

KM CONSULTING, LLC

Letter of Engagement

To the Board of Directors of James Island Charter High School (hereinafter "Client", "the School", "You", "Your" and "Yours"):

This letter shall serve to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the services that KM Consulting, LLC (hereinafter "We", "Us", "Our" and "Ours") will provide to Client.

We will perform the services noted herein under "Detail of Services and Fees". Our engagement specifically excludes any services not explicitly stated therein which will be billed at prevailing rates. You and we may modify the services by mutual agreement from time-to-time.

The initial term of this engagement shall be twelve (12) months commencing on the date this engagement is executed by you and us. Thereafter, the term of this engagement will automatically renew for successive thirty (30) day terms unless you provide notice to us via certified mail in advance of the end of the then existing term that you do not wish to renew the term of this engagement. Upon termination or expiration of this engagement, you will be provided with electronic copies of all documents on file with us relating to you or your school. You may terminate this engagement at any time with or without cause, however, if you terminate prior to the end of the then existing term, you agree to pay us in full within thirty (30) days of notice of termination all unpaid fees due through the date of termination. You agree that the fees charged, as enumerated herein, are fair and reasonable.

We will invoice you monthly, in writing, for services rendered in advance of the upcoming term. You agree to review all invoices for services and to submit, in writing, any fees or charges that you dispute within twenty five (25) calendar days of the invoice date (the "dispute period"). You agree that your failure to dispute a charge within the dispute period constitutes your acceptance and agreement of the invoiced charges and fees.

This Letter of Engagement and the terms, conditions, obligations and benefits herein shall endure and pass on to any company, corporation, partnership, foundation, tax-exempt organization or other entity that succeeds us or you during the term of this engagement. Neither party may assign this Letter of Engagement without the prior, written consent of the other party.

The scope of this engagement will be limited to presenting information that is the representation of management. We are not being engaged to express an opinion or any other assurances on financial statements or reports, limited or otherwise. We are not independent with respect to Client.

We are not an education management organization or a management company. We are not a registered certified public accounting firm nor are we a registered attorney/law firm. At no time shall our services be construed as managerial in nature, nor are we serving in the capacity of an employee, executive, manager, officer or director, attorney or board member. This engagement is not an attest, compilation, review or assurance engagement.

The laws of the State of South Carolina shall govern this Letter of Engagement. Jurisdiction of any dispute related to the subject matter of this Letter of Engagement shall be vested in the courts of South Carolina. Should a dispute arise relating to any term(s) and/or condition(s) and/or obligation(s) herein you and us will hereto endeavor to resolve through a process of non-binding mediation any controversy, disagreement or claim, whether as to the interpretation, performance, duty or operation of this Letter of Engagement or any rights or obligations hereunder. In the event that resolution by non-binding mediation is unsuccessful, any such controversy, disagreement or claim will be submitted, for final resolution without appeal, to binding arbitration, by either you or us giving written notice to the other of the existence of a dispute which it desires to have arbitrated. The place of arbitration will be in South Carolina. The arbitration will be conducted by a single arbitrator and will be held in accordance with the rules of the American Arbitration Association ("AAA"). If either you or we elect, the other party will agree to expedite arbitration under the AAA rules. In the event that you or we are unable to agree on the arbitrator within 45 days on the date of such written notice, the AAA will select the arbitrator. The decision and award (if any) of the arbitrator will be final and binding and barred from appeal, and it is mutually agreed that any such determination will have the same effect as an arbitration pursuant to any and all applicable sections of the Federal Arbitration Act, and that a judgment upon the award may be entered in any court having jurisdiction thereof or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be. It is mutually agreed that you and we will bear your and our own respective costs of arbitration and shall split evenly all mutual costs of arbitration including, but not limited to, arbitrator fees and expenses, rent or lease of a locale and applicable filing fees. Pending the decision by the arbitrator with respect to the dispute or difference undergoing arbitration, all other obligations hereto will continue as stipulated herein, and all monies not directly involved in such dispute or difference will be paid when due, with the disputed amount to be paid into an escrow fund under the control of the arbitrator. The arbitrator will make its decision in accordance with the Federal Arbitration Act and/or any other applicable federal or state laws as may be appropriate. Notwithstanding the foregoing, we or you will have the option, in lieu of arbitration pursuant to this Article, to go into any court of competent jurisdiction (i) to seek injunctive or other

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT SECTION 15-48-10, ET. SEQ., CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED

equitable relief whether in respect of this Agreement or otherwise, ii) to collect fees owed or (iii) to enforce its rights with respect to any other agreement or instrument entered into between you and us.

You have been advised, understand and agree that some of the services being offered herein are provided by us but may be performed by a third-party contractor.

DETAIL OF SERVICES AND FEES

The services and fees stated below will be in effect beginning July 1, 2018 for transactions beginning on the same date unless otherwise stated.

Payroll Administration and Management

- Payroll services outlined in NetChex® "Connect" package including unlimited payroll processing, full payroll tax administration, garnishment calculations, standard delivery of paychecks and paystubs, online, employee access to paystubs and annual forms, online standard payroll reporting, customized reports upon request, ACA reporting, employee self-service, direct deposit, employment verification, time and attendance, E-Verify, NetGuide® paperless employee onboarding and performance management.
- Recording and reconciling of general ledger entries related to payroll processing, payroll tax reporting, processing of deferrals and garnishments and remittance of payroll tax liabilities.

The above services will be billed at a monthly fee of \$3,675 per month plus any additional fees noted.

Other Services, Fees, Conditions and Terms

- Services will be delivered under the terms of an existing service delivery agreement between KM Consulting, LLC and S&W Payroll Services (NetChex®), however, as the employer-of-record you will be required to contemporaneously execute a Master Services Agreement (MSA) with NetChex® (attached hereto). You will not incur any additional fees with NetChex® or us as a result of your execution of the MSA. Any fees imposed under the terms of the MSA related to payroll management and processing shall be paid by us.
- Services provided outside of the scope of this agreement, including implementation and transfer of employee data and information from the prior payroll provider **will be billed at a rate of \$150.00 per hour**. All invoices that include billable hours beyond the scope of this engagement will be itemized with each timekeeper's hours separately accounted for and billed in six (6) minute increments.
- W-2, 1094 & 1095 and 1099-MISC issuance will be billed annually at an **annual rate of \$12.50 per W-2, per 1095 and per 1099-MISC**.
- All notices required or permitted by this Agreement shall be in writing and shall be either personally delivered or sent by nationally-recognized overnight courier, facsimile, or by registered or certified U.S. mail, postage prepaid, addressed as set forth below (except that a party may from time to time give notice changing the address for this purpose). A notice shall be effective on the date personally delivered, on the date delivered by a nationally-recognized overnight courier, on the date set forth on the receipt of a telecopy or facsimile, or upon the earlier of the date set forth on the receipt of registered or certified mail or on the fifth day after mailing. Notices are to be mailed to:
KM Consulting at PO Box 1137, Lexington, South Carolina 29071
- The Parties to this Agreement agree that in the performance of the services contemplated herein, KM Consulting shall be, and is, an independent contractor, and is not an agent or employee of the Client and shall have no authority to bind the Client without prior written authorization from the Client. KM Consulting has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons assisting KM Consulting. KM Consulting shall be solely responsible for, and shall hold the Client harmless from, all matters relating to the payment of KM Consulting's employees, including but not limited to compliance with F.I.C.A. and unemployment requirements.

[THIS SPACE INTENTIONALLY LEFT BLANK]

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION
ACT SECTION 15-48-10, ET. SEQ., CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED

By signing below you indicate your accordane and understanding with the terms of this engagement and authorize us to commence work immediately.

Sincerely,

ACCEPTED AND AGREED TO:
James Island Charter High School

DAVID M. RUTTER FAUNCE, SENIOR PARTNER
KM CONSULTING, LLC

BY:

DATE:



MASTER SERVICE AGREEMENT

This master service agreement (with addendums, collectively "Agreement"), dated _____ ("Signature Date"), is by and between S & W Payroll Services, L.L.C. ("Netchex") and James Island Charter High School ("Client"), who may receive notices at the following address: 1000 Fort Johnson Rd
Charleston, SC 29412

Netchex will render to Client, and Client agrees to accept and pay for the Services, subject to and in accordance with the provisions of this Agreement (including addendums). Client is also customer of KM Consulting, and KM Consulting provides administrative services to Client. By either initialing or signing below, Client acknowledges it has received a copy of the following addendums.

(Initials Required)

_____	General Provisions and Payroll Service & Funds Transfer Terms
<u>N/A</u>	Addendum A: NetBenefits Agreement
<u>N/A</u>	Addendum B: NetCOBRA Agreement

Initial Term length of this Agreement: 1 year

Intending to be legally bound, and for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Netchex and Client hereby execute this Agreement to be effective as of the Effective Date.

**S & W Payroll Services, L.L.C., d/b/a
Netchex**

Signature of Authorized Representative

Print

Title

Client: James Island Charter High School

Signature of Authorized Representative

Timothy Thorn
Print

Principal
Title

51-0438043
Federal I.D.

GENERAL PROVISIONS

1. **Scope.** In general, all products and services identified in any statement of work or any other addendum, and any other product sold or service rendered to Client at Client's request (collectively, "Services") are subject to the provisions of this Agreement.
2. **Definitions.** Unless otherwise specified, references to sections refer to sections within this Agreement.
 - (a) "Admins" is defined in section 3(c).
 - (b) "Agreement" means the master service agreement, addendums, quotes and statements of work, if any.
 - (c) "Custom Development" is defined in section 4(d).
 - (d) "Client" is defined in the master service agreement.
 - (e) "Client Data" is defined in section 7.
 - (f) "Effective Date" is defined in section 8.
 - (g) "Initial Term" is designated on Master Service Agreement signature page.
 - (h) "Intellectual Property" is defined in section 5.
 - (i) "Netchex" is defined in the master service agreement.
 - (j) "NPPI" is defined in section 7.
 - (k) "Services" is defined in section 1.
 - (l) "Signature Date" is defined on master service agreement signature page.
 - (m) "Term" is defined in section 8.
 - (n) "User Agreements" is defined in section 11(a).
3. **Client Obligations.** Netchex cannot render the Services to Client without the Client's help and cooperation.
 - (a) **Cooperation.** Client must cooperate with Netchex to allow Netchex to render the Services to Client. Client must promptly provide to Netchex all requested documents and information needed to perform the Services, and Client's failure to do so may delay Netchex's implementation and/or performance of the Services, which will not be considered a breach by Netchex under the Agreement.
 - (b) **Exclusivity.** During the Term of the Agreement, Netchex shall be the exclusive provider of the Services to Client.
 - (c) **Administrative Control.** Client must authorize one or more administrators ("Admins") to use and control the Services. The acts, omissions, and decisions of any Admin are deemed to be the acts, omissions, and decisions of Client, which are hereby authorized, ratified and adopted by Client, and Netchex may rely on the acts, omissions, and decisions of any Admin. Client is free to add or remove any Admin upon reasonable notice to Netchex. Netchex has no obligation to confirm any Admin's acts, omissions, or decisions with any other Admin or representative of Client. Client authorizes KM Consulting to act as an administrator on Client's behalf.
 - (d) **Security.** Client and its users must use best efforts to securely access any Services, including by using secure connections to the internet and routinely changing passwords.

- (e) **Legal Compliance.** Client is ultimately responsible for complying with all state and federal laws, including without limitation laws relating to taxes, garnishments, and other legal requirements. Client is also responsible for monitoring changes in the law and implementing necessary changes to its operations accordingly.
4. **Fees and Client Funds.** Client agrees to pay the fees identified in any accepted quote.
- (a) **Training and Travel.** If Client requests in-person or on-site training from Netchex, Client must pay Netchex for its trainer(s)' time and travel according to rates quoted to Client.
 - (b) **Custom Development.** If Client requests any solution or feature that requires special or customized software or other development ("Custom Development"), Client must pay Netchex according to the rates quoted to Client.
 - (c) **Client Requested Audit.** If Client requests documents or information from Netchex in connection with an audit, certification, or other program, and to the extent Netchex agrees to respond to the request, Client must reimburse Netchex for its reasonable costs and expenses associated with preparing its response, including employee time and reasonable professional expenses (e.g., fees charged by attorneys, accountants, or other professionals), if applicable.
 - (d) **Client Funds.** Netchex may earn interest on Client funds in its possession, and Client hereby assigns to Netchex the benefit of any funds held in separate accounts used to perform any Service.
 - (e) **Service Fee.** KM Consulting will pay Netchex fees to utilize the Netchex Service on behalf of Client.
5. **Intellectual Property.** To develop, support, and maintain its Services and Custom Development, Netchex has made substantial investments to create software, knowhow, and related works, which constitute Netchex's copyrighted works and proprietary and confidential trade secrets (collectively, "Intellectual Property"). Intellectual Property also includes all rights in any Custom Development software, knowhow, and related works.
- (a) **Ownership.** Netchex owns all Intellectual Property. No Custom Development may be deemed a work made for hire under the Copyright Act. Notwithstanding any provision in the Agreement to the contrary, no Intellectual Property is assigned to Client. Client agrees not to attack the ownership or validity of any Intellectual Property, whether registered or unregistered, and this obligation will survive the termination or expiration of the Agreement.
 - (b) **License.** Subject to the Agreement, Netchex hereby grants to Client a non-exclusive, revocable, non-transferable, non-sublicensable, limited right to use software required to render the Services during the Term, in objective code form only, and solely for Client's internal business purposes.
 - (c) **Trademarks.** Neither party may use the other party's trademarks without prior written authorization, except Client hereby authorizes Netchex to identify Client as one of Netchex's clients.
6. **Use of Services.** Client may use the Services only as expressly permitted by the Agreement.
- (a) **Permitted Uses.** If Services are rendered in connection with a particular addendum, Client may use the Service only as permitted in the applicable addendum. In general, to the extent that a Service requires Client to use software developed by Netchex or its licensors, or any Netchex Intellectual Property, Client may make such use. If a Service is priced based on a certain number of users, then Client may not allow more than the designated number of users to use the Service.
 - (b) **Third party software.** Netchex may license and use third party software or other solutions to render any Service.
 - (c) **Restrictions and limitations.** Netchex does not sell software, and the Agreement should not be construed as a sale. Client may not sell or sublicense any Service or licensed Intellectual Property. Client, its users

and Admins, and those under its management and control, including all employees and contractors, must not: (i) breach the Agreement or cause any other person to engage in acts that, if performed by Client, would breach the Agreement; (ii) attempt to decompile or otherwise reverse engineer Netchex's software or any other licensed Intellectual Property; or (iii) access or attempt to access Netchex's databases, servers, or other equipment without authorization. The obligations under this paragraph will survive the termination or expiration of the Agreement.

7. **Client Data.** Client's use of Services may lead Client, through its users and/or Admins, to provide Netchex with employment data (e.g., time clock entries and benefits information), public information (e.g., home addresses) and non-public personal information ("NPPI") (e.g., social security numbers) (collectively, "Client Data").
- (a) **Ownership and use.** Client owns all Client Data and is responsible for its accuracy and completeness. Client represents and warrants that it has all permissions and authorizations necessary for it to provide Client Data to Netchex. Client authorizes Netchex to use, copy, and transmit Client Data for all purposes relating to any Services. Netchex may report aggregated, anonymized data to the Federal Reserve and other entities that report on jobs and other enterprise statistics. At Client's request, Netchex may transmit Client Data to federal, state, and local governments, banks and other financial institutions, insurance carriers, retirement plans, and any other recipient identified by Client.
 - (b) **Security and Confidentiality.** Netchex uses industry standard security measures to secure and back-up Client Data. Netchex will not use Client Data, except as permitted by the Agreement. Netchex will take measures to maintain the confidentiality of Client Data that are equal to or exceed the measures Netchex uses to protect its own confidential information.
 - (c) **Storage and Retention.** Netchex is not Client's official record keeper. Client must keep copies of all Client Data provided to Netchex. During the Term of this Agreement, Netchex may destroy Client Data that is at least six years old (or a shorter period upon request). If Client requests Netchex to store and retain Client Data for more than six years, Netchex may issue a quote to Client for that service. After the Term of this Agreement ends, Netchex may destroy Client Data at any time or upon request.
 - (d) **Legal Compliance.** Netchex complies with applicable state and federal laws relating to the storage, security, and disposal of NPPI and limits on use, disclosure, and data breaches.
8. **Term, Termination and Termination Fees.** The "Effective Date" of this Agreement is sixty (60) days from the Signature Date set forth on the Master Service Agreement cover page or the Client's first check date, whichever comes first, until it expires or is terminated ("Term").
- (a) **Renewal.** Services offered under the MSA will have an "Initial Term" length as designated on the Master Service Agreement signature page, which commences from the Effective Date. This Agreement will automatically renew each year after the Initial Term, unless either party gives written notice to the other party at least sixty (60) days before the expiration of the current term. If notice of non-renewal is given at least sixty (60) days before the expiration date of the current term, then the MSA and associated Addendums will expire at the end of the current term. If notice of non-renewal is given less than sixty (60) days before the expiration date of the current term, then the MSA and associated Addendums will automatically renew for one (1) more year and expire at the end of the renewal term.
 - (b) **Extension of Term.** In addition to extension via renewal, the Term of the MSA and associated Addendums will automatically extend to the last day of the Term of any other additional Addendum that is executed or renewed by the parties (for example, the Term of the MSA will be extended if Client elects to utilize NetBenefits Services via Netchex and executes the NetBenefits Addendum B on a date after the original MSA was initially signed).
 - (c) **Suspension or Termination by Netchex.** If Client materially breaches the Agreement, such as by failing to pay Netchex on time, failing to provide funds required to allow Netchex to render any Service, or violating the exclusivity requirements of Section 3(b) of this Agreement, Netchex may suspend Services without notice. If Client does not cure the breach within five (5) business days of written notice, then

Netchex may deem the Agreement terminated and Client must pay Netchex liquidated damages of half of the fees remaining on any unexpired portion of the Term, determined based on the average fees paid by Client over the previous ninety (90) days, extrapolated over 50% of the remaining Term. (For example, if Client is paying Netchex a fixed fee per employee per month and over the 90 days prior to termination of the Agreement the average number of employees paid was 100, and if there are 4 months remaining in the term, then the fee due upon Termination would be the fee amount to pay 100 employees for 2 months [50% of 4 months remaining].)

- (d) **Termination by Client.** If Netchex fails to render Services, then, ten (10) business days after providing Netchex with written notice permitting Netchex to cure, and only if Netchex has not cured the failure, Client may terminate the Agreement by sending written notice to Netchex. Client may terminate the Agreement with sixty (60) days' notice to Netchex, but if the termination by Client is not due to a failure by Netchex and is not due to non-renewal under Section 8(a) above, then Client must pay the liquidated damages described in Section 8(c) above. If Client terminates relationship with KM Consulting, Client must also send written notice to Netchex.
- (e) **Termination by KM Consulting.** If KM Consulting does not pay monthly service fee on behalf of Client, Netchex will deem this Agreement terminated.
- (f) **Effects.** When the Term ends: (i) Netchex will no longer be obliged to render any Services; (ii) all licenses to the Client under the Agreement will terminate; and (iii) Client must pay all fees due under the Agreement. Provisions in the Agreement relating to obligations continuing beyond the end of the Term of the Agreement may survive, according to their respective provisions.

9. **Limited Liability.** The fees proposed and quoted to Client reflect savings that Netchex is able to offer because of the provisions in this section.

- (a) **Limited direct damages.** Notwithstanding any other provision of the Agreement, and to the greatest extent allowed by law, neither party will be liable to the other for any loss relating to or arising from any act or omission in its performance under the Agreement, whether in contract or tort, including negligence, except for direct and liquidated damages not to exceed the fees Netchex has collected from Client in the preceding twelve months.
- (b) **No Other Damages.** Neither party may be liable to the other for any indirect, special, incidental, consequential, or punitive damages—including without limitation business interruption losses, lost business opportunities, lost profits, and mitigation expenditures—regardless of the form of the action, whether in contract or tort, even if the parties have knowledge of the possibility of the damages.

10. **No Warranties.** The fees proposed and quoted to Client reflect savings that Netchex is able to offer because of the provisions in this section.

- (a) **As Is.** The Services are rendered, and any Intellectual Property is licensed, as is. Netchex disclaims all implied warranties to the greatest extent allowed by law and does not and cannot guarantee that its software or Services are bug or error free. To the extent they would otherwise be applicable, disclaimed warranties include, without limitation: warranty of merchantability, warranty of fitness for a particular purpose, and warranty against redhibitory defects.
- (b) **No Professional Advice.** In the course of providing the Services, Netchex may provide Client with general advice regarding the use of its products and other areas pertaining to the Services provided, such as reporting and withholding. However, Netchex does not and cannot render legal, accounting, financial or other similar professional advice, and Client must rely on their professional advisors alone for such advice.
- (c) **Not Fiduciary.** Netchex and Client have entered into the Agreement at arms-length and neither party is a fiduciary of the other. Netchex is an independent contractor.

11. **Other Provisions.** The titles of each section and paragraph may not be used to construe the provisions of that section or paragraph.
- (a) **Entire Agreement.** The Agreement reflects the entire agreement between Netchex and Client and supersedes all prior written and oral agreements. Agreements between Netchex and Client's users and Admins, if any, such as click-wrap agreements, privacy policy, or terms of use, (collectively, "User Agreements") hereby incorporate by reference the Agreement and do not amend the Agreement. Client's users, including Admins, are obligated to perform and/or not perform Client's obligations under the Agreement to the same extent as Client, except to pay Netchex. In the event there is a conflict between the Agreement and any User Agreement, the provisions of the Agreement will prevail.
 - (b) **Choice of Law and Venue.** The Agreement is governed by Louisiana law, except for its conflicts of law rules. Netchex will accept and perform the Agreement in St. Tammany Parish, Louisiana, and the parties agree to submit to the jurisdiction of, and to waive any objections to venue in, the state and federal courts of St. Tammany Parish. Notwithstanding any other provision in the Agreement, within thirty (30) days of the later of (i) notice of a material breach of the Agreement or (ii) the filing of a civil action alleging a breach or seeking specific performance of the Agreement, either party may compel the other party to submit to non-binding mediation.
 - (c) **Severability and Reformation.** If any provision of the Agreement is found to violate public policy or be *contra bonos mores*, then that provision alone should be reformed to be enforceable to the greatest extent allowed by law and consistent with the purpose of the original provision. Notwithstanding the foregoing, the balance of the Agreement should be enforced.
 - (d) **Force Majeure.** If a force majeure event—including without limitation acts of God, hurricanes, floods, tornadoes, and terrorist attacks—prevents or delays Netchex from rendering any Service, then Netchex will have an additional thirty (30) days to perform the Service without being deemed to be in breach of the Agreement.
 - (e) **Assignments.** The prior written consent of Netchex is required before Client may assign the Agreement. If Client purports to assign the Agreement without the prior written consent of Netchex, then Netchex may, at its option, deem the assignment void *ab initio* or deem the Agreement materially breached. The sale or change in control of Client, or the transfer of all or a substantial portion of the assets or users to which the Agreement relates, will be considered an assignment requiring Netchex's prior written approval under this paragraph.
 - (f) **Amendments.** Amendments to the Agreement must be agreed to in writing. This paragraph does not apply to fee schedules reflecting increased fees, which Netchex may issue from time to time, subject to the Agreement.
12. **Notices.** Netchex may send correspondence to Client at the address identified on the master services agreement. Client must send all notices to Netchex that are permitted or required under the Agreement by sending correspondence to the following address:

Netchex
Attn: Contract Administrator
1155 Highway 190 E. Service Road
Suite 2
Covington, LA 70433

PAYROLL SERVICE & FUNDS TRANSFER TERMS

Payroll Services.

13. Netchex agrees that upon its acceptance of this contract, Netchex hereby agrees to perform the following functions:
- (a) Collect from Client, hold in its Trust Account (“the Trust Account”), and deposit with an appropriate authorized depository on or before the statutory deadlines, the required Federal, State, and local payroll tax amounts
 - (b) Prepare and file all required Federal, State, and local payroll tax forms and reports.
14. Netchex assumes responsibility only for interest charges and/or penalties, which result from the negligence of Netchex. Netchex does not accept responsibility for failure to make deposits or filings if it is not provided with adequate or timely information or sufficient funds. Client agrees to have Netchex fees direct debited from their account for all services. As additional consideration, Client agrees to assign to Netchex any benefits derived on the funds in the Trust Account.

Netchex is not a responsible party for payment of taxes to any federal, state or local tax authority, except to the extent that Netchex is holding funds in trust for payment of said taxes. Netchex is not a responsible party for the application of or the issuing of tax identification numbers with Federal, State and local taxing authorities.

In order to enable Netchex to perform its obligations pursuant to this Agreement, Client hereby agrees to perform and is responsible for the following functions:

- (a) For Direct Deposit amounts under \$250,000.00:
 - (i) Standard Schedule: Provide Netchex with accurate and complete payroll and tax information on or before 3:00 p.m. Central Standard Time at least two (2) banking days prior to each check date. Netchex will then debit Client one (1) banking day prior to each check date. However, if the check date is on a Saturday, Sunday or bank holiday, then the data must be provided to Netchex three (3) banking days prior to check date, and Netchex will debit Client on first previous banking day.

Example:

Wednesday	Thursday	Friday
Client submits Payroll to Netchex	Netchex Debits Client Account for Direct Deposit, Taxes, Fees	Check Date

- (ii) If Client does not follow the Standard Schedule above in section 14 (a)(i) and a payroll is submitted one (1) banking day before check date, Client must provide Netchex with accurate and complete payroll and tax information on or before 3:00 p.m. Central Standard Time AND Client must send a wire transfer to Netchex for total amount of Direct Deposit, and Payroll Tax liabilities. Wire Transfer guidelines, time frames, and fees vary from bank to bank. You should be familiar with your bank’s policies before choosing this method.

Example:

Wednesday	Thursday	Friday
	<ul style="list-style-type: none">• Client Submits Payroll to Netchex• Client Sends Wire Transfer to Netchex for Direct Deposit, Taxes, Fees	Check Date

(b) For Direct Deposit amounts over \$250,000.00:

- (i) Standard Schedule: Provide Netchex with accurate and complete payroll and tax information on or before 3:00 p.m. Central Standard Time at least three (3) banking days prior to each check date. Netchex will then debit Client two (2) banking days prior to each check date.

Example:

Tuesday	Wednesday	Thursday	Friday
Client submits Payroll to Netchex	Netchex Debits Client Account for Direct Deposit, Taxes, Fees		Check Date

- (ii) If Client does not follow the Standard Schedule above in section 14 (b)(i) and a payroll is submitted two (2) banking days before check date, Client must provide Netchex with accurate and complete payroll and tax information on or before 3:00 p.m. Central Standard Time AND Client must send a wire transfer to Netchex for total amount of Direct Deposit, and Payroll Tax liabilities. Wire Transfer guidelines, time frames, and fees vary from bank to bank. You should be familiar with your bank's policies before choosing this method.

Example:

Wednesday	Thursday	Friday
<ul style="list-style-type: none">Client Submits Payroll to NetchexClient Sends Wire Transfer to Netchex for Direct Deposit, Taxes, Fees		Check Date

- (c) Immediately provide Netchex with copies of any notices or correspondence received from any Federal, State, or local authority with respect to any tax return or deposit made by Netchex.
- (d) Provide Netchex with the proper voluntary deduction amounts including but not limited to 401(k), health insurance and garnishments.
- (e) Agrees to have sufficient funds to cover its payroll tax charges, processing charges and any NSF charges in its designated Demand Deposit Account ("DDA"). Client further agrees to instruct the Bank holding its DDA account to honor these charges as initiated from time to time by Netchex. If the Bank upon Client's instructions or otherwise, refuses to honor such charges, Netchex reserves the right to assess NSF charges, at an amount discretionary to Netchex. Should Netchex receive an NSF notice, a Netchex representative will call and request that Client wire the payroll tax funds and processing charges, along with the NSF fee, to the Netchex Trust account that same day.
15. Netchex shall debit Client account for direct deposit liabilities, tax liabilities and any fees in accordance with the timeline prescribed in section 14, sub-sections (a) and/or (b) of this Agreement. In the event that these funds are not available, a \$100.00 fee will be charged to Client by Netchex, and Client will have until 3:00 PM Central Standard Time on the date of notification to send these funds by wire transfer to the Netchex's bank account. If funds are not received in the Netchex's bank account by 3:00 PM Central Standard Time on the date of notification, CREDIT REVERSALS to employee accounts will take place immediately.
16. Client agrees that any and all funds held in escrow (including tax funds) may be used as payment to Netchex in the event that funds are not available when Netchex debits Client account for direct deposit liabilities, tax liabilities and any fees in accordance with the timeline prescribed in section 14, sub-sections (a) and/or (b) of this Agreement.
17. Client acknowledges that Netchex tax filing services are based upon information supplied by Client (including proof of Federal, State and local tax identification numbers and deposit frequencies) and the results of Netchex payroll services. Client is responsible for the accuracy of such information and the verification of payroll data. Client has the final and ultimate responsibility for checking the accuracy of paychecks to be issued to employees.

Client has the final and ultimate responsibility for checking the accuracy of and the remittance of any non-tax payments, such as voluntary deductions and garnishments.

18. Client hereby instructs all Federal, State, and Local tax authorities via respective Power of Attorney documents to deliver tax forms, documents, and other related information to Netchex. Netchex is hereby given full authorization to represent and submit records on behalf of Client before Federal, State and agreed upon Local jurisdiction's tax office with respect to payroll taxes. Client hereby authorizes Client's Payroll team, including any vendor or computer service, to deliver to Netchex all necessary documents and payroll information, including payroll tax registers, quarterly reports, and summaries.
19. Client understands that all services rendered by Netchex are based upon the information furnished by the Client and, therefore, Client promises to indemnify and hold Netchex harmless from any claim against Client and/or Netchex arising out of the use of information provided by the Client. Netchex is not responsible for settling any disputes between Client and Client's employees.

Direct Deposit Services.

20. Direct deposit services may be utilized by the Client's employees who have deposit accounts with banks that participate in the National Automated Clearing House Association ("NACHA"), hereinafter called "PARTICIPATING BANKS," who request that their accounts be regularly credited for amounts due and payable to them by Client. Client requests that this method of crediting accounts be accepted and performed by Netchex.

In order to enable Netchex to perform its obligations pursuant to this Agreement, Client hereby agrees to perform and is responsible for the following functions:

- (a) Comply with and be subject to the operating rules of NACHA governing this method of payments, as such rules shall, from time to time, be in effect among PARTICIPATING BANKS and the Federal Reserve Bank. The NACHA rules require the following:
 - (i) Client is an Originator of ACH entries and agrees to assume the responsibilities of an Originator under the NACHA Rules.
 - (ii) Client may not initiate entries that violate the laws of the United States.
 - (iii) Netchex or its Originating Depository Financial Institution ("ODFI") may immediately suspend the Agreement for breach of ACH Rules, applicable banking regulations, or the Agreement terms. Any termination or suspension of the Agreement shall not affect any of the Client's or Netchex's rights and obligations with respect to services performed prior to termination/suspension, or any other obligations that survive the Agreement.
 - (iv) Netchex or its ODFI may audit Client's compliance with the Agreement and ACH Rules and applicable regulations. Any termination or suspension of the Agreement shall not affect any of the Client's or Netchex's rights and obligations with respect to services performed prior to termination/suspension, or any other obligations that survive the Agreement.
 - (v) Netchex or its ODFI may audit Client's compliance with the Agreement and ACH Rules and applicable regulations.
- (b) Each employee who desires to utilize this plan will authorize Client to initiate paperless credits for sums due and Payable to employee for deposit at the PARTICIPATING BANK where the employee deposit account is maintained, hereinafter called "RECEIVING BANK." Credits may, upon request, be transmitted to other financial institutions which are not members of NACHA but which may have made arrangements with PARTICIPATING BANKS.
- (c) Each employee who desires to utilize this plan will also authorize the Client to initiate paper or paperless debits for sums due to the Client for erroneous deposit or deposits at the RECEIVING BANK. These

paper or paperless debits hereinafter called CREDIT REVERSALS, shall be governed by NACHA rules and regulations. It is the Client's responsibility to notify the employee of the CREDIT REVERSAL and the reason for the reversal no later than the settlement date of the reversing entry.

- (d) After receipt of employee authorization for direct deposit, Client may initiate or make agreements for the initiation of paperless credits for the deposit accounts of employees who have authorized such agreements. Such deposits shall be initiated by Netchex.

- 21. Upon receipt of deposits at each RECEIVING BANK, the deposit amounts shall be credited to the appropriate account, provided however, that should such bank for any reason be unable or unwilling to make such deposit, it will, within two (2) banking days following receipt, return the entry to NACHA for distribution back to the ORIGINATING BANK.

Client hereby authorizes ORIGINATING BANK to make reversal entries (correction entries) in accordance with the operating rules of NACHA to correct such errors that may arise, which errors are within the knowledge of ORIGINATING BANK. "ERRORS," as contemplated by this provision, shall include, without limitation, circumstances under which credit entries to the depositor of a RECEIVING BANK would result, for whatever reason, in an overdraft upon the account of Netchex at ORIGINATING BANK.

- 22. Client hereby agrees to indemnify, defend and hold each of PARTICIPATING BANK, NACHA and Netchex, and their respective members, managers, officers, directors, employees, affiliates and representatives (collectively, the "INDEMNIFIED PARTIES"), harmless from and against any and all losses, claims, damages, judgments, amounts paid in settlement, costs and expenses (including interest, penalties, costs of investigation and reasonable attorneys' fees and disbursements) that are suffered or incurred by such INDEMNIFIED PARTY and arise out of or result from (a) any act or omission of Client or any of its employees taken or omitted to be taken in connection with the arrangement contemplated by this Agreement, or (b) any breach by Client of its obligations under this Agreement. The foregoing indemnification obligation shall include, without limitation, any claim based on alleged loss as a result of noncredit of any deposit, any claim which may be made by an employee as a result of the rejection of any debits because of insufficient funds arising from the failure to credit deposits to employee's account.

- 23. Neither NACHA nor any PARTICIPATING BANK shall have responsibility for the accuracy of deposit amounts furnished by the Client, nor shall any such bank or NACHA be under any duty to deliver statements of earnings or any other statements to the depositor concerned. Client shall be responsible for delivering such statements.

- 24. UCC Article 4A Disclosure:

- (a) Direct deposit entries may be transmitted through the Automated Clearing House Network ("ACH Network").
- (b) The rights and obligation of the Client concerning the entry are governed by the laws of the State of Louisiana.
- (c) Credit given by the Receiving Depository Financial Institution ("RDFI") to the Receiver for an entry is provisional until the RDFI has received final settlement through a Federal Reserve Bank or otherwise received payment as provided for in Section 4A-403(a) or Article 4A. If the RDFI does not receive such payment for the entry, the RDFI is entitled to a refund from the Receiver in the amount of the credit to the Receiver's account, and the Client will not be considered to have paid the amount of the credit entry to the Receiver.