

Approve Agenda, Acceptance of Minutes:

- a. Board Meeting, January 31, 2018
- b. Board Meeting February 12, 2018
- c. Board Meeting February 28, 2018

Tulare Local Healthcare District
Special Meeting Minutes
Wednesday, January 31, 2018
Board Convenes at 6:30 pm
Evolutions
1425 E, Tulare Avenue, CA 93274

In Attendance: Mike Jamaica
Xavier Avila
Stephen Harrell
Absent: Kevin Northcraft
Senovia Gutierrez

● Call to Order

● Citizen Requests/Public Comments

Alberto Aquilar

● Recommendation to authorize Assembly Member Devin Mathis and State Senator Jean Fuller to represent the District before government agencies on behalf of the District

Stephen Harrell moved to remove Assemblyman Devon Mathis name from the authorization and approve only State Senator Jean Fuller to represent the District before government agencies. Motion was seconded by Xavier Avila. Motion approved 3-0. Xavier Avila agreed to revisit the motion if needed.

● Consideration of Agreements

● Payroll Processing and Tax Reporting - ADP Services

● Workers Comp & Employers Liability Insurance Coverage — BETA Risk Management Authority

● Revolving Line of Credit Facility with CNH Finance Fund I LP (Accounts Receivable based Financing)

Xavier Avila moved to approve the agreements with ADP Services, BETA Risk Management, and CNH Finance Fund I LP. Seconded by Stephen Harrell. Approved 3-0.

- Suspend open session — recess to closed session

- Conference with Interim Legal Counsel — Existing litigation (Government Code 54956.9)
- In re Tulare Local Healthcare District dba Tulare Regional Medical Center, United States Bankruptcy Court Eastern District of California Case No. 17-13797
- TRMC Medical Staff v. Tulare Local Healthcare District, HCCA et al; Tulare Case No. 264227
- HCCA v. Tulare Local Healthcare District, and Counterclaim, United States Bankruptcy Court Eastern District of California Adv. Proc. No. 17- 01095-B

- Adjourn closed session, reconvene open session — Public report of action taken in closed session (if necessary) pursuant to Government Code 54957.1

- Nothing to report

- Adjournment

- Next regular meeting scheduled for 6:30 pm on Wednesday, February 28, 2018 at the Tulare City Council Chambers.

Tulare Local Healthcare District dba Tulare Regional Medical Center

Agenda Item

Board Meeting Date: January 31, 2018

Title to Appear on Agenda: Payroll Processing and Tax Reporting
ADP Services

Brief Description: T RMC has determined that the best way to provide payroll processing and tax reporting is via the use of an outside vendor.

Background and Details: ADP is a major provider of such services, and has submitted a proposal accordingly.

The estimated annual cost to the Hospital is projected on a fully ramped up staffing service with an estimated 363 employees with estimated annual salary expense of \$22,000,000. (Most costs are prorated based on the number of employees on any given payroll)

Cost for all services are based on a combination of set up fees, fixed fees and "per employee, per pay period" basis. The total cost estimate is \$37,325 per year, and after a two month discount the annual cost is projected at \$31,104.

The Term of the Agreement is open ended, subject to a 90 day nofault termination option available to both parties. Exhibits: See Attached documents

Recommended Action: That the Board authorize the ADP
Payroll and Tax Reporting services as outlined.

Financial
Review

Investment Summary

Quote Number
02-2018-9120.1

Company Information

Tulare Local Health Care District
869 N Cherry St
Tulare, CA 93274
United States

resource:

Executive Contact
Tammy Kegler

tkeqler@tulareregionat.org
(559) 685-3455

000

0

<u>(\$833.28)</u>	<u>\$1,633.00</u>	<u>51</u>	<u>\$5,770.77</u>
Employees	Implementation Total Total Annual Costs	investment	TataE Annual Savings during promotiona) period; See Terms



Expiration
2/5/2018

ADP Sales Associate

Landon Hersch MAS

MM DM

landon.hersch@adp.co

m 925.251.5434

Sales Order

Quote Number

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Financial
Review

02-2018-9120.1

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United States

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tkegler@tularereqional.org

(559) 685-3455

Processing Fees and Considerations .


Number of Employees: 51 on Tulare Local Health Care District


Sales Order

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Quote Number

	Per Processing	Count	Min	Base	Rate	Bi-Weekly	Annual
	Workforce Now Payroll Solutions (16.0% Discount)	51	-	\$95.00	\$3.00	\$248.00	\$6,448.00
	Workforce Now Payroll Solutions (16.0% Discount) e Enhanced Payroll Employment and Income Verification e Employment Verification						
	Additional Jurisdiction (if applicable)					\$8.95/month	

	Annual Processing	Count	Min	Base	Rate	Annual
	Year End Forms, W2s or 1099s	51	-	-	\$6.95	\$354.45
	Annual Processing Year End Forms, W2s or 1099s					

Total Annual Investment						
		Total Annual				
Workforce Now Services						\$6,802.45
Annualized Discount Value						(\$1,031.68)
Estimated Total Net Annual Investment						<u>\$5,770.77</u>

	Other Considerations	Setup
	Implementation	
	• Implementation for Workforce Now Payroll Solutions	\$1,633.00

Total Other Considerations		Total Setup	
Implementation and Setup	\$2,300.00	Implementation Discount Value	(\$667.00)
Estimated Total Net Implementation			<u>\$1,633.00</u>

Sales Order

Quote Number

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02-2018-9120.1

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869 N Cherry St
Tulare, CA 93274
United States

Executive Contact

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tkeqler@tulareregional.org
(559) 685-3455

Important Project and Billing Information

Product

Billing for Payroll Processing Services, HCM and any module bundled into the single per employee per processing fee for payroll, is billed immediately following the client's first payroll processing. The billing count is based on the number of pays submitted during each processing period, therefore total billing may fluctuate.

Promotion

Promotion is spread over the first five (5) years of services (also referred to as the Promotional Period) applying to months 7 & 8 each year from each product/controls start date. Actual promotional value may vary based on a number of reasons, including but not limited to: start date, number of processings during the promotional month(s) and actual number of employees paid during the promotional months.

Other

Start Date: Payroll:4/2/2018

ADP's Fees for Service will be debited directly out of client's bank account of their choosing seven (7) days from invoice date.

Expiration Date: 215/2018

Summary			\$1,633.00
		Total Net Implementation:	
Estimated Annual Net investment:	\$5,770.77		
Estimated Annual Net Investment \$4,937.49 during promotional period:			

The ADP Services Listed on this Sales Order are provided at the prices set forth herein and in accordance with the ADP Master Services Agreement (or other similar agreement governing ADP's services), which shall include any appendix, exhibit, addendum, schedule or other similar document attached thereto or accompanying this Sales Order. By signing below you are acknowledging and agreeing to such terms and conditions and to the listed prices.

Sales Order

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Quote Number
ADP, LLC

Client: Tulare Local Health Care District

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



02-2018-9120.1

Workforce Now Included Services Enhanced Payroll e Employee and Manager Self Service

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United States

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tkegler@tulareregional.org
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Tax Filing Service

Payment Services

- Reports Library and Custom Report Writer
- Wage Garnishment Processing
- New Hire Reporting
- General Ledger Solution
- One Delivery Location

- e Paid Time Off Accruals
- ADP Portal with Customized Content
- Access to Mobile Apps
- Employee Discount Program
- e Group Term Life Auto Calculation
- Online Reports and Pay Statements

Employment Verification

- Commercial Employment and Income Verifications
- ' Social Services Verifications
- Workers Compensation Verifications

- Client access to Electronic Reports and Tools
- Immigration Verifications

Thank you for your
consideration

Major Accounts Services



Master Services Agreement

ADP, LLC: (referred to herein as "ADP")

One ADP Boulevard
 Roseland, New Jersey 07068
 United States

Client: (referred to herein as "Client")

Tulare Local Health Care District

869 N Cherry St
 Tulare, CA 93274, United States

01-29-2018

(Effective Date)

Attention
 Tammy Kegler

ADP and Client agree that ADP shall provide Client with the following services in accordance with the terms and subject to the conditions set forth in this Major Accounts Services Master Services Agreement (the "Agreement")

NNEXA:	GENERAL TERMS AND CONDITIONS
NNEX B:	PAYROLL PROCESSING & TAX FILING; EMPLOYMENT VERIFICATION SERVICES

BY SIGNING BELOW, CLIENT ACKNOWLEDGES THAT THEY HAVE REVIEWED THE ENTIRE AGREEMENT INCLUDING THE TERMS AND CONDITIONS IN EACH ANNEX CORRESPONDING TO SERVICES PURCHASED PURSUANT TO THE SALES ORDER.

This Agreement includes the Annexes related to the services selected by Client. Each Annex listed above is attached hereto and is incorporated into this Agreement in full by this reference as if set forth in this Agreement in full.

ADP, LLC		CLIENT	
_____ (Signature of Authorized Representative)	_____ (Signature of Authorized Representative)		
_____ (Name - Please Print)	_____ (Name - Please Print)		
_____ (Title)	_____ (Title)		
_____ (Date)	_____ (Date)		

Major Accounts Services I Annex A

General Terms and Conditions



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ADP Proprietary and Confidential

02-2018-9120.1

ADP Major Account
Service

Version 3 (070120i6)

Cover-2

1 Definitions.

- 1.1 "ADP" has the meaning set forth on the cover page.
- 1.2 "ADP Application Programs" means the computer software programs and related Documentation, including any updates, modifications or enhancements thereto, that are either delivered or made accessible to Client through a hosted environment by ADP in connection with the Services.
- 1.3 "ADP Workforce Now" means 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, benefits, talent, and time and attendance. A general description of the Services can be found at www.productdescription.maioraccounts.adp.com (which may be modified from time to time provided, however, that any such modifications will not have a material adverse impact on any of the Services Client is receiving).
- 1.4 "Agreement" means this Major Accounts Services- Master Services Agreement, consisting of the signature pages, the General Terms and Conditions, all exhibits, annexes, addendum, appendices and schedules, and each Amendment, if any.
- 1.5 "Affiliate" means any individual, corporation or partnership or any other entity or organization (a "person") that controls, is controlled by or is under common control with Client. For purposes of the preceding definition, "control" shall mean 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.
- 1.6 "API" means ADP approved application programming interface(s) that support point to point interaction of different systems.
- 1.7 "Approved Country" means each country in which, subject to the terms of this Agreement, Client is authorized to use or receive the Services. The Approved Country for the Services is the United States.
- 1.8 "Access Country" means each country in which, subject to the terms of this Agreement, Client is authorized to use or access the HR and/or Talent modules of ADP Workforce Now (but specifically excluding document cloud services and any other modules/tools that ADP, in its sole discretion, determines shall not be accessible to Client employees located outside the United States) and as approved by ADP. A list of Access Countries for the applicable Services is found at www.productdescription.maioraccounts.adp.com.
- 1.9 "Business Day" means any day, except a Saturday, Sunday or a day on which ADP's bank is not open for business in the applicable jurisdiction where services are provided by ADP.
- 1.10 "Client" has the meaning set forth on the cover page.
- 1.11 "Client Content" means all information and materials provided by Client, its agents or employees, regardless of form, to ADP under this Agreement.
- 1.12 "Client Group" means Client and Client's Affiliates means Client and Client's Affiliates who are receiving Services under this Agreement pursuant to a Sales Order.
- 1.13 "Client Infringement Event" means (i) any change, or enhancement in the Services made by Client or any third party on behalf of Client other than at the direction of, or as approved by, ADP, (ii) Client's use of the Services except as contemplated by this Agreement, or (iii) to the extent ADP Application Programs include computer software programs, Client's use of other than the most current release or version of such computer software programs included in the ADP Application Programs, or Client's failure to use corrections or enhancements to such computer software programs included in the ADP Application Programs, in each case provided by ADP to Client at no charge, that results in a claim or action for infringement that could have been avoided by use of such current release or version, or by such corrections or enhancements.
- 1.14 "Confidential Information" means all information of a confidential or proprietary nature, including pricing and pricing related information and all Personal Information, provided by the disclosing party to the receiving party under this Agreement 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.
- 1.15 "Documentation" means all manuals, tutorials and related materials that may be provided or made available to Client by ADP in connection with the Services.
- 1.16 "General Terms and Conditions" means the terms and conditions contained in this Annex A.

Major Accounts Services I Annex A



General Terms and Conditions

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- 1.17 "Gross Negligence" has the meaning set forth in Section 7.3.1.
- 1.18 "Improvements" has the meaning set forth in Section 5.4 1.19 "Incident" means a security breach (as defined in any applicable law) or any other event that compromises the security, confidentiality or integrity of Client's Personal Information.
- 1.20 "Indemnitees" has the meaning set forth in Section 6.3
- 1.21 "Indemnitor" has the meaning set forth in Section 6.3.
- 1.22 "Intellectual Property Rights" means all rights, title and interest to or in patent, copyright, trademark, service mark, trade secret, business or trade name, know-how and rights of a similar or corresponding character.
- 1.23 "Internal Business Purposes" means the usage of the Services solely by the Client Group for its own internal business purposes, without the right to provide service bureau or other data processing services, or otherwise share or distribute the Services, to any party outside the Client Group, unless expressly contemplated by this Agreement.
- 1.24 "NACHA" means the National Automated Clearing House Association.
- 1.25 "OFAC" means the Office of Foreign Assets Control.
- 1.26 "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 ADP Wage Payment Services, Payee shall be limited to Client's employees and independent contractors.
- 1.27 "Payment Services" means any Services that involve electronic or check payments being made by ADP to third parties on Client's behalf and at its direction.

Services

A- I

- 1.28 "Personal Information" means information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to such person's physical, physiological, mental, economic, cultural or social identity.
- 1.29 "Price Agreement" means a supplemental agreement between the parties that addresses future price increase rates on certain Services over a specific period of time.
- 1.30 "Sales Order(s)" means the document(s) between the parties that lists the specific Services purchased by Client Group from ADP.
- 1.31 "Services" means the services (including implementation services related thereto) listed in any Sales Order, and such other services as the parties may agree to be performed from time to time.
- 1.32 "SOC 1" means any routine Service Organization Control 1 reports.
- 1.33 "Termination Event" means with respect to any party, the occurrence of any of the following: (i) under the applicable bankruptcy laws or similar law regarding insolvency or relief for debtors, (A) a trustee, receiver, custodian or similar officer is appointed over a party's business or property, (B) a party seeks to liquidate, wind-up, dissolve, reorganize or otherwise obtain relief from its creditors, or (C) an involuntary proceeding is commenced against a party and the proceeding is not stayed, discharged or dismissed within thirty (30) days of its commencement, or (ii) a party's Standard and Poor's issuer credit rating falls to or below BB.
- 1.34 "User" means any single natural person who, subject to the terms of this Agreement, is authorized by Client to use, access or receive the Services.

2 Provision and Use of Services

- 2.1 Provision of Services. ADP, or one of its Affiliates, will provide the Services to Client in accordance with the terms of this Agreement and any applicable Sales Order(s). ADP will provide the Services in a good, diligent and professional manner in accordance with industry standards, utilizing personnel with a level of skill commensurate with the Services to be performed. ADP's performance of the Services (including any applicable implementation activities) is dependent upon the timely completion of Client's responsibilities and obligations under this Agreement. Without limitation of the foregoing, Client will timely provide the Client Content necessary for ADP to provide the Services.
- 2.2 Cooperation. ADP and Client will work together to implement the Services. Client will cooperate with ADP and execute and deliver all documents, forms, or instruments necessary for ADP to implement and render the Services. Client will provide ADP with all reasonable and necessary Client Content in the format requested by ADP, and will otherwise provide all reasonable assistance required of Client in order for ADP to implement the Services.
- 2.3 Use of Services. Client will use the Services in accordance with the terms of this Agreement and solely for its own Internal

Major Accounts Services I Annex A

General Terms and Conditions

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Business Purposes in the Approved Country and the Access Countries. Client will be responsible for the use of the Services by the Client Group and the Users in accordance with the terms of this Agreement. Client is responsible for the accuracy and completeness of the Client Content provided to ADP.

- 2.4 Errors. Client will promptly review all documents and reports produced by ADP and provided or made available to Client in connection with the Services and promptly notify ADP of any error, omission, or discrepancy with Client's records. ADP will promptly correct such error, omission or discrepancy and, if such error, omission or discrepancy was caused by ADP, then such correction will be done at no additional charge to Client.
- 2.5 Records. Without prejudice to ADP's obligation to retain the data necessary for the provision of the Services, ADP does not serve as Client's record keeper and Client will be responsible for retaining copies of all documentation received from and

Client Content provided to ADP in connection with the Services to the extent required by Client.

3 Compliance.

- 3.1 Applicable Laws. Each party will comply with applicable laws and regulations that affect its business generally, including any applicable anti-bribery, export control and data protection laws
- 3.2 Design of the Services. ADP will design the Services, including the functions and processes applicable to the performance of the Services, to assist the Client in complying with its legal and regulatory requirements applicable to the Services, and ADP will be responsible for the accuracy of such design. Client and not ADP will be responsible for (i) how it uses the Services to comply with its legal and regulatory requirements and (ii) the consequences of any instructions that it gives or fails to give to ADP, including as part of the implementation of the Services, provided ADP follows such instructions. Services do not include any legal, financial, regulatory, benefits, accounting or tax advice.
- 3.3 Online Statements. If Client instructs ADP to provide online pay statements, Forms W2, Forms 1099 or Forms 1095-C, as applicable, 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, Forms 1099 or Forms 1095-C» as applicable, satisfies Client's obligations under applicable laws and the consequences resulting from such determinations.
- 3.4 Data Protection Laws. Client represents that Personal Information transferred by Client or at Client's direction to ADP has been collected in accordance with applicable privacy laws, and ADP agrees that it shall only process the Personal information as needed to perform the Services, or as required or permitted by law.

4 Confidentiality

- 4.1 General. All Confidential Information disclosed under this Agreement will remain the exclusive and confidential property of the disclosing party. The receiving party will not disclose to any third party 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 such information confidential. ADP may disclose Client's Confidential Information on a need to know basis to (i) ADP's subcontractors who are performing the Services, provided that ADP shall remain liable for any unauthorized disclosure of Client's Confidential Information by those subcontractors, (ii) employees of ADP's Affiliates, provided such employees are instructed to keep the information confidential as set forth in this Agreement and (iii) social security agencies, tax authorities and similar third parties, to the extent strictly necessary to perform the Services. ADP may use Client's and its employees' and other Services recipients' information in an aggregated, anonymized form, such that neither Client nor such person may be identified, and Client will have no ownership interest in such aggregated, anonymized data. Client authorizes ADP to release employee-related data, and such other data as required to perform the Services, to third party vendors of Client as designated by Client from time to time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (x) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it, (y) as appropriate to respond to any summons or subpoena or in connection with any litigation and (z) to the extent necessary to enforce its rights under this Agreement.
- 4.2 Return or Destruction. Upon the request of the disclosing party or upon the expiration or earlier termination of this

Agreement, and to the extent feasible, the receiving party will return or destroy all Confidential Information of the disclosing party in the possession of the receiving party, provided that each party may maintain a copy if required to meet its legal or regulatory obligations and may maintain archival copies stored in accordance with regular computer back-up operations. To the extent that any portion of Confidential Information of a disclosing party remains in the possession of the receiving party, such Confidential Information shall remain subject to the generally applicable statutory requirements and the confidentiality protections contained in Section 4.1.

- 4.3 Transfer. The Services may be performed by ADP Affiliates or subcontractors located in other countries, and ADP may transfer or permit access to Client's Confidential Information, including employees' Personal Information, for the purposes of performing the Services outside of Canada and the United States of America. As a result, Client's employees' Personal Information may be subject to the laws of such jurisdictions and may be accessible to the courts and law enforcement authorities of those jurisdictions. Notwithstanding the foregoing, ADP will remain responsible for any unauthorized disclosure or access of Client's employees' Personal Information by any ADP Affiliate or subcontractor in the performance of any such Services.

5 INTELLECTUAL PROPERTY

- 5.1 Client IP Rights. Except for the rights expressly granted to ADP in this Agreement, all rights, title and interests in and to Client Content, including all Intellectual Property Rights inherent therein and pertaining thereto, are owned exclusively by Client or its licensors. Client hereby grants to ADP for the term of this Agreement a non-exclusive, worldwide, nontransferable, royalty-free license to use, edit, modify, adapt, translate, exhibit, publish, reproduce, copy and display the Client Content for the sole purpose of performing the Services; provided Client has the right to pre-approve the use by ADP of any Client trademarks or service marks.
- 5.2 ADP IP Rights. Except for the rights expressly granted to Client in this Agreement* all rights, title and interest in and to the Services, including all Intellectual Property Rights inherent therein and pertaining thereto, are owned exclusively by ADP or its licensors. ADP grants to Client for the term of this Agreement a personal, non-exclusive, non-transferable, royalty-free license to use and access the ADP Application Programs solely for the internal Business Purposes in the Approved Countries and the Access Countries. The ADP Application Programs do not include any Client-specific customizations unless otherwise agreed in writing by the parties. Client will not obscure, alter or remove any copyright, trademark, service mark or proprietary rights notices on any materials provided by ADP in connection with the Services, and will not copy, decompile, recompile, disassemble, reverse engineer, or make or distribute any other form of, or any derivative work from, such ADP materials.
- 5.3 Ownership of Reports. Client will retain ownership of the content of reports and other materials that include Client Content produced and delivered by ADP as a part of the Services, provided that ADP will be the owner of the format of such reports. To the extent any such reports or other materials incorporate any ADP proprietary information, ADP (i) retains sole ownership of such proprietary information and (ii) provides the Client a fully paid up, irrevocable, perpetual, royalty-free license to access and use same for its Internal Business Purposes without the right to create derivative works (other than derivative works to be used solely for its Internal Business Purposes) or to further distribute any of the foregoing rights outside the Client Group.
- 5.4 Improvements. ADP will make available to Client, at no additional cost, software improvements, enhancements, or updates to any ADP Application Programs that are included in the Services (collectively "Improvements") if and as they are made generally available by ADP at no additional cost to ADP's other clients using the same ADP Application Programs as Client and receiving the same Services as Client. All Improvements provided under this Section 5.4 shall be considered part of the ADP Application Programs

6 Indemnities

- 6.1 ADP Indemnity. Subject to the remainder of this Section 6.1, and Section 63 and 7, 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 Services or ADP Application Programs, as provided by ADP and used in accordance with the terms of this Agreement, infringe upon any Intellectual Property Rights of a third party in an Approved Country. The foregoing infringement indemnity will not apply and ADP will not be liable for any damages assessed in any cause of action to the extent resulting from a Client Infringement Event or ADP's use of Client Content as contemplated by this Agreement. If any Service is held or believed to infringe on any third-party's Intellectual Property Rights, ADP may, in its

sole discretion, (i) modify the Service to be non-infringing, (ii) obtain a license to continue using such Service, or (iii) if neither (i) nor (ii) are practical, terminate this Agreement as to the infringing Service.

- 6.2 Client Indemnity. Subject to Sections 6.3 and 7, Client will defend ADP against any third party claims and will indemnify and hold ADP harmless from any resulting damage awards or settlement amounts in any cause of action to the extent such cause of action is based on the occurrence of a Client Infringement Event or ADP's use of Client Content as contemplated by this Agreement.
- 6.3 Indemnity Conditions. The indemnities set forth in this Agreement are conditioned on the following: (i) the party claiming indemnification (the "Indemnitee") shall promptly notify the indemnifying party (the "Indemnitor") of any matters in respect of which it seeks to be indemnified, and shall give the Indemnitor full cooperation and opportunity to control the response thereto and the defense thereof, including without limitation any settlement thereof, (ii) the Indemnitor shall have no obligation for any claim under this Agreement if the Indemnitee makes any admission, settlement or other communication regarding such claim without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld, and (iii) the Indemnitee's failure to promptly give notice to the Indemnitor shall affect the Indemnitor's obligation to indemnify the Indemnitee only to the extent the Indemnitor's rights are materially prejudiced by such failure. The Indemnitee may participate, at its own expense, in such defense and in any settlement discussions directly or through counsel of its choice.

7 Limit on Liability

- 7.1 Ordinary Cap. Notwithstanding anything to the contrary in this Agreement and subject to the remainder of this Section 7, neither party's aggregate limit on monetary damages in any calendar year shall exceed an amount equal to six (6) times the average ongoing monthly Services fees paid or payable to ADP by Client during such calendar year (the "Ordinary Cap"). 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.
- 7.2 Extraordinary Cap. As an exception to Section 7.1, if damages (monetary or otherwise) arise from a breach of Section 4.1 (Confidentiality) or Section 9.3 (Data Security), the Ordinary Cap will be increased by an additional six (6) times the average ongoing monthly Service fees paid or payable to ADP by Client during such calendar year (the "Extraordinary Cap"). For the avoidance of doubt, in no case shall either party's aggregate limit on monetary damages in any calendar year under this Agreement exceed twelve (12) times the average monthly ongoing Service fees paid or payable to ADP by Client during such calendar year.
- 7.3 Matters not Subject to Either Cap. The limitations of liability set forth in Sections 7.1 and 7.2 shall not apply to:
- 7.3.1 Either party's Gross Negligence, or willful, criminal or fraudulent misconduct; for the purposes of this Agreement, "Gross Negligence" shall be defined as: (1) willful, wanton, careless or reckless conduct, misconduct, failures, omissions, or disregard of the duty of care towards others of a risk known or so obvious that the actor must be taken to have been aware of it, and with an intent to injure or so great as to make it highly probable that harm would follow and/or (2) failure to use even the slightest amount of care, or conduct so reckless, as to demonstrate a substantial lack of concern for the safety of others. For the avoidance of doubt, Gross Negligence must be more than any mere mistake resulting from inexperience, excitement, or confusion, and more than mere thoughtlessness or inadvertence or simple inattention;
 - 7.3.2 The infringement indemnity set forth in Sections 6.1 and 6.2;
 - 7.3.3 Client's obligations to pay the fees for Services;
 - 7.3.4 ADP's obligations to provide credit monitoring and notifications as set forth in Section 10.2;
 - 7.3.5 Client's funding obligations in connection with the Payment Services;
 - 7.3.6 ADP's loss or misdirection of Client funds in possession or control of ADP due to ADP's error or omission;
 - 7.3.7 In connection with the Employment Tax Services as provided in Annex B, (a) interest charges imposed by an applicable tax 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 (b) afl tax penalties resulting from ADP's error or omission in the performance of such Service. The provisions of this (iv) 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.
 - 7.3.8 Client's use or access of the Services and/or ADP Application Programs outside of the Approved Countries and/or Access Countries.
- 7.4 Mitigation of Damages. ADP and Client will each use reasonable efforts to mitigate any potential damages or other adverse consequences arising from or relating to the Services.
- 7.5 No Consequential Damages. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND**

ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW, NONE OF ADP, CLIENT OR ANY BANK WILL BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES

(INCLUDING DAMAGES FOR LOSS OF BUSINESS OR PROFITS, BUSINESS INTERRUPTIONS OR HARM TO REPUTATION) THAT ANY OTHER PARTY OR ITS RESPECTIVE AFFILIATES 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 or Client's (i) willful, criminal or fraudulent misconduct, or (ii) breach or breaches of Section 4.1 or Section 9.3 under this Agreement; provided however, that any consequential damages recovered by Client or ADP in a calendar year for claims pursuant to Section 7.5(ii) will be subject to the Extraordinary Cap set forth in Section 7.2 above.

8 WARRANTIES AND DISCLAIMER

8.1 Warranties. Each party warrants that (i) it has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby and (ii) this Agreement has been duly and validly executed and delivered and constitutes the valid and binding agreement of the parties, enforceable in accordance with its terms.

8.2 DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALL SERVICES, ADP APPLICATION

PROGRAMS AND EQUIPMENT PROVIDED BY ADP OR ITS SUPPLIERS ARE PROVIDED 'AS IS' AND ADP AND ITS LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM ANY WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE, COMPLETENESS, CURRENTNESS, NON-INFRINGEMENT, NON-INTERRUPTION OF USE, AND

FREEDOM FROM PROGRAM ERRORS, VIRUSES OR ANY OTHER MALICIOUS CODE, WITH RESPECT TO THE SERVICES, THE ADP APPLICATION PROGRAMS, ANY CUSTOM PROGRAMS CREATED BY ADP OR ANY THIRDPARTY SOFTWARE DELIVERED BY ADP AND RESULTS OBTAINED THROUGH THE USE THEREOF.

9 SECURITY AND CONTROLS

9.1 Service Organization Control Reports. Following completion of implementation of any applicable Services, ADP will, at Client's request and at no charge, provide Client with copies of any routine Service Organization Control 1 reports ("SOC 1 Reports") (or any successor reports thereto) directly related to the core ADP Products utilized to provide the Services provided hereunder for Client and already released to ADP by the public accounting firm producing the report. SOC 1 Reports are ADP Confidential Information and Client will not distribute or allow any third party (other than its independent auditors) to use any such report without the prior written consent of ADP. Client will instruct its independent auditors or other approved third parties to keep such report confidential and Client will remain liable for any unauthorized disclosure of such report by its independent auditors or other approved third parties.

9.2 Business Continuity; Disaster Recovery. ADP has established and will maintain a commercially reasonable business continuity and disaster recovery plan and will follow such plan.

9.3 Data Security. ADP has established and will maintain an information security program containing appropriate administrative, technical and physical measures to protect Client data (including any Personal Information therein) against accidental or unlawful destruction, alteration, unauthorized disclosure or access consistent with applicable laws. In the event ADP suspects any unauthorized access to, or use of, the Services, ADP may suspend access to the Services to the extent ADP deems necessary to preserve the security of the Client's data.

10 DATA SECURITY INCIDENT

10.1 Notification. 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 Personal Information (an "Incident"), ADP will take appropriate actions to contain, investigate and mitigate the Incident. ADP shall notify Client of an Incident as soon as reasonably possible.

10.2 Other ADP Obligations. In the event that an Incident is the result of the failure of ADP to comply with the terms of this Agreement, ADP shall, to the extent legally required or otherwise necessary to notify the individuals of potential harm, bear the actual, reasonable costs of notifying affected individuals. ADP and Client shall mutually agree on the content and timing of any such notifications, in good faith and as needed to meet applicable legal requirements. In addition, where notifications are required and where such monitoring is practicable and customary, ADP shall also bear the cost of one year of credit monitoring to affected individuals in applicable jurisdictions.

11 PAYMENT TERMS

11.1 Fees and Fee Adjustments. Client will pay to ADP the fees and other charges for the Services as set forth in the Sales Order. Unless there is a Price Agreement in effect, the fees set forth in the Sales Order will remain fixed during the first six (6) months following the Effective Date and thereafter, ADP may modify the fees on an annual basis upon thirty (30) days' prior written notice to Client. The fees presented in the Sales Order were calculated based upon particular assumptions relative to Client requirements (including funding requirements), specifications, volumes and quantities as reflected in the applicable Sales Order and related documentation, and if Client's actual requirements vary from what is stated, ADP may adjust the fees based on such changes. The fees do not include any customizations to any Service.

Services

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11.2 Additional Services and Charges. If Client requests additional services offered by ADP not included in this Agreement, and ADP agrees to provide such services: (i) those services and related fees will be included in a separate Sales Order; (ii) any Services provided to Client but not included in a Sales Order will be provided subject to the terms of this Agreement and charged at the applicable rates as they occur; and (iii) those services will be considered to be "Services" for purposes of this Agreement. Additional charges may be assessed Client in relation to the performance of the Services in certain circumstances, including without limitation, late funding, an insufficient funds notification and emergency payment requests from Client.

11.3 Fees for Implementation Services. Implementation fees are due and payable by Client upon the go-live date for such Services. However, if this Agreement or any Service are terminated after implementation services have started but before the go-live date, the greater of the following amounts shall be immediately due and payable by Client: (i) implementation fees for implementation services performed up to the date of termination; or (ii) 30% of the total Implementation Fees set out in the Sales Order.

11.4 Invoicing. ADP will notify Client of all applicable Services fees payable by Client by way of invoice or other method (i.e. ADP's on-line reporting tool). Client will pay the amount on each invoice or such other similar document in full within seven (7) days of notification via the agreed to method of payment. All amounts not paid when due are subject to a late payment charge of one and one-half percent (1 1/2%) per month (not to exceed the maximum allowed by applicable law) of the past due amount from the due date until the date paid.

11.5 Currency. Client shall pay the fees in US dollars.

11.6 Taxes. Unless Client provides ADP a valid tax exemption or direct pay certificate, Client Will pay directly, or will pay to ADP, an amount equal to all applicable taxes or similar fees levied or based on the Agreement or the Services, exclusive of taxes based on ADP's net income.

11.7 Postage, Shipping Travel and out-of-pocket expenses. ADP will invoice Client for postage charges, delivery charges, other third party charges, and reasonable travel and out-of-pocket expenses as necessary to provide the Services.

11.8 Funding Requirements and Disbursement Disclosures. With respect to Payment Services to be deducted by ACH or Pre-Authorized Debit, Client must have sufficient good funds for payment of the payroll obligations, tax filing obligations, wage garnishment deduction obligations, service fees (as applicable), expenses, and any other applicable charges, to be direct debited from Client's designated account no later than one (1) banking days prior to the pay date for the applicable payroll (in the case of payroll processing services), or as otherwise agreed by the parties. For reverse wire clients, funds

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must be available (a) one (1) banking day prior to the pay date for the applicable payroll (in the case of the ADP Employment Tax Services) and (b) two (2) banking days prior to the pay date for all other Payment Services, or as otherwise agreed by the parties. In consideration for the additional costs incurred by ADP in providing wire transfer service, Client agrees to pay a reasonable fee (currently \$10.00) for each wire transfer. Notwithstanding the foregoing, ADP reserves the right to modify the aforementioned deadlines at any time and will communicate any such modifications to Client.

- 11.9 Change Control. In the event either party requests a change in the scope of Services (including implementation services) (each a "Change Control Item"), the parties shall address such change request via ADP's change control process. Change Control Items and the cost associated with such changes (if any) to the Services shall be mutually agreed to by the parties, with the exceptions of Change Control Items that are required to be made by law or regulation applicable to the Services or to the duration of implementation services, which ADP will notify Client of prior to making the change. The current standard hourly rate for a Change Control Item \$150.00 per hour; provided, however, that such rate may be increased by ADP if such Change Control Item (i) entails significant modification of available resources, (ii) impacts existing change control efforts for other ADP clients, or (iii) occurs during high-volume periods. ADP may modify the standard hourly rate for a Change Control Item from time to time.

12 Term; Termination; Suspension

- 12.1 Term; Termination for Convenience This Agreement will commence on the Effective Date and remain in effect until terminated by either party in accordance with the terms hereof. Subject to the terms of any Price Agreement, either party may terminate this Agreement or any Service upon ninety (90) days' prior written notice to the other party. In the event Client does not provide ADP with the proper notice as set forth in the previous sentence (or as set forth in any Annex herein), Client shall pay ADP for any fees for Services that would have been incurred by Client during such notice period (calculated based on an average of the prior six months of invoices for such terminated Services, or shorter period of time if there has been less than six months of invoices).
- 12.2 Termination for Cause. Either party may terminate this Agreement for the other's material breach of this Agreement if such breach is not cured within sixty (60) days following notice thereof or in the event either party is the subject of a Termination Event. In addition, ADP may terminate this Agreement in the event Client fails to timely pay fees for Services performed within 10 days following notice that such fees are past due. ADP may also terminate this Agreement or the Services immediately on written notice to Client if the provision of Service to Client causes or will cause any affiliate or subsidiary of ADP to be in violation of any laws, rules or regulations applicable to such affiliate or subsidiary. Notwithstanding anything to the contrary in this Agreement, email will be considered adequate notification for the purposes of this Section 12
- 12.3 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 if: (i) Client has failed to remit sufficient, good and available funds within the deadline and via the method of delivery agreed upon as it relates to the applicable Payment Services; or (ii) Client breaches any rules promulgated by NACHA as it relates to ADP conducting electronic payment 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

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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 Sections 12.2 or 12.3, 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 ADP 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 7.3.7), and (y) reimburse ADP for all payments properly made by ADP on behalf of Client to any payee, which have not been paid or reimbursed by Client. If the Payment Services remain suspended for thirty (30) days, the Payment Services will be terminated on the 31st day following suspension.

12.4 Post Termination. At any time prior to the actual termination date, Client may download Client's information or reports available to it in conjunction with all of the Services provided to Client by ADP. Upon termination of this Agreement, Client may order from ADP any data extraction offered by ADP, at the then prevailing hourly time and materials rate.

13 Reserved.

14 Additional Terms. In addition to the terms set forth in any subsequent Annexes attached hereto, the following terms shall apply.

14.1 ESS & MSS Technology. Employee self-service (ESS) and Manager self-service (MSS) functionality provides all Client Users (practitioners, managers and employees) 24x7 online access to ADP Application Programs. The following additional terms apply to the ESS & MSS Technology:

14.1.1 Client acknowledges that Client's employees or participants may input information into the self-service portions of the ADP Application Programs. ADP shall have no responsibility to verify, nor does ADP review the accuracy or completeness of the information provided by Client's employees or participants to ADP using any self-service features. ADP shall be entitled to rely upon such information in the performance of the Services under this Agreement as if such information was provided to ADP by Client directly.

14.2 ADP Marketplace. Enable Client to build applications and/or purchase available applications via online store. Provide access to certain Client data stored in ADP systems via industry-standard Application Programming Interfaces (APIs). The following additional terms apply to the ADP Marketplace (applies only if Client accesses ADP Marketplace Services):

14.2.1 Transmitting Information to Third Parties. In the event that Client elects to use an API to provide any Client Content or employee or plan participant information to any third party, 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. ADP shall not be responsible for any services or data provided by any such third party.

14.2.2 Use of the ADP APIs. Client will use the ADP APIs to access Client's information only. Client may not use any robot, spider, or other automated process to scrape, crawl, or index the ADP Marketplace and will integrate Client's application with the ADP Marketplace only through documented APIs expressly made available by ADP. Client also agrees that Client will not (a) use the ADP Marketplace or any ADP API to transmit spam or other unsolicited email; (b) take any action that may impose an unreasonable or disproportionately large load on the ADP infrastructure, as determined by ADP; or (c) use the ADP APIs or the ADP Marketplace in any way that threatens the integrity, performance or reliability of the ADP Marketplace, Services or ADP infrastructure. ADP may limit the number of requests that Client can make to the ADP API gateway to protect ADP's system or to enforce reasonable limits on Client's use of the ADP APIs. Specific throttling limits may be imposed and modified from time to time by ADP.

15 Miscellaneous

15.1 Amendment. This Agreement may not be modified, supplemented or amended, except by a writing signed by the authorized representatives of ADP and Client.

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- 15.2 **Assignment.** Neither this Agreement, nor any of the rights or obligations under this Agreement, may be assigned by any party without the prior written consent of the other party, such consent not to be unreasonably withheld. However, Client may assign any or all of its rights and obligations to any other Client Group member and ADP may assign any or all of its rights and obligations to any Affiliate of ADP, provided that any such assignment shall not release the assigning party from its obligations under this Agreement. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.
- 15.3 **Additional Documentation.** In order for ADP to perform the Services, it may be necessary for Client to execute and deliver additional documents (including reporting agent authorization, client account agreement, limited powers of attorney, etc.) and Client agrees to execute and deliver such additional documents.
- 15.4 **Subcontracting.** Notwithstanding Section 15.2, ADP reserves the right to subcontract any or all of the Services, provided that ADP remains fully responsible under this Agreement for the performance of any such subcontractor. For the avoidance of doubt, third parties used by ADP to provide delivery or courier services, including the postal service in any country or any third party courier service, and banking institutions, are not considered subcontractors of ADP.
- 15.5 **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between ADP and Client with respect to its subject matter and merges and supersedes all prior discussions, agreements and understandings of every kind and nature between the parties. No party will be bound by any representation, warranty, covenant, term or condition other than as expressly stated in this Agreement. Except where the parties expressly state otherwise in a relevant exhibit,



annex, appendix or schedule, in case of conflict or inconsistency between this Annex A and any such exhibit, annex, appendix or schedule, this Annex A will prevail and control. Purchase orders or statements of work submitted to ADP by Client will be for Client's internal administrative purposes only and the terms and conditions contained in any purchase order or statements of work will have no force and effect and will not amend or modify this Agreement.

- 15.6 **No Third Party Beneficiaries.** Except as expressly provided herein or in an applicable exhibit, annex, appendix or schedule, nothing in this Agreement creates, or will be deemed to create, third party beneficiaries of or under this Agreement. Client agrees that ADP's obligations in this Agreement are to Client only, and ADP has no obligation to any third party (including, without limitation, Client's personnel, directors, officers, employees, Users and any administrative authorities).
- 15.7 **Force Majeure.** Any party to this Agreement will be excused from performance of its obligations under this Agreement, except for Client's obligation to pay the fees to ADP pursuant to Section 11, 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, labor disputes or disturbances, governmental regulations, communication or utility failures or other cause beyond the party's reasonable control. Such non-performance will not constitute grounds for breach.
- 15.8 **Waiver.** 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 waiver of any provision of this Agreement shall only be effective if made in

writing signed by the authorized representatives of ADP and Client and shall not operate or be construed to waive any future omission or breach of, or compliance with, any other provision of this Agreement.

- 15.9 **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.
- 15.10 **Severability.** If any provision of this Agreement is finally determined to be invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality or enforceability of the remainder of this Agreement will not in any way be affected or impaired and such court shall have the authority to modify such invalid, illegal or unenforceable provision to the extent necessary to render such provision valid, legal or enforceable, preserving the intent of the parties to the furthest extent permissible.
- 15.11 **Relationship of the Parties.** 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, construe or imply an agency, joint venture, partnership or fiduciary relationship of any kind between ADP and Client. None of ADP's employees, agents or subcontractors will be considered employees, agents or subcontractors of Client. Unless expressly stated in this

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Agreement, none of ADP, its employees, agents or its subcontractors may enter into contracts on behalf of, bind, or otherwise obligate Client in any manner whatsoever.

- 15.12 Governing Law. This Agreement is governed by the laws of the State of New York without giving effect to its conflict of law provisions.
- 15.13 Jurisdiction. Any disputes that may arise between ADP and Client regarding the performance or interpretation of this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts of New York, New York. The parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts of New York, New York and waive any claim that any proceedings brought in such courts have been brought in an inconvenient forum. THE PARTIES HEREBY IRREVOCABLY WAIVE THEIR RIGHT TO TRIAL BY JURY.
- 15.14 Counterparts. This Agreement may be signed in two or more counterparts by original, .pdf (or similar format for scanned copies of documents) or facsimile signature, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 15.15 Notices. All notices required to be sent or given under this Agreement will be sent in writing and will be deemed duly given and effective (i) immediately if delivered in person, or (ii) upon confirmation of signature recording delivery, if sent via an internationally recognized overnight courier service with signature notification requested to Client at the address indicated on the signature page hereof and to ADP at 15 Waterview Boulevard, Parsippany, New Jersey 07054, Attention: Legal Department or to any other address a party may identify in writing from time to time. A copy (which shall not constitute notice) of all such notices shall be sent to ADP at One ADP Boulevard, MS 425, Roseland, New Jersey 07068, Attention: General Counsel and to Client at the address indicated on the cover page hereof.
- 15.16 Survival. Those provisions which by their content are intended to, or by their nature would, survive the performance, termination, or expiration of this Agreement, shall survive termination or expiration of this Agreement

B



Payroll, Employment Tax, Wage Payment and Employment Verifications Services

1 Payroll, Employment Tax & Wage Payment Services. ADP will provide the following services:

- 1.1 ADP Payroll Services. Administration and processing of payroll including performing gross-to-net calculations and generating and/or transmitting of payment instructions.
- 1.2 ADP Employment Tax Services. Coordination of payroll-related tax and/or regulatory agency deposits, filings, and reconciliations on behalf of employers.
- 1.3 ADP 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 to the extent applicable. Such services may be provided via ADP Check Services, ADP Direct Deposit Services, and AL INE Card Services (if elected additional terms set forth in Annex J shall apply).
- 1.4 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.
- 1.5 Wage Garnishment Payment Services. Garnishment payment processing and disbursement of payments to appropriate payees as directed by client.

2 Billing, Payroll, Employment Tax & Wage Payment Services and any other Services bundled into the pricing for such services are billed immediately following Client's first payroll processing. The billing count is based on the number of pays submitted during each payroll processing period, therefore total billing may fluctuate.

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3 ADP Wage Payment Services. The following additional terms and conditions apply to the ADP Wage Payment Services:

- 3.1 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.
- 3.2 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.
- 3.3 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.

3.4 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.

- 3.5 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.
- 3.6 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.
- 3.7 Full Service Direct Deposit (FSDD). Prior to the first credit to the account of any employee or other individual under FSDD services, Client shall obtain and retain a signed authorization from such employee or individual authorizing the initiation of credits to such party's account and debits of such account to recover funds credited to such account in error.

4 ADP Employment Tax Services. The following additional terms and conditions apply to the ADP Employment Tax Services:

- 4.1 Important Tax Information (IRS Disclosure). Notwithstanding Client's engagement of ADP to provide the ADP 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

- 4.2 State Unemployment Insurance Management. Subject to Section 15.7 of Annex A, Client's compliance with its obligations in Sections 42.1 and 4.2.2 herein, and any delays caused by third parties (e.g., postal service, agency system and broker delays) and events beyond ADP's reasonable control, ADP will deliver the State Unemployment Insurance Management Services ("SUI Management Services") within the time periods established by the relevant unemployment compensation agencies.



B

Payroll, Employment Tax, Wage Payment and Employment Verifications Services

- 4.2.1 Provision of Information; Contesting Claims. Client will on an ongoing basis provide ADP and not prevent ADP from furnishing all information necessary for ADP to perform the SUI Management Services within the timeframes established or specified by ADP. The foregoing information includes without limitation the claimants' names, relevant dates, wage and separation information, state-specific required information, and other documentation to support responses to unemployment compensation agencies.
- 4.2.2 Transfer of Data. Client may transfer the information described in Section A to ADP via: (i) on-line connection between ADP and Client's computer system, or (ii) inbound data transmissions from Client to ADP. Client will provide the data using mutually acceptable communications protocols and delivery methods. Client will promptly notify ADP in writing if Client wishes to modify the communication protocol or delivery method.
- 4.2.3 Client acknowledges that ADP is not providing storage or record keeping of Client records as part of the SUI Management Services, and that if the SUI Management Services are terminated, ADP may, in conformity with Section 4 of Annex A, dispose of all such records. If the SUI Management Services are terminated, any access Client has to ADP websites containing Client's data will expire and Client will be responsible for downloading and gathering all relevant data prior to expiration of any such access that may have been granted.

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

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

5.1.1 "FCRA" Fair Credit Reporting Act, 15 U.S.C. 51681 et seq.

5.1.2 "Verification Agent" has the meaning set forth in Section 5.2.1.1.

5.1.3 "Verification Data" has the meaning set forth in Section 5.2.1.1.

5.1.4 "Verifiers" has the meaning set forth in Section 5.2.1.1.

5.2 Additional Terms. To the extent Client has not opted out of receipt of Employment Verification Services, the following additional terms and conditions shall apply:

5.2.1 Verification Services and Authorization as Agent.

5.2.1.1 ADP currently provides the Employment Verification Services through The Work Number®, an Equifax Workforce

Solutions service though ADP reserves the right to provide them through another entity (each, a "Verification Agent"). Notwithstanding anything to the contrary in Section 4.1 of Annex A, Client authorizes ADP and its Verification Agents to disclose, on Client's behalf, employment information (including employees' place of employment and employment status) and income information (including total wages per year to date and previous year income) of Client and Client's employees (or former employees) (collectively, "Verification Data"), to commercial, private, non-profit and governmental entities and their agents (collectively, "Verifiers"), who wish to obtain or verify any of Client's employees' (or former employees') Verification Data. Verification Data will be disclosed to Verifiers who certify they are entitled to receive such data (as described below) pursuant to the FCRA, and, in the case of income information requests, who additionally certify they have a record of the employee's consent to such disclosure or who utilize a salary key. In accordance with FCRA, Verification Data may be provided to Verifiers where (i) the employee has applied for a benefit (such as credit, other employment or social services assistance); (ii) the employee has obtained a benefit and the Verifier is seeking to (a) determine whether the employee is qualified to continue to receive the benefit; and/or (b) collect a debt or enforce other obligations undertaken by the employee in connection with the benefit; or (iii) the Verifier is otherwise entitled under FCRA to obtain the Verification Data. In certifying they have a record of the employee's consent, Verifiers generally rely on the employee's signature on the original application as authorization for the Verifier to access the employee's income data at the time of the application and throughout the life of the obligation. Client understands that Verifiers are charged for commercial verifications processed through ADP or its Verification Agents.

5.2.1.2 Data Quality. If requested by ADP, Client agrees to work with ADP during implementation to produce a test file and validate the Verification Data included in the Verification Services database using validation reports made available by ADP or its Verification Agents. If Client uses ADP's hosted payroll processing services, ADP will update the

Verification Services database with the applicable Verification Data available on ADP's payroll processing system.

5.2.1.3 Notice to Furnishers of Information: Obligations of Furnishers of Information ("Notice to Furnishers").

Client certifies that it has read the Notice to Furnishers provided to Client at the following URL:

<https://www.consumer.ftc.gov/articles/pdf-0092-notice-to-furnishers.pdf>. Client understands its obligations as a data furnisher set forth in such notice and under FCRA which include duties regarding data accuracy and investigation of disputes, and certifies it will comply with all such obligations. Client further understands that if it does not comply with such obligations, ADP may correct incorrect Verification Data on behalf of Client or terminate the Employment Verification Services upon 90 days prior written notice to Client.

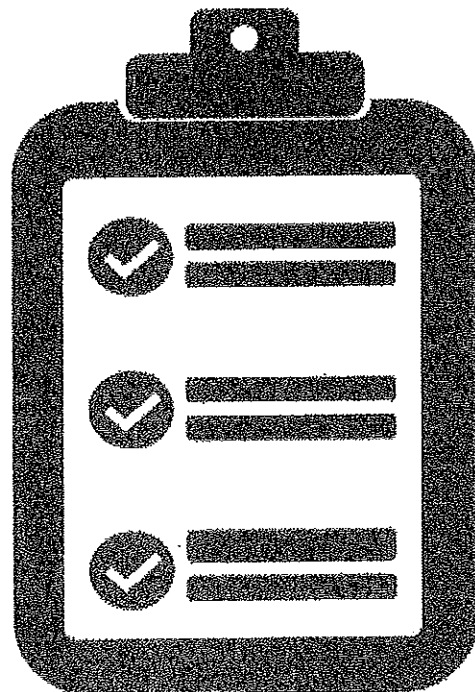
5.2.1.4 Archival Copies. Notwithstanding anything to the contrary in Annex A, Client agrees that, after the termination of this Agreement, ADP and its Verification Agents may maintain archival copies of the Verification Data as needed to show the discharge and fulfillment of obligations to Client's employees and former employees and the provisions of Section 4.1 of Annex A will continue to apply during the time that ADP and its Verification Agents maintain any such archival copies.

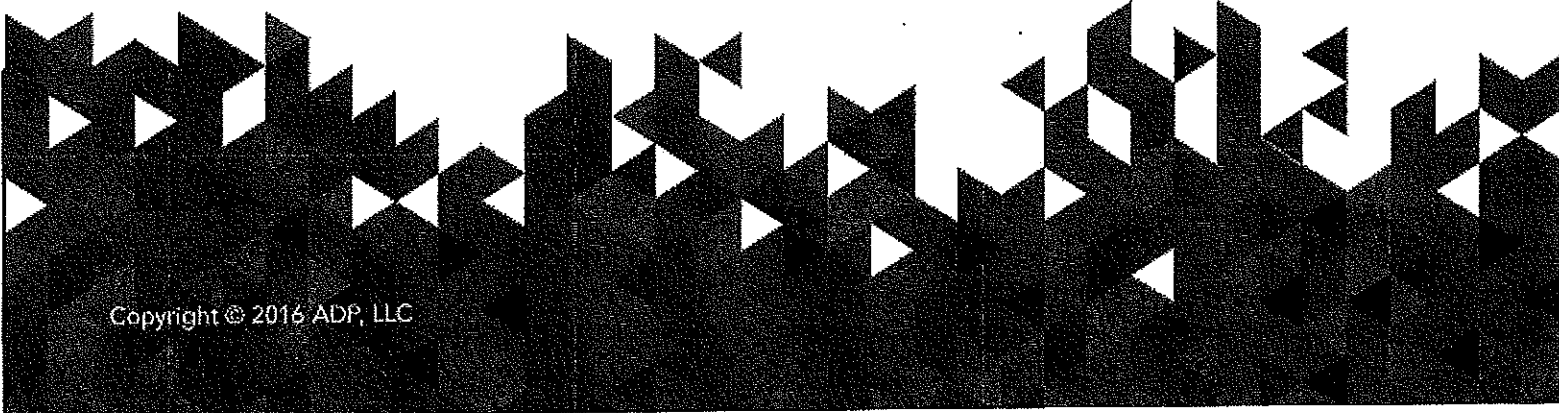
5.2.1.5 Additional Termination Provisions for Employment Verification Services. ADP may, in its sole discretion, terminate the Employment Verification Services at any time upon 90 days prior written notice to Client should a Verification Agent notify ADP that it is no longer willing to provide the Employment Verification Services and ADP, after taking commercially reasonable steps, cannot engage a successor Verification Agent

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Getting Started with ADP

New Client Checklist and Implementation Guide





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New Client Checklist YTD r Profile Attached Report (Mandatory with all New Orders) OR r Not Applicable (New Company with no Payroll History)

Hello and welcome to ADP! We appreciate your business and look forward to the next step which is your Implementation Analysis Meeting. In preparation, please provide your sales representative with the following:

Federal Employer Identification Number (FEIN) Proof

Current IRS document (within the last 6 months) that includes the FEIN and legal name or copy of a recently completed Payroll Provider return

Key Implementation Start Dates

First Input Date: _____ Period Ending Date: _____ First Pay Date with ADP: _____

Creation of Your Client ID

A unique identifier that describes you as our client (limited to 10 characters). It is needed to initiate your company on our system prior to our first meeting. When choosing your Client ID common practices include: Abbreviation of Your Company Name or Stock Ticker Symbol. Examples include IBM, GenCo, MSFT, and FedEx.

Choice 1		Choice 2	
Choice 3		Choice 4	

*Keep in mind that you and your employees will need to know your Client ID to register online.

Current Vendor Information

r Provide a copy of the most current Company Year-to-Date Profile Report to your Sales Representative. This will expedite your company setup profile. The report is to contain company level information including Hour/Earnings Types, Deductions, Departments, and Tax Jurisdictions.

Additional Preferred Documentation:

- Deposit frequencies for State and Local taxes (typically found on a report that displays tax liability information)
 - Current Year Quarterly Tax Filings and/or Deposits (Federal-941, State-941, State Unemployment Filing)
 - Chart of Accounts for Payroll and Sample Journal Entry in Excel format (if applicable)
 - Paid Time Off Accrual Policy (if applicable)
- Reporting Agent Authorization and Client Account Agreement documents will be presented during implementation for signature and a voided check for the designated accounts ADP is to debit will be collected.

If Time Clocks were Purchased:

Provide Contact information for IT/Network Administrator responsible for clock installation

Name: _____ Phone: _____ Email: _____

If Benefits Administration Module Was Purchased:

Provide Broker Contact Information if you would like ADP to gather setup and enrollment information.

Broker _____ Name: Permission for ADP to talk to Broker: Yes

No Broker Contact Account Manager: Name: _____ Phone:

_____ Email:

If Broker will not be involved, please collect the following two documents in anticipation of the Analysis:

r Benefit Plan Summary AND Benefit Rate Sheet

New Hire Benefits Packet

If Recruitment and/or Performance Modules Were Purchased, collect the following two documents in anticipation of the Analysis:

r Job Application/Posting (if Recruitment)

Sample Performance Appraisal (if Performance)



Vendor Source Document List to collect Company Year-to-Date Profile Report

If your current vendor is not listed below, you can provide a report or list containing the following information; pay elements (hours/earnings types), deductions, departments and tax jurisdictions.

Vendor	YTD Profile Source Document	Comments
Abra	Gross to Net Detail Report	
Acc Pac	Earnings and Hours Report QTD	
Advantage	YTD Register	
Ahoia	Payroll Register - Com an Summary	
AmeriPa (Millennium)	MQYtd	AmeriPa uses a Millennium product
BalancePoint (EvoluNon)	Payroll Register Totals at end of report	BalancePoint uses an Evolution Product
California Payroll Millennium	MQYtd	California Payroll uses a Millennium product
CBIZ MiNenniunl	MQYtd	CBIZ uses a Millennium product
Ceridian - Source 500 or HR/Payroll	Payroll Register	
Ceridian — Da Force		
Comlete Payroll (Evolution)	Payroll Register Totals at end of report	Comlete Payroll uses an Evolution Product
ComuPayroll v3.o.2548	ASCII Export	
ComuPayroll Right	Employee Pay History	
cor PR Solutions	Pay History Report	
Dac Easy (Safe)	Totals at end of reports	Dac Easy uses a Safe Product
Deltek	Totals at end of reports	
Elite HR	Totals at end of reports	
Encore/E -Chx	Payroll Register Total Page	
Evolution	Payroll Register Totals at end of report	
Fidelit	Totals at end of reports	
Harers (Millennium)	MQYtd	Harers uses a Millennium Product
InstaPav	YTD Register Totals Page	
Intuit Comlete PC or Web Entr	Payroll Journal	
Kronos Visual Tech or Kronos Workforce HR	Detailed Payroll Register Totals at end of report	



New Client Checklist and Implementation Guide

Mas 90/ Mas 200	Per etual Histor Re ort Standard in software)	
Millennium	MQYtd	
M a Millennium)	MQYtd	
Pa -Net Solutions Millennium	MQYtd	
Pa chex - Online Pa link or Teledata	Total Pa e from Em lo ee Earnin sRecord Cards	
Pa chex - Preview For Windows	Pa roll Journal Totals age	
Pa choice	Totals at end of re orts	
Pa com	Client can create custom re ort, no standard	
Pa cor	Client can create custom re ort, no standard	
Pa da Inc Evolution)	Pa roll Re isterTotals at end of report	Pa Day Inc. uses an Evolution Product
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Pa Time Millennium	MQYtd	
PCS	Pa roll Register	
Peachtree	Pa roll Re ister	
PrecisionPa	Totals at end of re orts	
PrimePa	Totals at end of re orts	
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SAP	Different for ever client	
SurePa	Totals at end of re orts	
S m hon Evolution	Pa roll Re isterTotals at end of re ort	Pa roll Peo le uses an Evolution Product
The Pa roll Com an (PayChoice Online)		uses a Pa Choice Online Product
USA Pa roll Evolution	Pa roll Re ister Totals at end of re ort	
UltiPro / Ultimate	Summar Pa roll Re ister b Date Ran e, YTD, QTD	
	Totals at end of re orts	
Wells Fargo (Evolution)	Pa roll Re isterTotalsat end of re ort	Welts Far o uses an Evolution Product
Workday		

Getting Started with ADP

ADP's goal is to consistently exceed your expectations in every area of our partnership. We also know that exceeding your expectations begins with sharing implementation considerations appropriately and transparently so that you can understand and prepare internally for your transition. The purpose of this document is to provide you with some information and best practices, gleaned from tens of thousands of successful ADP implementations, which you can review to prepare for your implementation.

Identifying Your Team

The starting point for a successful implementation is identifying your subject matter experts. An effective subject matter expert has the necessary skills to partner effectively with your ADP implementation specialists to deliver a quality solution.

Depending on the modules purchased, subject matter expertise is recommended to complement the implementation team in the following areas. You may have one subject matter expert or a team of experts depending upon your organizational structure.

Human Capital Management	Responsible for providing the organizational and employee information for the Human Resource module and validating and testing the integrity and workflows for HR information. Knowledge of your company procedures and policies is essential.
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**Tulare Local Healthcare District
Board of Directors Meeting Minutes
Wednesday, February 28, 2018 6:30 PM
City of Tulare Council Chambers
475 M Street, Tulare, CA**

In attendance:

Kevin Northcraft
Mike Jamaica
Senovia Gutierrez
Stephen Harrell

Larry Blitz, Interim CEO
Dan Heckathorne, Interim CFO
Sandy Haskens, CAO
Todd Wynkoop, Legal staff

Absent:

Xavier Avila

Ben Nicholson, Legal staff
Riley Walter, Bankruptcy attorney

1. Call to Order:

- a. Roll Call
- b. Welcome/Introductions
- c. Pledge of Allegiance

- 2. Public Comment:** The public may comment on any item of public interest within the jurisdiction of the Tulare Local Healthcare District Board of Directors. In the interest of time and equal opportunity, speakers are requested to observe a 3-minute maximum time limit (subject to change at the Chair's direction). In accordance with the Brown Act, if a member of the public addresses an item not on the posted agenda, no response, or action on the item may occur during the meeting.

Comments by: Paul Atlas
Jennifer Burcham
Desiree (last name not given)
Dr. Patricia Drilling
Joseph Soares

3. Approve Agenda, Acceptance of Minutes:

- a. Board Meeting, January 24, 2018
- b. Board Meeting February 6, 2018

Stephen Harrell noted that his name and Xavier Avila's name were not listed as in attendance at the January 24, 2018 meeting.

Mike Jamaica moved approval of the January 24, 2018 minutes, with the addition of Stephen Harrell and Xavier Avila in attendance, and moved to approve the February 6, 2018 meeting minutes. Senovia Gutierrez seconded the motion. Approved 4-0.

It was noted that the minutes for 1/31/18 and 2/12/18 need to be approved.

4. **Announcements – Board**

Kevin Northcraft introduced Evan Rayner, Community Medical Center

5. **Chief Executive Officer Report**

- a. Update on plans to reopen
- b. Review of reopening work plan
- c. Status of Health Clinics
- d. Update on Mineral King Lab opening
- e. Physician Staff – MEC

Larry Blitz reported that HCCA left obstacles to looking for potential sources of funding. He is working with the attorneys to find a solution. He provided a task list for opening the hospital (see agenda packet). He indicated he receives calls daily from licensing agencies and has a cooperative relationship with the California Department of Public Health. Board will be asked to approve staff credentialing. He has attempted to get around the licensing issue to open the clinics before the hospital. CMS said clinics must be opened with the hospital. Monday, 2/26, Mineral King Lab opened with 95% of its old clients. Working with a committee for doctor credentialing. There are not a lot of files when questions of competency arise. Doctors will be evaluated by other doctors and their leadership will be selected by doctors. Waiting for the court and an agreement in the MEC issue. HFS and attorneys are not currently being paid. Larry has not met with Jim Armstrong regarding rental properties. They are doing a rental analysis. There will be a Health Fair at the end of March to recruit employees.

6. **District Financial Report – Chief Financial Officer**

- a. Accounts Receivable analysis
- b. Accounts Payable update
- c. Cash Report update
- d. Monthly Financial Statements Status Report
- e. State Audit

Dan Heckathorne presented financials. (see agenda packet). Teresa Jack, Wipfli, has been brought on board to analyze. Accounts receivable as of 10/31/17 gross value was \$46 million. Teresa has analyzed the current value to be \$7.3 million. Some bills have been collected, some discharged. The accounts receivable as of 2/14/18 gross value fell to \$31 million. Bills were paid but not posted. 6-8 Wipfli employees are posting billings. Accounts receivable was revalued to \$3.7 million yet to be collected. There are 6 software systems and all had problems. Because of issues they cannot give accounts receivable information to the new collections company. A separate bank account needs to be set up for the new billing company deposits. Bank won't open without a separate resolution authorizing Larry Blitz and Dan Heckathorne as signers. Accounts payable is \$32 million. \$27 million before the bankruptcy, \$4.6 million after the bankruptcy, of which \$4.2 million was HCCA's. On Thursday, 2/23, \$2.6 million came in to pay bills. As of 2/23/18 there is \$86,000 in the bank, \$96,000 owed, leaving a negative balance of \$34,000. McCormick Barstow is owed \$300,000, Walter Wilhelm Law Group \$525,000, and Wipfli \$1.3 million. Regulatory agencies require annual reporting. Sandy Haskens, CAO, is

working with Riley Walter to get contracts moving forward. Wanted to bring the 10/17 financial statement to the meeting but cannot because the HCCA financial statements were absurd. They are working on collecting, instead, and need to file the Medicare Cost Report. State Auditors are in Tulare. They are reviewing past happenings, bonds, and what is necessary to reopen the hospital.

Kevin Northcraft said the district will be out of cash soon. Would like staff to present options at the next meeting for keeping progress towards reopening. Paul Atlas, Dr. Patricia Drilling, and Jennifer Burcham made comments about the presentation.

7. Consideration of Agreements – Medi-Cal Supplemental Reimbursement Consulting Services with Steve Clark and Associates (SCA)

Stephen Harrell moved that the agreement with Steve Clark and Associates be approved. Senovia Gutierrez seconded the motion. Approved 4-0.

8. Approval of Resolution ____ of the Board of Directors of Tulare Local Healthcare District: The proposed resolution grants authority for Larry Blitz, WIPFLI/HFS Consulting, and Daniel R. Heckathorne, WIPFLI Consulting, in their official capacities as Interim Chief Executive Officer and Interim Chief Financial Officer, respectively, to execute documents on behalf of the District with banks and financial institutions.

Senovia Gutierrez moved that the resolution be approved with the inclusion to “execute bank account documents” instead of “execute documents” and adding Senovia Gutierrez, Secretary of the Board. Seconded by Mike Jamaica. Approved 4-0.

9. Tulare Hospital Foundation Update

Jan Smith, Foundation director, reported that the Foundation is finalizing a 2 year audit. They held a “Love to Wear Red” event on 2/3/18. 350 women attended the event co-sponsored by Adventist Health, Altura, and South Valley Vascular. Dr. Sharma was the keynote. On 10/6/18 a “Love to Wear Pink” event will focus on breast cancer. 2/27/18 the Foundation board approved bed covers for the hospital, as well as 4 shower chairs. The Foundation would like to get community support. They will not be holding the Summer Jubilee this year but will be bringing back the Festival of Trees. They are steadfast in promoting “Tulare Strong” and the Trustees are ready to do a Tower Campaign.

10. EVO Management Company update – Evolutions Wellness Center

- a. Consideration of equipment replacement, maintenance of Dehumidifier.
- b. Consideration of appointment of representative to supervise rentals in the Evolutions facility.

Derek Jackson, Chairman of the Evolutions Oversight Committee presented a check for \$56,000 to the Hospital District.

Paul Atlas, EVO management, reported that safety at the facility is prime. They need to replace or repair the humidifier and a/c. Bid for repair is \$27,000. One bid was obtained, he will call Kevin Northcraft with a second bid. The parking lot is a disaster with 3 major holes that are 14 – 15” wide and 8” deep. Repair will require grading and asphalt/concrete replacement is estimated at \$200,000-300,000. Paul recommended that profits from Evolutions given to the district be maintained in a separate account. They need to repair and clean the carpet, but the parking lot is a high priority.

Kevin Northcraft moved that up to, but not to exceed \$27,000, be given to EVO management to be used to repair the humidifier. Stephen Harrell seconded the motion. Motion approved 4-0.

Melissa and Courtney Waters commented

11. Suspend open session – recess to closed session

12. Closed Session:

- a. Conference with Interim Legal Counsel – Existing litigation (Government Code 54956.9)
 1. In re Tulare Local Healthcare District dba Tulare Regional Medical Center --United States Bankruptcy Court Eastern District of California Case No. 17-13797
 2. TRMC Medical Staff v. Tulare Local Healthcare District, HCCA et al; Tulare Case No. 264227
 3. HCCA v. Tulare Local Healthcare District, and Counterclaim, U.S. Bankruptcy Court Eastern District of California Adv. Proc. No. 17-01095 – B
- b. Negotiations for Interim Financing
- c. Conference with Interim Legal Counsel – Initiation of Litigation (Gov. Code § 1 matter.

13. Adjourn closed session, reconvene open session – Public report of action taken in closed session (if necessary) pursuant to Government Code 54957.1

Nothing to report

14. Adjournment

Next regular meeting scheduled for 6:30 PM on Wednesday, March 28 at the Tulare City Council Chambers

Tulare Local Healthcare District
Board of Directors
Special Meeting Minutes
Monday, February 12, 2018
Board Convenes at 8:30 pm
Evolutions Fitness & Wellness Center
1425 E. Prosperity Ave., Tulare CA 93274

In attendance: Kevin Northcraft
Mike Jamaica
Senovia Gutierrez
Xavier Avila
Stephen Harrell

- Call to order
- Citizen Requests/Public Comments
- Suspend open session – recess to closed session
 - (a) Conference with Interim Legal Counsel – Existing litigation (Government Code 54956.9)
 - (1) *In re Tulare Local Healthcare District dba Tulare Regional Medical Center, United States Bankruptcy Court Eastern District of California Case No. 17-13797*
 - (2) *TRMC Medical Staff v. Tulare Local Healthcare District, HCCA et al; Tulare Case No. 264227*
 - (3) *HCCA v. Tulare Local Healthcare District, and Counterclaim, United States Bankruptcy Court Eastern District of California Adv. Proc. No. 17-01095-B*

- Adjourn closed session, reconvene open session – Public report of action taken in closed session (if necessary) pursuant to Government Code 54957.1

Nothing to report

- Adjournment

Next regular meeting scheduled for 6:30 pm on Wednesday, February 28, 2018 at the Tulare City Council Chambers.

District Financial Report – Chief Financial Officer

Tulare Local Healthcare District dba Tulare Regional Medical Center

Agenda Item: CFO Reports

Board Meeting Date: March 23, 2018

- 1) Draft October, 2017 Balance Sheet, Statement of Revenue and Expenses, and Statistics - Notes and Disclaimer:

The October Statements were prepared based on the following facts:

There has not been a financial audit of the Tulare Local Health Care District dba Tulare Regional Medical Center's accounting books and records for the FYE June 30, 2017. As such, there are numerous items that we believe need to be adjusted to the FYE 6/30/17 financial statements, and these will need to be addressed in-depth at the time the District can afford to hire independent auditors and sufficient internal financial staff needed to prepare and perform an audit.

In the meantime, and in order to close the books and prepare a draft statement for the 4 months ended October 31, 2017 (FYE 2018), we have attempted to identify adjustments that are allocable to the FYE 2017 statements, and simultaneously identify those items that appear to be allocable to the FYE 2018 statements.

The premise that we used to develop these draft statements was to, as best could be determined, adjust the October 31 Balance Sheet items to the most appropriate supportable documentation, e.g., bank statement balances, gross accounts receivable and corresponding expected net collections, the latest supplemental payment program estimates, and accounts payable invoices or accruals for certain expenses.

As such, we are unable to make any conclusive representations as to the accuracy or completeness of the Tulare Local Health Care District dba Tulare Regional Medical Center DRAFT October 31, 2017 Financial Statements. The FYE's 2017 and FYE 2018 books and records must be further analyzed, reconciled, and stated in accordance with uniform and accepted accounting procedures, and audited by an independent financial auditor.

- 2) Accounts Receivable Analysis - A copy of the outstanding Patient A/R as of March 20 are attached, along with an estimated net collectable value as of that date.
- 3) Revenue Cycle Update - A listing of current milestones and projected activities is included.
- 3) Accounts Payable Update as of March 22, 2018 - A summary of the outstanding payables is attached.
- 4) Supplemental Payment Recoveries – A summary of supplemental payments achieved since November 27, 2017 will be addressed.
- 5) Cash Report Update as of March 22, including near-term projections is included.
- 6) State Audit - An oral update will be provided at the meeting.

- Accounts Receivable analysis - March 20, 2018 (Will be made available at meeting)

TULARE REGIONAL MEDICAL CENTER
Balance Sheet for the period ended 10/31/2017
Unaudited - See Attached Notes and Disclaimer

	This Year	Last Year	Increase/ (Decrease)	Inc/(Decr) Percentage
Current assets:				
Cash and cash equivalents	\$144,022	\$10,350,011	(\$10,205,989)	(98.6%)
Ltd use assets avail for curr debt srvc	6,166,780	4,457,119	1,709,661	38.4%
Patient accounts receivable:				
Gross pt accounts receivable	62,597,519	55,841,125	6,756,394	12.1%
Contractual allowances	(46,966,435)	(23,456,866)	(23,509,569)	100.2%
Provision for bad debts & charity	(9,160,638)	(3,586,370)	(5,574,268)	155.4%
Net pt accounts receivable	6,470,446	28,797,889	(22,327,443)	(77.5%)
Other receiv. & phys. advances				
Tax revenue receivable	8,072,939	6,011,293	2,061,646	34.3%
Misc receivables	4,559,083	14,638,532	(10,079,449)	(68.9%)
Physician advances	11,104	264,962	(253,858)	(95.8%)
Total other receivables	12,643,126	20,914,787	(8,271,661)	(39.5%)
Inventories	1,219,958	1,239,001	(19,043)	(1.5%)
Prepaid expenses & deposits	865,615	1,090,780	(225,165)	(20.6%)
Total current assets	27,509,947	66,849,587	(39,339,640)	(58.8%)
Assets limited as to use:				
GO bond construction fund	-	-	-	0.0%
Restricted trust funds, other	5,722,468	3,927,041	1,795,427	45.7%
Total limited use assets	5,722,468	3,927,041	1,795,427	45.7%
Capital assets:				
Land & land improvements	3,301,871	3,301,871	-	0.0%
Bldgs & bldg improvements	45,382,391	44,849,285	533,106	1.2%
Leasehold improvements	607,391	607,391	-	0.0%
Major movable equipment	38,203,793	36,010,906	2,192,887	6.1%
Construction in progress	144,642,596	140,463,647	4,178,949	3.0%
Gross capital assets	232,138,042	225,233,100	6,904,942	3.1%
Accumulated depreciation	(64,885,234)	(63,503,425)	(1,381,809)	2.2%
Net capital assets	167,252,808	161,729,675	5,523,133	3.4%
Bond issuance costs & other assets	450,941	558,245	(107,304)	(19.2%)
Intercompany receivable	-	170,167	(170,167)	(100.0%)
TOTAL ASSETS	\$200,936,164	\$233,234,715	(\$32,298,551)	(13.8%)
Current liabilities:				
Current maturities of debt borrowings	\$1,360,453	\$1,058,560	\$301,893	28.5%
Accounts payable	31,046,848	11,808,902	19,237,946	162.9%
Other accrued liabilities	5,431,532	5,419,681	11,851	0.2%
Accrued payroll & related liabilities	-	8,118	(8,118)	(100.0%)
Est current 3rd party payor settlements	447,166	(563,808)	1,010,974	(179.3%)
Self insurance program accrual	460,000	182,190	277,810	152.5%
Total current liabilities	38,745,999	17,913,643	20,832,356	116.3%
Long-term liabilities:				
Deferred revenue	7,505,810	4,720,825	2,784,985	59.0%
Debt borrowings, net of curr maturities	102,075,809	100,010,224	2,065,585	2.1%
TOTAL LIABILITIES	148,327,618	122,644,692	25,682,925	20.9%
Net assets:				
Retained Earnings	66,490,805	92,371,042	(25,880,237)	(28.0%)
Increase in net assets	(13,882,261)	18,048,811	(31,931,072)	(176.9%)
Total net assets	52,608,544	110,419,853	(57,811,308)	(52.4%)
Intercompany payable	-	170,168	(170,168)	(100.0%)
TOTAL LIABILITIES & NET ASSETS	\$200,936,162	\$233,234,713	(\$32,298,551)	(13.8%)

TULARE REGIONAL MEDICAL CENTER
Statement of Revenue and Expenses
For the Four Months Ending October 31, 2017
Unaudited - See Attached Notes and Disclaimer

	July	August	September	October	YTD FY18	YTD FY17
Net patient revenue	\$5,265,408	\$4,000,227	\$2,977,089	(\$4,142,461)	\$8,100,263	\$35,603,488
Supplemental funds	1,254,200	1,254,200	697,850	(2,290,051)	916,199	4,195,876
Other operating revenue	261,825	244,280	366,926	347,716	1,220,747	867,866
Total operating revenue	6,781,433	5,498,707	4,041,865	(6,084,796)	10,237,209	40,667,230
Salaries & wages	-	5,548	-	98	5,646	38
Employee benefits	-	-	-	-	0	(585)
Professional fees	591,421	607,690	493,803	512,355	2,205,269	1,983,850
Professional fees, physicians	511,275	648,489	554,215	526,485	2,240,464	1,557,530
Supplies	625,652	687,290	466,864	195,233	1,975,039	3,482,910
Purchased services	954,973	885,348	576,983	594,088	3,011,392	2,642,873
Purchased HCCA Labor	2,929,903	3,901,480	2,685,135	2,357,921	11,874,439	11,978,807
Repairs & maintenance	11,742	35,132	22,258	16,406	85,538	217,996
Utilities & phone	139,238	153,704	185,169	127,088	605,199	534,121
Building & equipment rental	73,339	164,350	59,251	36,257	333,197	259,293
Insurance	119,930	92,325	97,414	83,705	393,374	266,063
Other operating expenses	125,273	289,918	102,348	99,232	616,771	428,721
Operating expenses before D&A	6,082,746	7,471,274	5,243,440	4,548,868	23,346,328	23,351,617
EBITDA	698,687	(1,972,567)	(1,201,575)	(10,633,664)	(13,109,119)	17,315,613
Depreciation & amortization	(216,566)	(216,566)	(216,566)	(216,378)	(866,076)	(960,403)
Property tax income	145,090	145,090	151,023	(155,369)	285,834	1,795,727
Investment income	29,152	22,650	9,747	(2,828)	58,721	24,755
Interest expense	(63,940)	(64,281)	(61,766)	(61,638)	(251,625)	(194,220)
Grants & contributions	-	-	-	-	0	(278,187)
Other income	-	-	-	-	0	401
Total other revenue/(expenses)	(106,264)	(113,107)	(117,562)	(436,213)	(773,146)	388,073
Excess of revenues over expenses	592,423	(2,085,674)	(1,319,137)	(11,069,877)	(13,882,265)	22,922,772
Increase in net assets	\$592,423	(\$2,085,674)	(\$1,319,137)	(\$11,069,877)	(\$13,882,265)	\$22,922,772

Tulare Regional Medical Center
Financial Statistics Summary YTD FY 2017 and 2018
As of October 31, 2017

	July	August	September	October	YTD FY18	YTD FY17
<u>Inpatient Utilization</u>						
Acute Patient Days	841	893	841	559	3,134	4,906
Discharges	208	209	234	198	849	1,083
Average Length of Stay	4.04	4.27	3.59	3.10	3.69	4.53
Average Daily Census	27.13	28.81	27.13	18.03	25.48	39.89
<u>Case Mix Index</u>						
Overall	1.23	1.10	1.08	1.08	1.12	1.13
<u>Newborn Deliveries</u>	36	50	57	32	175	221
<u>Surgery Services</u>						
Inpatient Cases	34	43	38	22	137	211
Outpatient Cases	77	105	76	107	365	459
Total surgeries	111	148	114	129	502	670
<u>Emergency Room</u>						
Visits	1,952	2,180	1,972	1,501	7,605	10,359
Admits	138	149	131	110	528	692
<u>Clinics</u>						
Primary Care Visits	872	1,128	926	777	3,703	4,446
Specialty Care Visits	206	242	177	178	803	852

TO: Board of Directors, Tulare Local Healthcare District
Finance Committee, Tulare Local Healthcare District
Larry Blitz, Interim CEO, Tulare Regional Medical Center
Dan Heckathorne, Interim CFO, Tulare Regional Medical Center

FROM: Gwynn Smith, Revenue Cycle, Wipfli LLP
Teresa Jacques, Interim Controller, Tulare Regional Medical Center

DATE: March 22, 2108

RE: Revenue Cycle Milestones

In Process and Completed tasks:

- HRG secured as the vendor to work the TRMC accounts receivable. The implementation is complete and resources have been assigned to our project as of March 22, 2018.
- HRG has been following up on some of the unpaid claims while waiting for the implementation to complete.
- Clinic billers were re-hired to work the clinic back log in January.
- Cash posting is caught up and we are working backwards to reconcile the deposits prior to February 1, 2018.
- Wipfli brought in staff to produce and send out "un-billed" claims. This produced \$117,116 in collections.
- Secured outstanding authorizations for Medi-Cal claims.
- Dedicated staff to balance forward the self-pay balances from the MS4 system to Cerner so that HRG can send patient statements on both MS4 and Cerner accounts.
- Kinser, the system used for home health billings has released the "hold" on our account. We are waiting for a login and password to access the accounts receivable. Currently \$575,000 is recorded in the general ledger.
- Processed a bankers box full of newborn pro fees and were able to bill 150 of the claims due to age.
- Obtained access to the ER pro fee files from late September through October 29th and the staff are beginning the coding and billing process for these claims.
- Assessed the back log ER pro fee accounts receivable that EMMI had and determined that there was no collectible value.
- We were not able to obtain the ER pro fee accounts receivable from Logistx but determined based on their contract that there was no collectability in this accounts receivable if we were to obtain the file.
- Obtained access to EGO accounts receivable the vendor hired to bill the ER professional fees from May 2017 – September 2017.
- Estimated \$112k in prior balances from Mineral King Lab and working to get detailed bills to the clients.

- From February 1, 2018 – March 21, 2018 we have received \$183,150 in hospital accounts receivable and \$28,179 in clinic accounts receivable.
- Met with representatives from the Managed Medi-Cal plans to potentially open up the billing periods. The representatives are going back to their finance and accounting departments to determine the feasibility of opening up the billing period.

Future Action Items:

- Review the Home Health accounts receivable and place viable claims with HRG
- Managing the vendor working the accounts receivable
- Resolve third party accounts on MS4
- Review collectability of old Cerner AR
- Medicare certification application
- Review charge capture workflows

TULARE REGIONAL MEDICAL CENTER

Summary of Accounts Payable as of March 22, 2018

Bankruptcy Status	Date Range:					Grand Total
	To be accrued as of February 28th	0-30	31-60	61-90	91-120	
Post-Petition	600,000.00	885,739.68	329,328.41	821,846.36	982,479.02	6,058,643.74
Pre-Petition					27,409,913.07	27,409,913.07
Grand Total	600,000.00	885,739.68	329,328.41	821,846.36	982,479.02	33,468,556.81

	A	E	M	N
1	System:	Supplemental Program Update		
2		March 22, 2018		
3				
4				
5	Ranges:			Wipfli
6	Account:	Final Balance	Notes:	
25	Account:	PPS RECONCILIATION	Per Schedule 2014-2017: Hilman	
26		Distribution Reference	Per Schedule 2014-2017: Kingsburg	
27			Per Schedule 2014-2017: Earlimart	
28	Net Change		Per Schedule 2014-2017: Lindsay	287,102.00
29	Totals:			
74	Account:	MICAL OP SUPPLEMENTAL AB915		
75		Distribution Reference		
76		7/31/2017	2014 Est = \$200,000	
77		8/31/2017	2015 Actual = \$202,429	202,429.00
78		9/30/2017	2016 Actual = \$212,877	212,877.00
79		9/30/2017	2017 Actual = \$252,372 ACA + \$706,202 Traditional	958,574.00
148			Interim Overpayment (see Noridian Letter)	
149			As Filed Settlement Due CMS (Noridian Letter)	
			Estimated Bad Debts to be filed and Claimed; \$320K @ 65%	
150	New Account		From C/R + Bad Debt Estimate	(131,338.00)
151				1,529,644.00
152				93,512.00
153			A/R Collections	1,623,156.00
154				

TULARE REGIONAL MEDICAL CENTER
Cash Forecast as of March 22, 2018

	A	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
	2/2	2/9	2/16	2/23	3/2	3/9	3/16	3/23	3/30	4/6	4/13	4/20	4/27		
1 TULARE REGIONAL MEDICAL CENTER															
2 CASH IN.															
3 Receipts	31,871	48,164	99,371	20,223	5,537	170,351	35,993	33,237	53,740	53,740	53,740	268,740	308,740		
4 DSH Payment	0	0	0	0	0	0	0	0	0	0	0	0	195,661		
5 Property Taxes	0	0	0	0	56,094	0	0	0	0	0	0	446,864	0		
6 Evolutions	0	0	0	0	34,139	0	100,000	200,000	31,773	202,429	0	0	0		
7 Other Extraordinary Receipts	212,877	784,664	0	0	0	0	0	0	0	0	0	0	2,008,474		
8 Total Cash In	244,748	827,828	99,371	20,223	95,710	170,351	135,993	233,237	85,513	256,169	53,740	715,604	2,512,875		
9 SUB-TOTAL															
10 EXPENSES															
11 Payroll & Related Expenses	88,135	58,145	108,316	28,258	121,496	20,014	112,030	427	137,208	72,909	115,005	0	115,005		
12 Insurance	156,652	0	0	0	226,652	17,956	0	0	0	156,652	0	0	65,218		
13 Utilities/Phone/Internet	0	111,655	4,768	0	0	63,117	4,680	0	0	103,000	0	6,200	0		
14 Legal/ Bankruptcy Counsel	50,000	0	0	0	0	0	0	0	0	0	0	0	0		
15 Consulting & Purchased Services	102,697	(25,000)	0	0	0	15,000	0	15,000	62,697	15,000	62,697	77,697	0		
16 Physicians	0	0	0	0	0	0	0	0	0	0	0	0	0		
17 Software Fees	0	0	0	0	0	0	0	0	0	0	0	0	0		
18 Supplies	0	0	0	0	0	0	0	0	0	0	0	0	0		
19 Leases and Rentals	17,034	0	0	0	2,592	10,109	0	0	0	38,530	0	0	0		
20 Revenue Bonds	0	103,179	0	0	0	0	0	103,179	0	0	103,179	0	0		
21 County of Tulare Revenue Bond	0	784,664	0	0	0	0	0	0	0	0	0	0	0		
22 IGT Advances	0	0	0	0	0	0	0	0	0	443,483	1,620,053	0	0		
23 Other	58,807	37,610	28,535	38,041	30,164	53,468	15,650	25,000	35,000	50,000	50,000	50,000	50,000		
24 Post-Petition Expense Catch-up	0	0	0	0	0	0	0	0	0	0	0	0	0		
25 Bankruptcy Cure	0	0	0	0	0	0	0	0	0	0	0	0	0		
26 Evolution Repairs	0	0	0	0	0	0	0	0	0	0	0	0	0		
27 Total Expense	473,825	1,070,254	141,619	66,299	380,904	179,664	132,360	143,606	234,905	906,574	1,950,934	133,897	228,223		
28 Difference	(229,077)	(242,426)	(102,248)	(46,076)	(285,193)	(9,313)	3,593	89,631	(149,392)	(650,405)	(1,897,194)	581,707	2,284,653		
29 Cash Balance Forward	767,487	525,062	422,813	376,737	91,544	82,231	85,824	175,455	26,063	(624,342)	(2,521,536)	(1,999,829)	344,824		