



## General Terms and Conditions

Paycom Payroll, LLC, a Delaware limited liability company whose corporate headquarters is located at 7501 W. Memorial Road, Oklahoma City, OK 73142 (hereinafter "Paycom") and the Client agree as follows with respect to all services provided by Paycom to Client ("Services"). Paycom and Client are referred to herein collectively as the "Parties" and each individually as a "Party."

1. Paycom's Obligations. Subject to these General Terms and Conditions and the applicable Service Component Schedules which are incorporated herein by reference (collectively, the "Agreement"), Paycom shall perform the Services in accordance with this Agreement.

2. Paycom Representations and Warranties. Paycom represents and warrants to Client that:

2.1. Paycom shall, upon written request, provide Client with a copy of its most recent Service Organization Control 1 Report for Description of Paycom Software, Inc.'s Payroll Processing System (the "SOC-1 Report"). Paycom shall maintain controls on its payroll processing systems at a similar level to continue to achieve the control objectives described in the SOC-1 Report and it shall make any such future reports or similar industry audit reports available to Client upon Client's request.

2.2. Paycom currently maintains certification for ISO 27001:2013 which governs its physical and technical security controls. Paycom shall maintain controls on its physical and technical security systems at a similar level to continue to achieve the control objectives of ISO 27001:2013.

2.3. Except as otherwise expressly stated herein, Paycom makes no other representations and warranties.

3. As Is, Disclaimers THE SERVICES PROVIDED BY PAYCOM PURSUANT TO THIS AGREEMENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS EXPRESSLY STATED HEREIN, TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, PAYCOM DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, SYSTEM INTEGRATION, AND NONINFRINGEMENT.

4. Paycom's Intellectual Property. Paycom grants Client a non-exclusive, non-transferable license, exercisable solely during the term of this Agreement, to use applicable Paycom technology solely for the purpose of accessing and using the Services. Client shall have no right to use the Paycom technology for any purpose other than accessing and using the Services. Except for the rights expressly granted above, this Agreement does not transfer from

Paycom to Client any rights to the Paycom technology (or Paycom's licensor's technology), and all rights, titles and interests in and to any Paycom technology shall remain solely with Paycom. Client shall not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or any other intellectual property and/or proprietary information from any of the Paycom technology. Client acknowledges and agrees that Paycom's trademarks, tradenames, service marks, logos, other names and marks, and related product and service names, design marks, and slogans are the sole and exclusive property of Paycom. Client is not authorized to and shall not use any of Paycom's trademarks, tradenames, service marks, logos, other names and/or marks, and/or related product and service names, design marks, and/or slogans in any advertising, publicity, or in any other manner without the prior written consent of Paycom.

5. Paycom's Indemnity Obligation. Subject to the terms and conditions of this Agreement, including the limitations of liability and exclusion of certain types of damages provided for herein, Paycom promises to defend, indemnify and hold Client and its affiliates, and their respective employees and agents harmless from any and all demands, claims, damages or liability directly arising out of or related to Paycom's or Paycom's employee's negligence or willful misconduct. Paycom shall pay any penalties and/or interest to any Federal, State or Local governmental and/or quasi-governmental authorities (collectively "Taxing Authorities") as a result of untimely or incorrect tax filings but only to the extent caused by Paycom.

6. Reliance on Client's Information. Paycom's Services are based upon information and instructions provided by Client. Client is solely responsible for the accuracy and completeness of all information and instructions provided to Paycom. Notwithstanding anything to the contrary in this Agreement, Paycom shall not be liable or responsible for errors or omissions arising from Paycom's reliance upon Client's instructions or incorrect or incomplete information provided by Client or if applicable, a third party providing information regarding Client. Paycom shall not be required to amend or refile any tax return or tax filing on behalf of Client unless the erroneous filing was the sole fault of Paycom. Paycom is not responsible for settling any disputes between Client and Client's employees, or Client and any Taxing Authorities, or Client and any other regulatory bodies.

7. Client's Registration Obligations. Client is solely responsible for being properly registered with all applicable Taxing Authorities and for obtaining any tax identification numbers and/or account numbers with applicable Taxing Authorities. Client shall timely provide Paycom with all account numbers

issued by Taxing Authorities to Client, whether active or inactive.

8. Term and Termination. This Agreement shall continue in full force and effect until terminated by either Party. Unless otherwise specifically agreed upon in writing, Paycom and Client each shall have the right for any reason or no reason at all to terminate this Agreement upon providing the other Party with thirty (30) calendar days' prior written or electronic notice of termination. In addition to the preceding termination rights, in the event: (i) Client materially breaches its obligations to Paycom; (ii) Client fails to pay or remit any sums due within two (2) business days after the due date; (iii) Client fails to remit to Paycom all funds related to the Services and such failure is not cured within one (1) business day after notification from Paycom; (iv) Client discontinues its use of Paycom's Services for three or more consecutive pay periods; (v) Client files or threatens any bankruptcy or adverse action against Paycom; (vi) Client fails to timely remit to Paycom the funds required to perform the Services more than one time in any twelve-month period; (vii) any one of Client's affiliated entities who is a client of Paycom ("client code") is in default of its obligations to Paycom; or (viii) Paycom's depository or financial institutions notify Paycom that Paycom may no longer service the Client due to Client's creditworthiness or business reputation; then Paycom shall have the right to immediately terminate this Agreement. Upon termination of this Agreement in whole or in part (and after expiration of any applicable notice periods), Paycom shall have no further obligation to perform the obligations set forth in the Agreement, or, to the extent such termination was partial, Paycom shall have no further obligation to perform the obligations of the applicable Service Component that has been terminated. Further, upon termination of Services relating to payroll processing, Client will immediately become responsible for all payroll tax deposits and filings then and thereafter due and for all related penalties and interest, and whereupon Paycom shall promptly return to Client any excess monies in Paycom's possession (if any) that are not reasonably subject to potential reversal, return, setoff or recoupment. In the event any monies credited or debited by Paycom and/or in Paycom's possession are subject to potential reversal, return, setoff or recoupment, then Paycom shall have the right to hold said funds during the time period of potential reversal, return, setoff or recoupment and thereafter shall promptly return all remaining funds to Client after the applicable time period has expired. During any time period in which Client is in default of its obligations to Paycom, Paycom shall have the right to suspend the provision of its Services to Client, in whole or in part, pending Client's compliance with this Agreement or pending termination of this Agreement. In the event a Party terminates the payroll processing Services, then all other Services performed by Paycom shall be terminable, at Paycom's option.

9. NACHA Compliance. The Services provided by Paycom may be subject to the operating rules of the National Automated Clearinghouse Association ("NACHA"). Paycom and Client each agree to comply with the NACHA rules applicable to it with respect to the Services. Information pertaining to NACHA rules and guidelines can be found at [www.nacha.org](http://www.nacha.org). Client's instructions to Paycom and Client's use of Paycom's services shall not violate the NACHA rules or the laws of the United States. Neither Paycom nor any Originating Bank shall be liable to Client for any damages arising from any decision to refrain from or delay originating debit/credit entries with respect to Client's payroll: (1) due to Client's creditworthiness; or (2) after reasonable efforts to verify such entries have failed; or (3) because Paycom has not received timely funds from Client.

10. No Professional Advice. The Services provided by Paycom expressly do not include the rendering of legal, tax, accounting, or investment advice to Client or Client's employees. The federal government, tribal governments, state governments or localities each may impose specific obligations pertaining to employee wage requirements, industry requirements, printed paystubs, or other matters. It remains Client's exclusive obligation to comply with applicable laws, rules, and regulations pertaining to Client and its employees. Additionally, Client shall adopt its own effective internal controls concerning its payroll. The Services should not, will not, and cannot be relied upon to detect or disclose errors, fraud or illegal acts of Client's employees.

11. Required Manner of Notices. Paycom maintains a secure website ("Website Account") through which Client may access information and through which Client shall request transactions electronically. Client's use of the Website Account is required. Except as may otherwise be expressly permitted in a Service Component Schedule, all notices required to be provided to Paycom shall be made in specific accordance with this Agreement and/or through data entry on the Website Account, including but not limited to Client's data entry of payrolls, new employees, contact information for employees, and all other information permitted to be entered through the Website Account. Paycom shall not be required to rely upon any information provided by the Client to Paycom unless the information has been provided to Paycom in the manner expressly provided for herein. Paycom will not be required to rely upon any information provided via telephone or any means other than as specifically set forth herein.

12. Client's Indemnity Obligation. Notwithstanding anything to the contrary herein, Client understands that all Services rendered by Paycom are based upon the information furnished by the Client. If allowed by law, Client shall indemnify, defend and

hold Paycom and its affiliates, and their respective employees and agents harmless from any and all liabilities, demands, actions, claims, judgments, losses, damages, and costs (including reasonable attorneys' fees) arising out of: (i) Client's breach of any obligation, representation, or warranty under this Agreement; (ii) any claim, demand, cause of action, or allegation that Client violated any applicable law, rule, or regulation; (iii) any failure on the Client's part to fund any payment obligation of Client; (iv) any debit or reversal of payments previously made to Client's employees or others as a result of Client's failure to fund or pay its obligations; (v) any breach of Client's Security Information (as defined in Section 16) caused by Client; (vi) Client's negligence or willful misconduct; (vii) Paycom's acts or omissions in furtherance of Client's instructions and/or (viii) the use of inaccurate information provided by the Client.

13. Client Representations and Warranties. Client represents and warrants that:

13.1. Client shall not use the Services for any illegal purpose, such as but not limited to, terrorism or money laundering.

13.2. Client does not and shall not appear on any terrorism watch list, OFAC list, or similar list maintained by the U.S. Government.

13.3. Client shall comply with all applicable laws, rules, and regulations, including but not limited to Applicable Privacy Laws (as defined in Section 22.9), and shall not violate the laws of the United States.

13.4. Client shall not upload to Paycom's system, including but not limited to, through the Website Account, Data Services (as defined in Section 19), or in any other manner, any documents, information, or materials that are not related to the Services provided.

13.5. Client's use of the Services is for a commercial or governmental purpose and specifically not for any personal, family, or household purpose.

14. Fees and Charges. Paycom's initial fees and charges shall be consistent with the final written pricing proposal provided to Client. Paycom's pricing structure and pricing to Client is confidential and shall be treated by Client as confidential to the extent allowed by Colorado's Open Records Law. Client agrees to pay, at regular intervals, Paycom's applicable fees and charges for the Services. Paycom's pricing may be amended from time to time upon prior written or electronic notice to the Client. In the event Client does not consent to Paycom's revised pricing, Client shall have the right to terminate this Agreement by providing Paycom with written notice of termination within fifteen days of Paycom's first communication to Client of the pricing change. As additional consideration for Paycom's provision of Services to Client, Client agrees Paycom or Paycom's financial institutions or depositories are entitled to any benefits derived on the funds maintained in Paycom's client

accounts (i.e. any interest or investment income on funds deposited into and held in Paycom's accounts).

15. Payment. To facilitate the payment of the fees, charges, or other amounts due or payable to Paycom under this Agreement, Client will provide Paycom with access to a Client bank account and will notify Paycom of the demand deposit account number and transit routing number for the account. Client irrevocably consents to Paycom's use of Paycom's Client account information and Website Account access for purposes of electronically drawing funds from Client's bank account in accordance with Client's obligations set forth in this Agreement. Client hereby authorizes Paycom to process wires, drawdown wires, and/or ACH debits or credits in connection with the monies (including Paycom's compensation and fees) applicable to this Agreement. Paycom fees for the notification services contemplated by this Agreement may be debited and/or charged at intervals consistent with and together with Paycom's fees and charges for Paycom's payroll processing and other services to Client.

16. Access Restrictions. Maintaining the confidentiality of Client's Client Code, User Name, Password, access keys, and/or other account access information (collectively "Security Information") is the responsibility solely of Client. A person with knowledge of Client's Security Information will be able to access Client's account and initiate transactions and funds transfers on behalf of Client. If an unauthorized person obtains access to Client's Security Information and initiates transactions, Paycom cannot protect Client from the result of any such transactions. Paycom shall rely upon any and all instructions and directions provided using the Client's Security Information. Client agrees:

16.1. Client will not disclose its Security Information to anyone not authorized to request transactions on Client's behalf;

16.2. Client will undertake its own commercially reasonable security measures to prevent the disclosure and/or unauthorized use of its Security Information;

16.3. Client shall, at regular intervals, follow the procedures within the Website Account interface to update and/or revise its Security Information;

16.4. Client may modify its Security Information as many times as Client deems appropriate. If Client suspects that someone has access to Client's Security Information, Client shall immediately make revisions to its Security Information; immediately review all recent and pending transactions, and immediately notify Paycom of its suspicions concerning a potential breach of Client's Security Information.

16.5. Neither Paycom, nor its agents or affiliates shall be liable for any loss, claim, or circumstance in connection with instructions given by Client or anyone else using Client's Security Information. Paycom shall have the absolute right to

rely upon all instructions given to Paycom using Client's Security Information.

16.6. If allowed by law, Client shall indemnify, defend, and hold Paycom, and its agents and affiliates harmless from any claims, liabilities, losses, or demands arising out of the alleged unauthorized use of Client's Security Information by persons other than Paycom.

17. Security Features. Paycom employs various security features to enhance security and limit access to the Website Account. Client is responsible for adopting its own effective internal controls concerning its payroll, funds, security, and use of the Website Account. Paycom's services should not be relied upon to detect or disclose errors, fraud, or illegal acts of Client's employees or third parties however Paycom's security features may assist Client in mitigating its risks concerning such matters. To the extent Client elects to disable or discontinue the use of certain security features offered by Paycom (including email notifications, IP address verification, masking informational fields, or other features), Client assumes full responsibility arising out of Client's non-use or disabling of any such security feature(s). Paycom disclaims any and all responsibility arising from Client's disabling or non-use of any Paycom security feature. Client does hereby release and forever discharge and hold Paycom harmless from any and all demands, claims, and liabilities of whatever kind or nature, either in law or equity, whether known or unknown, which arise or may hereafter arise from Client's disabling or non-use of any Paycom security feature. Client has the option of reactivating any disabled feature at any time.

18. Internet Access. The Website Account will be accessible from the internet. Client shall be responsible for accessing the internet to utilize Paycom's Services and access the Website Account. Paycom does not warrant and shall not be responsible for the cost and maintenance of any telephone, cable internet provider, wireless tower, or other communication circuits required for dutiful transmission and system access. Data files are transmitted over communication company circuits, which are wholly beyond the control and jurisdiction of Paycom and are maintained by the applicable communications companies. If these communication circuits are not functional for any reason, the data files may not accurately or completely reach Paycom's facilities or equipment. Paycom is not responsible for or in control of the continued operations or functioning of these communication circuits nor the reliability of the data files being received over them. Client shall not hold Paycom responsible in any way for any losses of any kind whatsoever resulting from the failure of any communication circuits or internet service provider to fully and properly perform, whether the failure of the communications are caused by any provider, whether Client's provider, Paycom's provider, Client's user's providers, Client's

employee-user's providers, or any other provider. In the event of interruption of access to the Website Account, Paycom's sole obligation and liability shall be to restore access to the Website Account as soon as reasonably possible. Paycom makes no other warranties, express or implied, with respect to the subject Services or the Website Account and/or the availability of the Website Account.

19. Data Services. As a part of the Services, Paycom may: generate, create, and/or facilitate the creation of certain reports; allow access by Client and/or third parties to certain Website Account and third party data feeds; create or connect Client and/or third party data feeds to the Website Account; create data feed protocols to convert and facilitate the communication of data between Client's and/or third parties' systems and the Website Account; setup and automate scheduled data feed imports and transmissions; and import and transmit data ("Data Services"). Certain Data Services are governed by their own service specific Service Component Schedules, which shall supersede this Agreement to the extent there is a conflict between this Agreement and the service specific Service Component Schedule. Certain Data Services (for example, Paycom's application program interface ("API") and secure file transfer protocol ("SFTP") services) may require the use of an access key to gain access to Client data. These access keys are the sole property of Paycom and may be revoked at Paycom's discretion without notice to Client if Client violates any of the terms herein or Paycom has reason to suspect the access keys have been misused or compromised. The number of API calls or SFTP requests Client is permitted to make may be limited by Paycom as necessary to best provide quality of response. Client is permitted to use the API or SFTP interface to access Client data maintained on the Website Account and to interface with other systems in Client's organization as necessary in the ordinary course of business. Client may work with third parties only as necessary to facilitate Client's API usage, so long as such third parties are subject to the obligations imposed on Client herein. Client shall not use the access keys, or any of the Data Services to attempt to gain access to other data on Paycom's system, or for any other purpose not expressly authorized herein. Client is not permitted to resell applications or services that require the Data Services. Client is not permitted to sell, transfer, or sublicense access to the Website Account or the Data Services. Client shall not commercialize (sell, rent, trade or lease) the content provided via the Website Account or the Data Services. Client shall not decompile, modify, reverse engineer, create derivative works, or otherwise alter the Website Account or Data Services. Client shall not distribute or publish links to the Website Account or Data Services. Client shall not use robots, spiders, scraping, or other technology to access or use the Website Account, Data Services, or any of Paycom's systems. Client shall not access or attempt to access the account

information of other users, or any other unauthorized information. Client's use shall not violate any applicable laws or regulations, including but not limited to those related to privacy and data protection. Client shall not use the Data Services interface in a manner that exceeds reasonable request volume or could be considered excessive or abusive usage. Client shall not distribute or publish automation documentation, including but not limited to, API and SFTP documentation, file import formats, or file export formats to third parties. Paycom does not, by allowing Client to use or access the Website Account and Data Services, transfer any rights or ownership in the Website Account or Data Services, documentation, source code, or Paycom intellectual property. The Website Account and Data Services are and shall at all times remain the property of Paycom and Paycom alone. Paycom may update the structure of the classes, functions, reports, or data provided by the Website Account and Data Services. Paycom may also update the associated documentation or the permitted uses of the Services at any time and without notice to Client. Client acknowledges and accepts that the provision of these Data Services may result in Client's data being stored, transmitted, accessible, and handled in a manner that does not conform to the data security protocols described herein. Paycom makes no warranty or representation as to the sufficiency or adequacy of such nonconforming protocols. Client and such applicable third parties shall be exclusively responsible for adopting their own effective controls concerning access to Client's data. Client acknowledges and accepts all risks and liabilities arising from the nonconforming protocols. Client is responsible and liable for all damages caused by the nonconforming protocols. Paycom is not an insurer against Client's risks. To the extent the Client desires Paycom to assume a greater liability or responsibility than as set forth herein, then, an additional fee must be first quoted to Client and paid by Client before such greater responsibility shall apply to Paycom. In addition to Client's indemnification obligations provided herein, if allowed by law, Client shall indemnify, defend, and hold Paycom and/or Paycom's respective employees, officers, directors, attorneys, agents, related entities, and affiliates harmless from any and all liabilities, demands, actions, claims, judgments, losses, damages and costs (including attorneys' fees) arising out of any claim, demand, cause of action or allegation resulting from Paycom's provision of the Data Services; that any person or Client (including its officers, employees, personnel, any entity related to or performing services on behalf of Client, or any Client contractor) was permitted unauthorized access to Client's data arising from the Data Services; that any confidential information transmitted was lost, disclosed, or breached; that any confidential information of others was disclosed to unauthorized persons in connection with the Data Services; or that Client's or third parties' protocols failed to comply with applicable local, state, or federal law or regulation.

20. Implementation. All setup fees paid by Client are non-refundable, in whole or in part. In addition to any other setup fees paid by Client, in the event that Client causes implementation delays that ultimately result in a failure to process payroll on Client's first projected check date, Client shall pay an additional fee which shall be no greater than an amount commensurate with Client's initial setup fee.

21. Client's Review. To the extent Paycom regularly mails or couriers checks, paystubs, and/or reports to Client, upon Client's receipt of checks, paystubs, and/or reports from Paycom, Client shall promptly examine such checks, paystubs, and reports for each applicable pay period or reporting period and shall notify Paycom of any discrepancies between such documents and Client's own records, or any errors, omissions, or miscalculations in said documents as soon as reasonably possible, but in no event later than ten (10) calendar days after Client's receipt of said documents. To the extent checks, paystubs, or reports are not regularly mailed or couriered but instead are regularly available for review through the Website Account, then Client shall regularly review and examine said documents for each applicable pay period and shall notify Paycom of any discrepancies between such documents and Client's own records or any errors, omissions, or miscalculations in said documents as soon as reasonably possible, but in no event later than ten (10) calendar days after said documents become available on the Website Account. Client shall be solely responsible for all damages that result from or could have been avoided had Client timely reviewed its documents and advised Paycom or any other Parties of any such errors, omissions, miscalculations, or discrepancies.

22. Confidentiality. Each Party will take all of the following measures to protect all Confidential Information, to the extent allowed under Colorado Open Records Laws:

22.1. Hold all Confidential Information in the strictest of confidence;

22.2. Safeguard Confidential Information with the same degree of care to avoid unauthorized disclosure as it uses to protect its own information of a similar nature, but in any event, no less than reasonable care, which necessarily includes the care required by Applicable Privacy Law;

22.3. Not disclose Confidential Information to any of its own employees, agents, contractors, or representatives ("Representatives"), except to those of its Representatives who have signed written confidentiality agreements at least as restrictive and protective as the obligations set forth herein;

22.4. Not use (or assist or permit its Representatives to use) any of the Confidential Information for any purpose other than: (i) the performance of its obligations under this Agreement; and/or (ii) in connection with the defense or prosecution of any claim

relating to the subject services. In the event of such use in connection with defense or prosecution of a third party claim, the Party seeking to disclose Confidential Information shall, reasonably in advance, advise the other Party of its intended use of such information and shall not object to the intervention or request for protection of such information in connection with such third party claim or proceeding.

22.5. Each Party will maintain all information subject to Applicable Privacy Law in accordance with standards required by Applicable Privacy Law, even beyond the term of this Agreement.

22.6. The following conditions will apply to Representatives:

22.6.1. Representatives that will have access to Confidential Information shall be informed of the confidential nature of such information.

22.6.2. Each Party will impose on its Representatives, as a binding obligation, confidentiality and non-disclosure obligations consistent with this Agreement.

22.7. The restrictions in this Section shall not apply to any information to the extent that it: is or comes within the public domain other than through a breach of this Section 22; or is in a Party's possession (with full right to disclose) before receipt from the other; or is lawfully received from a third party (with full right to disclose); or is independently developed without access to or use of the Confidential Information; or is required to be disclosed by law or by a court of competent jurisdiction provided that, unless prohibited by law from doing so, the Party required to disclose such information agrees to give prior written or electronic notice of such disclosure and to take reasonable and lawful actions available to it to avoid and/or minimize the extent of such disclosure.

22.8. Either Party may seek injunctive relief for any actual or reasonably anticipated disclosure by the other, including preliminary and permanent injunctive relief, regardless of whether monetary damages caused by the breach can be determined or proved.

22.9. "Applicable Privacy Law" means any and all applicable federal, state, or local laws, rules and regulations regarding privacy, and any and all applicable requirements of any government authority regarding privacy as to the Confidential Information exchanged in connection with the Services.

22.10. The term "Confidential Information" shall mean all information one Party hereto acquires from the other Party hereto relating to the Services, whether developed by the disclosing Party or by others and whether patented or patentable, including, without limitation, Personal Data (as defined in Section 23), trade secrets, unpublished patent applications, designs, processes, disaster recovery plans, audit reports, information technology structure and hardware, studies and notes containing or reflecting such information, business plans and strategies, financial information, pricing information, specifications, devices, and all information one Party hereto

acquires or observes in connection with the Services, regardless of whether such information is designated as Confidential Information at the time of its disclosure.

23. Data Security. To ensure the security of Client's electronic nonpublic personal information ("Personal Data"), Paycom shall:

23.1 implement reasonable technical and organizational measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure, or access, in particular, where the processing involves the transmission of data over a network, and against all other unlawful forms of processing;

23.2 encrypt Personal Data while in transport over the internet and, when data is not in transport, store such data on storage that is encrypted;

23.3 upon a complete investigation and validation, promptly notify Client of any facts known to Paycom concerning any accidental or unauthorized disclosure or use, or accidental or unauthorized loss, damage, or destruction of Personal Data by any current or former employee, contractor or agent of Paycom, or by any other person or third party;

23.4 in the event of any accidental or unauthorized disclosure or use, or accidental or unauthorized loss, damage, or destruction of Personal Data by any current or former employee, contractor or agent of Paycom, or by any other person or third party, reasonably cooperate with Client as required by Applicable Privacy Law to: (i) limit the unauthorized disclosure or use, (ii) seek the return of any Personal Data and (iii) assist in providing notice; and

23.5 upon termination or expiration of the Agreement for whatever reason, Paycom shall maintain the confidentiality and data security obligations set forth herein while Paycom retains any Personal Data.

23.6 In addition to the foregoing, Paycom is not and shall not be Client's official record keeper. Accordingly, Client shall keep copies of all information and Personal Data it deems necessary.

24. Exclusions to Limitations of Liability. Notwithstanding anything to the contrary in this Agreement, neither Party excludes nor limits its liability to the other for any of the following (and nothing in this Agreement shall be construed as excluding or limiting such liability):

24.1. for personal injury or death resulting from its negligence or that of its employees, agents, or subcontractors;

24.2. for any matter which it would be illegal for that Party to limit its liability;

24.3. for a Party's fraud, fraudulent misrepresentations, defamation, or trade libel;

24.4. for a breach of Section 12 (Client's Indemnity Obligation), Section 13 (Client Representations and Warranties), and/or any Client funding requirements in this Agreement;

24.5. for a Party's fee due and owing for services provided to the other Party;

24.6. for a Party's failure to remit funds and/or satisfy its funding obligations to the other Party; and

24.7. for, after Client remits all applicable tax monies to Paycom and complies with this Agreement in material respects, Paycom's failure to pay and remit said tax monies to applicable Taxing Authorities on Client's behalf.

25. Intentionally Left Blank.

26. Third Party Arrangements. To the extent the undersigned signatory is acting on behalf of a third party with respect to servicing that third party's payroll and other service needs, the undersigned signatory hereby warrants and represents to Paycom that the signatory has been appointed as the third party's duly authorized agent and has all the requisite authority to bind said third party to the obligations of this Agreement and hereby does bind said third party to each of the obligations of this Agreement. Additionally, third parties shall be required to enter into separate agreements with Paycom. Client shall provide Paycom a list of any such third parties and any other information as requested by Paycom.

27. Interest. In addition to any other rights or fees provided for herein, if any amount is not paid to Paycom within five calendar days of its due date, Client shall be additionally liable for interest on said unpaid amount at an interest rate of 1½% per month or the highest rate allowed by applicable law, whichever is less, from the due date until paid in full.

28. Force Majeure. Neither Party shall be liable for delays in performance which are caused by natural disasters, strikes, war, terrorism, utility outages, communication outages, or any other circumstances which could not have been reasonably foreseen and avoided by commercially reasonable action, or are beyond the reasonable control of such Party, except that this provision shall not excuse the failure of Client to timely meet all of its funding and cash requirements to Paycom for any payroll submitted by Client to Paycom. If applicable, either Party shall be excused from performance under this Agreement for the duration of the effects of such circumstances.

29. Waiver. The failure by Client or Paycom to insist upon strict performance of this Agreement shall not constitute a waiver of that provision with respect to demands for future performance.

30. Severability. Each section, subsection and lesser section of this Agreement constitutes a separate and distinct undertaking,

covenant or provision hereof. In the event that any provision of this Agreement shall be determined to be invalid or unenforceable, such provision shall be deemed limited by construction in scope and effect to the minimum extent necessary to render the same valid and enforceable, and, in the event such a limiting construction is impossible, such invalid or unenforceable provision shall be deemed severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

31. Independent Contractors. This Agreement establishes an independent contractor relationship only, by which Paycom will perform the Services described in this Agreement. It is not intended as, and shall not be construed to establish a partnership, joint venture, or master/servant relationship. Paycom shall only be required to assist the Client with its obligations and with the perform the specific Services provided for in this Agreement, and no others. It is agreed that Paycom is not an insurer and that the fees Paycom charges are based solely on the value of the services provided for herein. Client and Paycom acknowledge and agree that Paycom is retained under this Agreement to assist Client with certain obligations of Client and that Paycom is not an employer of Client's employees, nor a fiduciary of Client or Client's employees. Paycom is merely providing certain specified services to assist Client. Paycom responsibilities include only the services expressly set forth herein and shall not include any other services, unless agreed to in writing. Nothing contained in this Agreement shall be deemed to permit either Party to conduct business in the name of or on account of the other Party, or to act on behalf of or bind the other Party in any manner whatsoever, except for the taking of actions by Paycom on behalf of Client in the fulfillment of Paycom's specific obligations under this Agreement.

32. No Third Party Beneficiaries. Nothing in this Agreement creates or will be deemed to create third party beneficiaries of or under this Agreement. BY VIRTUE OF THIS AGREEMENT, PAYCOM HAS NO OBLIGATIONS TO ANYONE OTHER THAN THE CLIENT SIGNING THIS AGREEMENT. BY VIRTUE OF THIS AGREEMENT, PAYCOM HAS NO OBLIGATION TO ANY THIRD PARTY (INCLUDING, WITHOUT LIMITATION, TAXING AUTHORITIES AND/OR CLIENT'S EMPLOYEES, INDEPENDENT CONTRACTORS, AND/OR CONSULTANTS).

33. Assignment. This Agreement shall not be assigned by either party, in whole or in part, without the prior written consent of the other party. Notwithstanding the foregoing, this Agreement may be assigned, in whole or in part, by Paycom to any affiliate entity or sister entity.

34. Electronic Signature. Paycom and Client agree to conduct this transaction by electronic means and that an electronic signature of either Party or both Parties, including fax signature, PDF signature, or other electronic means, shall have the same legally binding force and effect as an original signature. An executed copy of this Agreement may be delivered by one or more of the Parties by facsimile, email, or similar instantaneous electronic transmission device pursuant to which the signature of, or on behalf of, the Party can be seen, and such execution and delivery shall be considered valid, legally binding, and effective for all purposes.

35. Entire Agreement, Amendments, and Modifications. This Agreement represents the entire agreement between the Parties, and there are no inducements, representations, or warranties, or any other oral or other written agreements or understandings between the Parties affecting this Agreement, or related to the Services to be provided by Paycom or duties undertaken by Client under this Agreement. Upon 30 days notice to Client, Paycom may amend the Agreement at any time in its sole discretion, effective upon posting the amended terms to Client's Website Account. With respect to the Services, this Agreement supersedes all previous agreements and negotiations between the Parties. It is understood and agreed that no employee, officer, or director of Paycom has the authority to modify this Agreement orally.

36. Venue; Governing Law. All issues and questions concerning the construction, validity, enforcement, performance, and interpretation of the Agreement or arising from any business dealings by or among the Parties shall be governed by, and construed in accordance with, the laws of the State of Colorado. Any claim arising out of or related to this Agreement, including without limitation claims related to the Parties' negotiations and inducements to enter into this Agreement, shall be submitted to mandatory, binding arbitration under the auspices of the American Arbitration Association (the "ADR Association"), in Colorado, with the parties sharing equally the costs of arbitration. Arbitration will proceed according to the commercial rules of the ADR Association. This section does not limit either Party's right to provisional or ancillary remedies from a court of competent jurisdiction before, during, or after the pendency of any arbitration, and the exercise of any such remedy does not waive either Party's right to arbitration. Judgment on an arbitration award may be entered by any court with competent jurisdiction. Any legal proceedings to resolve or litigate any dispute will be conducted solely on an individual basis. No Party will seek to have any dispute heard as a class action or in any other proceeding in which either Party acts or proposes to act in a representative capacity. *Any and all such rights to proceed on a class-wide basis are hereby waived. No proceeding will be combined with another without the prior written consent of all*

*parties to all affected proceedings. If any portion of this class action waiver is deemed unenforceable, then that portion will be severed with the remainder remaining in full force and effect.* Client expressly waives any claim of sovereign immunity as to Client's business dealings with Paycom if applicable (i.e. Native American Nations). If either Party brings a legal action to enforce the Agreement, the prevailing Party in such action, as determined by the court, shall be entitled to recover reasonable attorneys' fees and litigation expenses as determined by the court. Client and the undersigned individual each represent that the signatory to this Agreement is authorized to enter into such agreement on behalf of Client.

37. To the extent not prohibited by law, during the term of the Agreement and for the twelve (12) months thereafter, Client shall not knowingly solicit or knowingly hire for employment or as a consultant, any Paycom employee or former Paycom employee who has had dealings with Client in any capacity while employed at Paycom.

38. WAIVER OF JURY TRIAL. PAYCOM AND THE CLIENT EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ISSUE TRIABLE BY A JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT NOW OR HEREAFTER EXISTS WITH REGARD TO THIS AGREEMENT, OR ANY CLAIM, COUNTERCLAIM, OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY PAYCOM AND THE CLIENT AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY MAY OTHERWISE ACCRUE. PAYCOM AND THE CLIENT ARE HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY THE OTHER PARTY.

39. No Publicity. Client shall not use Paycom's name, logo, or trademarks, or make or issue any public statement, written or oral, referencing Paycom as a service provider, customer, partner, or the like, without the prior written consent of Paycom.

40. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Client not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

