to Client's non-compliance with its obligations) or advises ADP that it is no longer willing to service the ALINE Card, provided that in such later instance ADP shall take commercially reasonable steps to engage a successor Issuing Bank, and provided further that ADP shall not be liable for any delay in providing the ALINE Card Services during such search for a successor Issuing Bank.





ANNEX W-1
ADP WAGE GARNISHMENTS DISBURSEMENT SERVICES

Client: Township of West Orange

Client desires to receive and ADP agrees to provide the following Services to Client in addition to those already provided under the Agreement.

1. **Definitions.** Unless a capitalized term used herein is defined herein, it shall have the same meaning ascribed that term in the Agreement.

- 1.1. **"ADPCheck"** means checks printed and distributed by ADP to Payees pursuant to Client's direction.

2. **Service Summary.**

- 2.1. **Wage Garnishment Disbursement Services.** Garnishment payment processing and disbursement of payments to appropriate payees as directed by client.

3. **Additional Terms.** The following additional terms and conditions apply to the Wage Garnishment Disbursement Services:

- 3.1. **Description of Services.** ADP will act solely in the capacity of a third party service provider of payment processing. ADP may from time to time provide Client reasonable instructions or best practice recommendations which Client may follow, and/or documents, including documents populated with Client Content, for Client's use and ADP shall not be responsible for compliance of such documents. The Wage Garnishment Disbursement Services are not a substitute for the advice of an attorney. Client agrees that ADP is not a law firm, does not provide legal advice or representation and that no attorney-client relationship exists or will be formed between ADP and Client.

- 3.2. **Client's Use of Services.** Client agrees not to distribute any ADPChecks to Payees in a manner that would allow Payees to access the associated funds before pay date.



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PAYMENT SERVICES

Client desires to receive and ADP agrees to provide the following Services to Client in addition to those already provided under the Agreement.

1. **Definitions.** Unless a capitalized term used herein is defined herein, it shall have the same meaning ascribed that term in the Agreement.

- 1.1. "NACHA" means the National Automated Clearing House Association.

- 1.2. "Payee" means any intended recipient of payments under the Payment Services and may include Client's employees, taxing authorities, governmental agencies, suppliers, benefit carriers and/or other third parties; provided that in the case of Wage Payment Services, Payee shall be limited to Client's employees and independent contractors.

- 1.3. "Payment Services" means Services that involve electronic or check payments being made by ADP to third parties on Client's behalf and at its direction.

2. **Additional Terms.** The following additional terms and conditions apply to the Payment Services:

- 2.1. **Suspension.** Without limiting the foregoing, the parties agree that Payment Services involve credit risk to ADP. Payment Services may be suspended by ADP (A) immediately following notice to Client (i) that Client has failed to remit sufficient, good and available funds within the deadline and via the method of delivery set forth in the Pricing Appendix (or otherwise mutually agreed to in writing by the parties) as it relates to the applicable Payment Services, or (ii) if Client breaches any rules promulgated by NACHA as it relates to ADP conducting ACH transactions on behalf of Client, and (B) with 24 hour notice if: (i) a bank notifies ADP that it is no longer willing to originate debits from Client's account(s) or credits for Client's behalf for any reason or (ii) the authorization to debit Client's account is terminated or ADP reasonably believes that there is or has been fraudulent activity on the account. If the Payment Services are terminated or suspended pursuant to Section 8.4 of Annex A or this Section, Client acknowledges that ADP shall be entitled to allocate any funds in ADP's possession that have been previously remitted or otherwise made available by Client to ADP relative to the Payment Services in such priorities as ADP may determine appropriate, including reimbursing ADP for payments made by ADP on Client's behalf to a third party. If the Payment Services are terminated by ADP, Client understands that it will (x) immediately become solely responsible for all of Client's third party payment obligations covered by the Payment Services then or thereafter due (including, without limitation, for Employment Tax Services, any and all penalties and interest accruing after the date of such termination, other than penalties and interest for which ADP is responsible under Section 3 of Annex E), and (y) reimburse ADP for all payments properly made by ADP on behalf of Client to any payee, which has not been paid or reimbursed by Client. If the Payment Services remains suspended for 30 days, the affected Payment Service shall be deemed terminated on the 31st day following suspension.

- 2.2. **Client Credentialing.** Client understands and acknowledges that the implementation and ongoing provision of Payment Services are conditioned upon Client passing (and continuing to pass) a credentialing process that ADP may deem necessary in connection with the provision of Payment Services.

- 2.3. **Additional Requirements.** Payment Services may be subject to the rules and standards of any applicable clearing house, payment and/or card networks or associations. Client and ADP each agree to comply with all such rules and standards applicable to it with respect to the Payment Services.

- 2.4. **Funding Obligations.** Client acknowledges that ADP is not a lender. As such, as a condition to receiving services, Client will remit or otherwise make available to ADP sufficient, good and available funds within the agreed-to deadline and via the agreed-to method of delivery to satisfy all of Client's third-party payment obligations covered by the Agreement. ADP will apply such funds to satisfy such third-party payment obligations. ADP will not be required to provide Payment Services if ADP has not received all funds required to satisfy Client's third-party payment obligations. Client will immediately notify ADP if it knows or should know that it will not have sufficient funds to satisfy the amounts required in connection with the Payment Services. If Client has a material adverse change in its condition, ADP may modify the funding method or deadline by which funds must be made available to ADP for payment to Payees. Client agrees to pay to ADP upon demand any amounts that have been paid by ADP to satisfy Client's third party payment obligations prior to receiving such amounts from Client.





- 2.5. Investment Proceeds; Commingling of Client Funds.** IF ADP RECEIVES CLIENT'S FUNDS IN ADVANCE OF THE TIME ADP IS REQUIRED TO PAY SUCH FUNDS TO THIRD PARTIES, ALL AMOUNTS EARNED ON SUCH FUNDS, IF ANY, WHILE HELD BY ADP WILL BE FOR THE SOLE ACCOUNT OF ADP. ADP may commingle Client's funds with similar funds from other clients and with similar ADP and ADP-administered funds. ADP utilizes a funds control system that maintains general ledger entries by client and/or by jurisdiction.
- 2.6. Recovery of Funds; Stop Payment Requests.** Client agrees to cooperate with ADP and any other third parties to recover funds erroneously issued or transferred to any Payee or credited to any Payee's account. If Client desires to stop payment on any check or to recall or reverse any electronic payment, Client will provide ADP with a stop payment request in the form required by ADP. Client acknowledges that ADP's placement of a stop order request is not a guarantee that such stop payment will occur.

