CITY OF GROSSE POINTE WOODS

20025 Mack Plaza Drive
Grosse Pointe Woods, Michigan 48236-2397

(313) 343-2440
Fax (313) 343-2785

NOTICE OF MEETING
AND
AGENDA

COMMITTEE-OF-THE-WHOLE

Mayor Robert E. Novitke has called a meeting of the City Council, meeting as a Committee-of-the-Whole, for **Monday, December 6, 2010, at 7:00 p.m.** The meeting will be held in the Conference Room of the Municipal Building, 20025 Mack Plaza, and is accessible through the Municipal Court doors. In accordance with Public Act 267, the meeting is open to the public and the agenda items are as follows:

1. Call to Order

2. Roll Call

3. Acceptance of Agenda

4. Public Safety Department

   A. Memo 11/30/10 – City Administrator

5. Finance Department

   A. Memo 11/29/10 – Treasurer/Comptroller – City Administrator
   B. Proposed Agreement – ADP Major Account Services

6. New Business

7. Adjournment

Alfred Fincham
City Administrator

cc:
Council – 6
Ahee
Berschback
Director of DPS
Rec. Secretary

Tutag
Hathaway
Irby
Fincham
Grosse Pointe News

Post - 8
File
Granger - Email

CITY OF GROSSE POINTE WOODS
DEPARTMENT OF PUBLIC SAFETY

Date: November 30, 2010

To: Lisa Hathaway, City Clerk

From: Al Fincham, City Administrator

Subject: Sergeant Promotions/COW Agenda Item

It is my intent 2 promote 3 officers' to Sergeant in order to re-align the organizational structure of the Public Safety Department. The following individuals are slated to be promoted and I request they be sworn in, in the following order for Seniority in rank consideration.

David Gardzella: A 16yr. member of the Department
Richard Dutcher: A 16yr. member of the Department
Keith Waszak: An 11yr. member of the Department

All officers bring professionalism to the Department and are highly respected among the department personnel and peers. Please put this promotional item on the Cow agenda for December 6th, 2010

The promotions are budgeted positions.

If you have any questions or need any further information, please contact me.

CITY OF GROSSE POINTE WOODS
MEMORANDUM

Date: November 29, 2010

To: Mayor and City Council

From: Dee Ann Irby, Treasurer/Comptroller
Al Fincham, City Administrator

Subject: ADP Payroll Major Account Services Agreement

In conjunction with reorganizing the Treasurer/Comptroller and Assessing Departments, the City Administrator and I agree that outsourcing payroll will result in a cost savings to the City.

The anticipated annual cost to outsource payroll is $8,000; which is net of the in-house cost of software maintenance and purchase of checks and W-2 supplies. The annual cost will be offset by eliminating the part-time contractual position in the Assessing Department, when that contract expires in June, 2011. The total anticipated cost savings in FY 2011-12 is $21,000.

Attached is the Major Accounts Agreement for the purpose of outsourcing payroll. City Attorney Don Berschback reviewed the agreement and did not suggest any changes. We recommend City Council authorize the City Administrator to sign attached agreement, effective January 1, 2011.

Please feel free to call if you have any questions.

20025 Mack Plaza Drive, Grosse Pointe Woods, Michigan 48236-2397
Phone: (313) 343-2604 • Fax: (313) 343-2785 • Email: dairby@gpwmi.us

ADP Major Account Services

MAJOR ACCOUNTS AGREEMENT

This Major Accounts Agreement ("Agreement") dated _____ (the "Effective Date"), is by and between
_____ with offices at
_____ ("Client")
and ADP, Inc. with its principal office at One ADP Boulevard, Roseland, New Jersey 07068 ("ADP") for the procurement of Services (as defined in Section 1A below) from ADP in accordance with this Agreement. All references herein to "Client" shall refer to Client and its affiliates that are receiving the Services and ADP Products (as those terms are defined in section 1A) pursuant hereto. For purposes of this Agreement "affiliate" shall mean with respect to any individual, corporation or partnership or any other entity or organization (a "person"), any person that controls, is controlled by or is under common control with such person in question. For purposes of the preceding definition, "control" as used with respect to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through ownership of voting securities or by contract or otherwise.

1. GENERAL TERMS

A. **Services.** ADP shall provide payroll, tax filing, self-service benefits administration and other data processing services, including related web hosting services (the "Services"), equipment, computer programs, software (other than pre-packaged third-party software), and documentation ("ADP Products") all as further detailed in the description of services found at www.productdescription.majoraccounts.adp.com (which may be modified from time to time) and in accordance with the Sales Order(s). Client acknowledges and agrees that ADP will not be deemed to be providing legal, financial, benefits, or tax advice to Client as a result of the ADP Products and Services provided herein. If Client is receiving any of the Services that require ADP, as part of such Services, to impound funds from Client's bank account to pay Client's third-party payment obligations (e.g., Tax Filing Services, WGPS, TotalPay® Card, FSDD Services and/or ADPCheck™ Services) ("Payment Services"), Client shall have sufficient, collected funds in Client's account within the deadline established by ADP to satisfy such third-party payment obligations in their entirety. ADP may commingle Client's impounded funds with other clients', ADP's, or ADP-administered funds of a similar type. ALL AMOUNTS EARNED ON SUCH FUNDS WHILE HELD BY ADP WILL BE FOR THE SOLE ACCOUNT OF ADP.

B. **Accuracy of Client Information. Review of Data.** All Services provided hereunder will be based upon information provided to ADP by Client (including proof of federal, state, and local tax identification numbers). Upon receipt from ADP, whether electronically or otherwise, Client will promptly review all disbursement records and other reports prepared by ADP for validity and accuracy according to Client's records and Client agrees that it will promptly notify ADP of any discrepancies (in any case before distributing any paychecks or relying on any such disbursement records or reports). To help prevent employee fraud, ADP recommends that Client has someone other than its designated payroll contact, review its disbursement reports; a prompt and thorough review allows Client to spot and correct errors and inconsistencies.

C. **Protection of Client Files.** ADP maintains appropriate security measures to protect the personal information of Client's employees and payees consistent with applicable state and federal laws including the Massachusetts Standards for The Protection of Personal Information of Residents of the Commonwealth (201 CMR 17.00). Additionally, ADP will employ commercially reasonable storage (including backup, archive and redundant data storage, on-site and off-site) and reasonable precautions to prevent the loss of or alteration to Client's data files and/or Client Content (as defined in Section 1H) in ADP's possession, but ADP does not undertake to guarantee against any such loss or alteration. ADP is not, and will not be, Client's official record keeper. Accordingly, Client will, to the extent it deems necessary, keep copies of all source documents of the information delivered to ADP (including maintaining printouts or electronic copies of Client Content input into any ADP Internet Services (as defined in Section 1H)).

D. **Use of ADP Products and Services.** ADP Products and Services include confidential and proprietary information. Client shall use the ADP Products and Services only for the internal business purposes of Client. Client shall not provide, directly or indirectly, any of the ADP Products or Services or any portion thereof to any party other than the Client. Client shall not provide service bureau or other data processing services that make use of the ADP Products or Services or any part thereof without the express written consent of ADP. Client represents that it has verified the identity of each of its employees to whom it will make payments using ADP Products or Services through appropriate documentation provided by such employee (e.g., I-9 documentation). Client shall be responsible for ensuring that its employees, plan participants and any other persons authorized by Client to access or use the Services comply with all the terms of this Agreement.

E. **Compliance with Laws.** Client acknowledges that the ADP Products and Services are designed to assist Client in complying with applicable laws and governmental regulations, but that Client, and not ADP, shall be solely responsible for (i) compliance with all laws and governmental regulations affecting its business, and (ii) any use Client may make of the ADP Products and/or Services (including any reports and worksheets produced in connection therewith) to assist it in complying with such laws and governmental regulations. Client will not rely solely on its use of the ADP Products and/or Services in complying with any laws and governmental regulations (including but not limited to any applicable Office of Foreign Assets Control ("OFAC") screening requirement). Each party will be responsible for complying with all requirements of applicable law or regulation (i) that affect its business generally or (ii) regarding security breaches and suspected security breaches involving personal information that is stored on the computer systems of such party or its subcontractors. Payment Services are subject to the operating rules of the National Automated Clearing House Association ("NACHA"). ADP and Client each agree to comply with the NACHA rules applicable to it with respect to Payment Services.

F. **License Rights.** The right to use the ADP Products is granted to Client for the sole purpose of utilizing the Services as provided herein. Any license or right to access the ADP Products shall automatically terminate upon ADP ceasing to provide Client with related Services; provided, however, that Client shall be entitled to retain any time collection equipment that has been purchased and paid for in full by Client.

G. <u>Online Access</u>. Certain ADP Products or Services may be accessed by Client and its authorized employees and plan participants through the Internet at a website provided by ADP or on behalf of ADP, including those hosted by ADP on behalf of Client (a "Site"). In addition, Client acknowledges that security of transmissions over the Internet cannot be guaranteed. ADP is not responsible for (i) Client's access to the Internet, (ii) interception or interruptions of communications through the Internet, or (iii) changes or losses of data through the Internet, in each case other than to the extent caused solely by ADP. In order to protect Client's data, ADP may suspend Client's, Client's employees', or plan participants' use of the ADP Products or Services via the Internet immediately, without prior notice, pending an investigation, if any breach of security is suspected.

H. <u>Client Content</u>. "Client Content" shall mean (i) payroll, benefits, human resources and similar information provided by Client or its employees or plan participants, including transactional information, as well as (ii) Client's trademarks, trade names, service marks, logos and designs provided by Client, (the "Authorized Marks"); which ADP includes, either directly as part of its setup services or through Client or any of its employees or plan participants, in any web-based ADP Product, including ADP Workforce Now™ (collectively "ADP Internet Services"). Client shall be solely responsible for obtaining all required rights and licenses to use and display the Client Content and for updating and maintaining the completeness and accuracy of all Client Content. Client grants ADP a right to use the Client Content for the sole purpose of performing the Services for Client.

I. <u>ADP Content</u>. ADP Workforce Now is ADP's web-based portal which provides a single point of access to ADP online solutions and employee-facing websites and resources related to payroll, HR and benefits, and time and attendance. Client understands that ADP may include informational content, forms and tools, as well as banner advertisements for ADP and/or third-party products and services, on the client self-administration portion of ADP Workforce Now as well as the employee self-service portion of ADP Workforce Now. Upon written request by Client, ADP will remove banner advertisements that ADP has posted to ADP Workforce Now, which represent offers or promotions from ADP or ADP partners. The availability and use of such content, forms and tools and banner advertisements shall be subject to the online terms (the "Online Terms"). Client's business dealings with any third-party advertiser found on ADP Workforce Now are solely between Client and such advertiser and ADP shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers on ADP Workforce Now.

J. <u>No Transfer, Modification, etc</u>. Client shall not assign, loan, sublicense, alter, modify, adapt (or cause to be altered, modified or adapted), reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purposes, all or any portion of the ADP Internet Services or any access or use thereof. Client will not write or modify interfaces or reports to any ADP Internet Service except as expressly authorized by ADP. CLIENT WILL NOT RECOMPILE, DISASSEMBLE, REVERSE ENGINEER, OR MAKE OR DISTRIBUTE ANY OTHER FORM OF, OR ANY DERIVATIVE WORK FROM ADP WORKFORCE NOW.

K. <u>Password Protection</u>. Client agrees to maintain the privacy of usernames and passwords associated with ADP Internet Services. Client is fully responsible for all activities that occur under Client's password or Internet account. Client agrees to (i) immediately notify ADP of any unauthorized use of Client's password or Internet account or any other breach of security, and (ii) ensure that Client exits from Client's Internet account at the end of each session. ADP shall not be liable for any damages incurred by Client or any third party arising from Client's failure to comply with this section.

L. <u>Links to Third-Party Sites</u>. The Site(s) may contain links to other Internet sites. Links to and from a Site to other third-party sites do not constitute an endorsement by ADP or any of its subsidiaries or affiliates of such third-party sites or the acceptance of responsibility for the content on such sites.

M. <u>Transmission of Data</u>. In the event that Client requests that ADP provide any Client Content or employee or plan participant information to any third party or to any non-U.S. Client location, Client represents that it has acquired any consents or provided any notices required to transfer such content or information and that such transfer does not violate any applicable international, federal, state or local laws and/or regulations.

2. **FEES, PAYMENTS, AND TAXES**

A. <u>Fees</u>. Client shall pay ADP for the ADP Products and Services at the rates specified in (i) a Price Agreement, if any, for the term set forth therein or, if none, (ii) the Sales Order for the first six (6) months after the Effective Date (assuming no changes in requirements, specifications, volumes or quantities) (the "Initial Period"). Client shall pay ADP for the ADP Products and Services added by Client after the Effective Date at ADP's then prevailing prices for such ADP Products and Services. ADP may increase prices for the ADP Products and Services at any time after the Initial Period upon at least thirty (30) days prior written notice to Client if such change is part of a general price change by ADP to its clients for affected items.

B. <u>Payments</u>. Client will pay all invoices in full within thirty (30) days of the invoice date. Client shall reimburse ADP for any expenses incurred, including interest and reasonable attorney fees, in collecting amounts due ADP hereunder that are not under good faith dispute by Client.

C. <u>Taxes</u>. Client shall be responsible for payment of all taxes (excluding those on ADP's net income) relating to the provision of ADP Products and Services, except to the extent a valid tax exemption certificate or other written documentation acceptable to ADP to evidence Client's tax exemption status is provided by Client to ADP prior to the delivery of Services.

3. **DISCLAIMER OF WARRANTIES**

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALL EQUIPMENT PROVIDED BY ADP OR ITS SUPPLIERS IS PROVIDED "AS IS" AND ADP AND ITS LICENSORS EXPRESSLY DISCLAIM ANY WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INTERRUPTION OF USE, AND FREEDOM FROM PROGRAM ERRORS, VIRUSES OR ANY OTHER MALICIOUS CODE WITH RESPECT TO THE SERVICES, THE ADP PRODUCTS, ANY CUSTOM PROGRAMS CREATED BY ADP OR ANY THIRD-PARTY SOFTWARE DELIVERED BY ADP. ADP AND ITS LICENSORS FURTHER DISCLAIM ANY WARRANTY THAT THE RESULTS OBTAINED THROUGH THE USE OF THE SERVICES, THE ADP PRODUCTS, ANY CUSTOM PROGRAMS CREATED BY ADP OR ANY THIRD-PARTY SOFTWARE DELIVERED BY ADP WILL MEET CLIENT'S NEEDS.

4. INTELLECTUAL PROPERTY

A.   <u>Ownership and Proprietary Rights</u>. All ADP Products licensed to Client hereunder are the licensed and/or owned property of and embody the proprietary trade secret technology of ADP and/or its licensor(s) and are protected by copyright laws, international copyright treaties, as well as other intellectual property laws, that among other things, prohibit the unauthorized use and copying of any ADP Products. Client receives no rights to any ADP Products or any intellectual property of ADP or its licensors, except as expressly stated herein.

B.   <u>ADP Indemnity</u>. Subject to the remainder of this Section 4B, ADP shall defend Client in any suit or cause of action, and indemnify and hold Client harmless against any damages payable to any third party in any such suit or cause of action, alleging that the ADP Products as used in accordance with this Agreement infringe any U.S. patent, copyright, trade secret or other proprietary right of any third party. The foregoing obligations of ADP are subject to the following requirements: Client shall take all reasonable steps to mitigate any potential damages which may result; Client shall promptly notify ADP of any and all such suits and causes of action; ADP controls any negotiations or defense of such suits and causes of action; and Client assists as reasonably required by ADP. The foregoing obligations of ADP do not apply to the extent that the infringing ADP Product or portions or components thereof or modifications thereto were not supplied or directed by ADP, or were combined with other products, processes or materials not supplied or directed by ADP (where the alleged infringements relates to such combination).

C.   <u>Use of Client's Authorized Marks</u>. In the event that ADP makes available branding of any materials, cards and/or websites associated with the ADP Products or Services and Client requests such branding, Client grants ADP, the card issuers and any third-party service providers designated by ADP the right to display Authorized Marks, subject to Client's right to review and approve the copy prior to the use of such Authorized Marks. This authorization shall cover the term of this Agreement and, if Client is receiving TotalPay® Card Services, any period of ongoing use of the cards by employees after termination of this Agreement.

5. NONDISCLOSURE

All Confidential Information (as defined below) disclosed hereunder 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, but in no case less than reasonable care. The receiving party will limit access to Confidential Information to its affiliates, employees and authorized representatives with a need to know and will instruct them to keep such information confidential. Notwithstanding the foregoing, the receiving party may disclose Confidential Information of the disclosing party (a) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it, (b) as appropriate and with prior notice where practicable, to respond to any summons or subpoena or in connection with any litigation, and (c) relating to a specific employee, to the extent such employee has consented to its release. 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. Notwithstanding the foregoing, ADP may retain information for regulatory purposes or in back-up files, provided that ADP's confidentiality obligations hereunder continue to apply. For purposes of this Section, "Confidential Information" shall mean: all information of a confidential or proprietary nature, including pricing and pricing related information and all personally identifiable payroll and employee-level data, provided by the disclosing party to the receiving party for use in connection with ADP Products or Services, or both, but does not include (i) information that is already known by the receiving party, (ii) information that becomes generally available to the public other than 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. The obligations of ADP set forth in this Section 5 shall not apply to any suggestions and feedback for product or service improvement, correction, or modification provided by Client in connection with any present or future ADP product or service, and, accordingly, neither ADP nor any of its clients or business partners shall have any obligation or liability to Client with respect to any use or disclosure of such information.

6. LIMITATION OF LIABILITY

A.   <u>ADP Responsibility</u>. ADP shall correct any Client report, data or tax agency filings, as the case may be, produced incorrectly as a result of an ADP error, at no charge to Client. Additionally, ADP shall reimburse Client for (i) actual damages incurred by Client as a direct result of the criminal or fraudulent acts or willful misconduct of ADP or any of its employees, (ii) any penalty imposed against Client as a result of an error or omission made by ADP in performing the Tax Filing Services or (iii) any interest assessed against Client as a result of ADP holding Client tax funds past the applicable due date due as a result of an error or omission made by ADP in performing the Tax Filing Services. ADP shall have no liability to Client for any third-party software that may be accessed by ADP Internet Services.

B.   <u>Limit on Monetary Damages</u>. Notwithstanding anything to the contrary contained in this Agreement (other than and subject to sections 4B and 6A above), ADP's aggregate liability under this Agreement during any calendar year for damages (monetary or otherwise) under any circumstances for claims of any type or character made by Client or any third party arising from or related to ADP Products or Services, will be limited to the lesser of (i) the amount of actual damages incurred by Client or (ii) the average monthly charges for three (3) months for the affected ADP Products or Services during such calendar year. ADP will issue Client a credit(s) equal to the applicable amount and any such credit(s) will be applied against subsequent fees owed by Client.

C.   <u>No Consequential Damages</u>. NEITHER ADP NOR CLIENT WILL BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER SIMILAR DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS OR DAMAGES FOR BUSINESS INTERRUPTION OR, LOSS OF INFORMATION) THAT THE OTHER PARTY MAY INCUR OR EXPERIENCE IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES OR ADP PRODUCTS, HOWEVER CAUSED AND UNDER WHATEVER THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7. TERM AND TERMINATION; DEFAULT BY CLIENT; REMEDIES UPON DEFAULT

A.   <u>Termination/Suspension</u>. Subject to the terms of any Price Agreement, entered into by ADP and Client, ADP or Client may terminate this Agreement or any Service(s) provided hereunder without cause upon at least ninety (90) or thirty (30) days, respectively, prior written notice. Either party may also suspend performance and/or terminate this Agreement immediately upon written notice at any time if: (i) the other party is in material breach of any material warranty, term, condition or covenant of this Agreement and fails to cure that breach within thirty (30) days after written notice thereof; (ii) the other party ceases business operations; or (iii) the other party becomes insolvent, generally

stops paying its debts as they become due or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other (and not dismissed within ninety (90) days after commencement of one of the foregoing events). ADP may also suspend performance and/or terminate this Agreement immediately without prior notice in the event Client, its employee(s) or any other third party (i) includes in any ADP Internet Services any Client Content which is obscene, offensive, inappropriate, threatening, or malicious; which violates any applicable law or regulation or any contract, privacy or other third party right; or which otherwise exposes ADP to civil or criminal liability or (ii) wrongfully uses or accesses the ADP Products or any other systems of ADP used in the performance of its obligations under this Agreement. Additionally, Payment Services may be immediately suspended or terminated by ADP without prior notice if (i) ADP has not received timely funds from Client as required by Section 1A above; (ii) a bank notifies ADP that it is no longer willing to originate debits from Client's account(s) and/or credits for Client's behalf for any reason; (iii) the authorization to debit Client's account is terminated or ADP reasonably believes that there is or has been fraudulent activity on the account; (iv) ADP reasonably determines that Client no longer meets ADP's credit/financial eligibility requirements for such Services; or (v) Client has any material adverse change in its financial condition.

B.   Post-Termination. If use of any ADP Products or Services is or may be terminated by ADP pursuant to Section 7A, ADP shall be entitled to allocate any funds remitted or otherwise made available by Client to ADP in such priorities as ADP (in its sole discretion) deems appropriate (including reimbursing ADP for payments made by ADP hereunder on Client's behalf to a third party). If any ADP Products or Services are terminated by either party, Client will immediately (i) become solely responsible for all of its third-party payment obligations covered by such ADP Products or Services (including, for Tax Filing Services, all related penalties and interest) then or thereafter due; (ii) reimburse ADP for all payments made by ADP hereunder on Client's behalf to any third party; and (iii) pay any and all fees and charges invoiced by ADP to Client relating to the ADP Products or Services.

8. FUNDING

Client shall be liable for debits properly initiated by ADP hereunder. Client unconditionally promises to pay to ADP the amount of any unfunded payroll file (including any debit that is returned to ADP because of insufficient or uncollected funds or for any other reason), plus any associated bank fees or penalties, upon demand and pay interest on the unfunded payroll amount at the rate of 1.5% per month (or the maximum allowed by law if less). Also, if any debit to an employee or other payee's account reversing or correcting a previously submitted credit(s) is returned for any reason, Client unconditionally promises to pay the amount of such debit upon demand and interest thereon at the rate set forth in this Section 8. Client shall be liable for, and shall indemnify ADP against, any loss, liability, claim, damage or exposure arising from or in connection with any fraudulent or criminal acts of Client's employees or payees. Client agrees to cooperate with ADP and any other parties involved in processing any transactions hereunder to recover funds credited to any employee as a result of an error made by ADP or another party processing a transaction on behalf of ADP.

9. MISCELLANEOUS

A.   Inducement. Client has not been induced to enter into this Agreement by any representation or warranty not set forth in this Agreement.

B.   Third-Party Beneficiaries. With respect to the ADP Products and Services, ADP suppliers, vendors and referral partners may enforce the same disclaimers and limitations against Client as ADP may under Sections 3 and 6 of this Agreement. Other than ADP suppliers, vendors, and referral partners who are intended third-party beneficiaries with respect to Sections 3 and 6 of this Agreement, nothing in this Agreement creates, or will be deemed to create, third-party beneficiaries of or under this Agreement. ADP has no obligation to any third party (including Client's employees and/or any taxing authority) by virtue of this Agreement.

C.   Force Majeure. Any party hereto will be excused from performance under this Agreement for any period of time that the party is prevented from performing its obligations hereunder as a result of an act of God, war, utility or communication failures, or other cause beyond the party's reasonable control. Both parties will use reasonable efforts to mitigate the effect of a force majeure event.

D.   Non-Hire. During the term of this Agreement and for the twelve (12) months thereafter, neither Client nor the ADP regions providing the Services, shall knowingly solicit or hire for employment or as a consultant, any employee or former employee of the other party who has been actively involved in the subject matter of this Agreement.

E.   Waiver. The failure of either party at any time to enforce any right or remedy available to it under this Agreement with respect to any breach or failure by the other party shall not be construed to be a waiver of such right or remedy with respect to any other breach or failure by the other party.

F.   Headings. The headings used in this Agreement are for reference only and do not define, limit, or otherwise affect the meaning of any provisions hereof.

G.   Severability. If any of the provisions of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of Client and ADP shall be construed and enforced accordingly.

H.   Relationship of the Parties. The parties hereto expressly understand and agree that each party is an independent contractor in the performance of each and every part of this Agreement, is solely responsible for all of its employees and agents and its labor costs and expenses arising in connection therewith.

I.   Governing Law. This Agreement is governed by the laws of the State of New York without giving effect to its conflict of law provisions.

J.   Limitation of Claims. No action arising under or in connection with this Agreement, regardless of the form, may be brought by Client more than two (2) years after Client becomes aware of or should reasonably have become aware of the occurrence of events giving rise to the cause of action.

K.   Regulatory Notice. No state or federal agency monitors or assumes any responsibility for the financial solvency of third-party tax filers.

L.   Use of Agents. ADP may designate any agent or subcontractor to perform such tasks and functions to complete any services covered under this Agreement. However, nothing in the preceding sentence shall relieve ADP from responsibility for performance of its duties under the terms of this Agreement.

M.   Entire Agreement and Conflicts Clause. This Agreement contains the entire agreement of the parties with respect to its subject matter and supersedes and overrides all prior agreements on the same subject matter, and shall govern all disclosures and exchanges of Confidential

Information made by the parties previously hereto. This Agreement shall not be modified except by a writing signed by ADP and Client. In the event of a conflict between the terms of this Agreement and any additional terms, the terms of this Agreement shall control, unless an Addendum to this Agreement is executed simultaneously herewith or subsequently hereto, in which case the terms of such Addendum shall control.

ADP, Inc.	CLIENT
ADP Sales Associate _____	Client Signature _____
Name _____ (type or print)	Name _____ (type or print)
Title _____ Date _____	Title _____ Date _____

PRODUCT SCHEDULE

To the extent that Client receives any of the following ADP Products or Services, the specified provisions relating to such ADP Products or Services received by Client shall apply.

FULL SERVICE DIRECT DEPOSIT: Prior to the first credit to the account of any employee or other individual (a "Payee"), Client shall obtain and retain a signed authorization from such Payee authorizing the initiation of credits to such Payee's account and debits of such account to recover funds credited to such account in error.

ADPCHECK™: Client shall not distribute any ADPChecks to Payees prior to the check date. If Client distributes any ADPChecks prior to the check date, ADP may impose an early cashing fee against Client. If Client desires to stop payment on any ADPCheck, Client shall provide ADP with a stop payment request in a form provided by ADP. ADP shall then place a stop payment order with ADP's bank within twenty-four (24) hours of ADP's receipt of such stop payment request. Client shall not request ADP to stop payment on any ADPCheck that represents funds to which the applicable Payee is rightfully entitled. Client agrees to indemnify, defend, and hold harmless ADP and its affiliates and their successors and assigns from and against any liability whatsoever for stopping payment on any ADPCheck requested by Client and from and against all actions, suits, losses, claims, damages, charges, and expenses of every nature and character, including attorneys fees, in any claims or suits arising by reason of stopping payment on said check, including claims made by a "holder in due course" of such check.

TIME AND ATTENDANCE (INCLUDING EZLABORMANAGER®, ENTERPRISE eTIME®, AND ETIME®)

A.   ADP agrees to provide Client with the data collection devices (e.g. Timeclock, HandPunch, etc.) (the "Timeclock Equipment"), time and attendance module or application, and related services (collectively, the "TA Products") described in the Sales Order. Client shall provide and install all power, wiring and cabling required for the installation of any Timeclock Equipment. Client shall also pay an installation and setup fee for each unit of Timeclock Equipment if such equipment is installed on Client's premises by ADP.

B.   Client shall not make any alterations or attach any device not provided by ADP to the Timeclock Equipment, nor shall Client remove the Timeclock Equipment from the place of original installation without ADP's prior consent. ADP shall have the right to enter Client's premises to inspect the Timeclock Equipment during normal business hours. Title to the Timeclock Equipment shall at all times remain in ADP unless Client has chosen the purchase option and has paid ADP in full the purchase price. Except if so purchased and paid for by Client, the Timeclock Equipment is and at all times shall remain, a separate item of personal property notwithstanding its attachment to other Timeclock Equipment or real property.

C.   Upon termination or cancellation of this Agreement, Client shall, at its expense, return the Timeclock Equipment to ADP in accordance with ADP's instructions. The Timeclock Equipment shall be returned in as good condition as received by Client, normal wear and tear excepted. In the event the Timeclock Equipment is not returned within ninety (90) days, Client agrees to purchase it at the prevailing manufacturer's suggested retail price. If timely payment for the Timeclock Equipment is not made by Client, ADP shall have the right to take immediate possession of such equipment. The terms of this Section C shall not apply if prior to the time of such termination or cancellation Client has already purchased and paid for the Timeclock Equipment in full.

D.   ADP warrants to Client that the Timeclock Equipment shall be free from defects in material and workmanship at the date such Timeclock Equipment is shipped and for ninety (90) days thereafter. ADP's sole obligation in case of any breach of any warranty contained herein shall be to repair or replace, at ADP's option, any defective items. The foregoing is the extent of ADP's liability with respect to all claims related to Timeclock Equipment, including without limitation, contract and negligence claims and shall constitute Client's sole remedy.

E.   Maintenance services for the Timeclock Equipment (set forth below in Section F) apply automatically to Timeclock Equipment obtained under the subscription option (and any charges therefore are already included in the monthly time and labor management subscription fees). The costs for maintenance services for Timeclock Equipment under the purchase option are not included in the purchase price for such equipment; a separate annual maintenance fee applies. Client, under the purchase option, may terminate its receipt of maintenance services by providing written notice to ADP no less than thirty (30) days prior to the end of the then current annual coverage period. ADP is not required to rebate to Client any maintenance fees relating to a current or prior coverage period. (NOTE: If Client selects the purchase option but opts not to receive (or terminates) maintenance services hereunder by executing a waiver of maintenance services, any such services provided by ADP at Client's request will be subject to ADP's then current charges for such services.) No Timeclock Equipment maintenance is done at the Client

site. Client shall bear all delivery/shipping costs and all risk of loss during shipment/delivery of Timeclock Equipment relating to maintenance services.

F.   ADP will maintain the Timeclock Equipment to be free from defects in material and workmanship as follows: Any parts found to be defective (except as specifically excluded below) shall be replaced or repaired, at ADP's or it's designee's option, without charge for parts or labor, provided that the Timeclock Equipment has been properly installed and maintained by Client and provided that such equipment has been used in accordance with this Agreement and any online or shrink-wrap terms or license, or other accompanying documentation including, but not limited to, Client's Sales Order provided by ADP or its designee and has not been subject to abuse or tampering. The foregoing repairs and replacements may be made only by ADP or its designee, and will be made only after ADP or its designee is notified of a problem, receives delivery from Client of the Timeclock Equipment at issue and determines that it results from defective materials or workmanship. Notwithstanding the foregoing, ADP may deliver a temporary replacement item for Client's use while such determination is being made with respect to the Timeclock Equipment in question. Repairs and replacements required as a result of any of the following shall not be included in the foregoing maintenance services and shall be charged at ADP's then current rates: (i) damage, defects, or malfunctions resulting from misuse, accident, neglect, tampering, unusual physical, or electrical stress, or causes other than normal or intended use; (ii) failure of Client to provide and maintain a suitable installation environment; (iii) any alterations made to or any devices not provided by ADP attached to the Timeclock Equipment; and (iv) malfunctions resulting from use of badges or supplies not approved by ADP.

G.   In order to keep the TA Products current, ADP may from time to time perform maintenance fixes and other upgrades to the TA Products Client is then receiving. ADP will perform these upgrades on Client's behalf for all hosted products. For non-hosted products, Client will be required to install the upgrade provided by ADP in accordance with the written notice provided to Client.

H.   The TA Products are hosted by ADP in the United States. The TA Products are intended for use by United States and Canadian based employees and to permit the transmission of data from within or between the United States and Canada. Client is responsible for complying with all applicable data protection laws and represents that they have obtained any employee consents necessary (or otherwise have complied with applicable law) to transmit the information to ADP in the United States or otherwise make the TA Products available to its employees outside the United States. The TA Products may not be used or accessed in any way that violates any applicable international, federal, state or local laws and/or regulations.

HR & BENEFITS

A.   Pursuant to the federal Health Insurance Portability and Accountability Act, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Care Act passed as part of the American Recovery and Reinvestment Act of 2009 ("ARRA"), the U.S. Department of Health and Human Services regulations entitled "Standards for Privacy of Individually Identifiable Health Information" ("Privacy Rule"), Security Standards for the Protection of Electronic Protected Health Information ("Security Rule") and the Breach Notification for Unsecured Protected Health Information ("Breach Notification Rule"), the Services provided under HR & Benefits are subject to additional terms and conditions located at http://www.adp.com/BAA which are incorporated herein and may be modified from time to time and as required by law.

B.   Client shall promptly deliver to ADP the Client Content (as defined in Section 1H of the Agreement) required by ADP to perform initial setup services. Such information and materials shall be in an electronic file format acceptable to ADP.

C.   Client shall begin paying the per employee fees for HR & Benefits module on the earlier of the date that Client first begins to use the module in a production environment OR ninety (90) days from the Effective Date. _____ (Client Initial Here)

D.   After completion of initial setup services, any subsequent changes Client requests to the configuration of the Client Content in the HR & Benefits module will be charged at ADP's then current benefits maintenance fees.

E.   Upon completion of any setup services or services referenced in Section D above, Client shall review the Client Content included in the HR & Benefits module by ADP. ADP shall have no liability to Client for any errors or inaccuracies in Client Content included in the HR & Benefits module by ADP.

F.   If Client elects the ADP Carrier Connection® service, ADP, or its authorized agent(s), will electronically transmit employee data, including employee benefits enrollment data, to Client's carriers or other third parties authorized by Client, and Client authorizes ADP and its authorized agent(s), to provide such transmission on Client's behalf. Additionally, commencement of the Carrier Connection service is subject to Client completing the configuration setup of Client Content and the format of such transmission to the designated carriers. The terms for setup services and subsequent setup services set forth in Sections B and D above will apply to setup for the Carrier Connection service. Further, ADP's ability to transmit Client's employee benefits enrollment data is subject to the provision by the designated carriers of a current functional interface between the HR & Benefits module and the designated carriers' systems. ADP will not be obligated to transmit Client's data to the designated carriers if at any time Client's designated carriers fail to provide the proper interface as described above. If Client requires the development of any special interfaces in order to transmit such data to the designated carriers, all work performed by ADP to create such interfaces will be at ADP's then current fees for such services. Finally, Client is responsible for promptly reviewing all records of carrier transmissions and other reports prepared by ADP for validity and accuracy according to Client's records, and Client will notify ADP of any discrepancies promptly after receipt thereof. In the event of an error or omission in the Carrier Connection services caused by ADP, ADP will correct such error or omission, provided that Client promptly advises ADP of such error or omission.