

**CONTRACT MODIFICATION**

<b>1. CONTRACT NO: 200692 ERP System Replacement</b>	<b>2. CONTRACT MODIFICATION NO: 24</b>	<b>3. EFFECTIVE DATE OF C.M. See Block 9. below</b>	<b>4. CONTRACTOR NAME: Applications Software Technology (AST)</b>
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**5. AGREEMENT TO MODIFY CONTRACT:**

The parties hereto agree to modify the Contract identified in Block 1, above, as described in Block 10, below, pursuant to the terms and conditions of the Contract. Except as modified herein, all other provisions of the Contract (including, but not limited to, price, delivery, and completion date) remain unchanged.

**6.AMOUNT OF THIS CONTRACT MODIFICATION: (NO CHANGE)**

**7. TERM OR PERIOD OF PERFORMANCE: (NO CHANGE)**

**8.CONTRACTOR'S EXECUTION:**

Name & Title: Prasad Nettem, Vice President  
(Print or type)

Signature: 

Date Executed: 10/04/2022

**9.CONTRACTING OFFICER'S EXECUTION:**

Name & Title: Muhammad Abdullah, Contracting Officer  
(Print or type)

Signature:  E-SIGNED by Muhammad Abdullah  
on 2022-10-04 21:27:09 GMT

Date Executed: October 04, 2022

**10. DESCRIPTION OF CONTRACT MODIFICATION:**

Modification 24 is made in accordance with Exhibit E – Revised-1, Contractual Terms and Conditions, Section 20, CHANGES, to be made a part hereof for all pertinent purposes. The changes are as follows:

Adds ADP Global Master Services Agreement, effective date September 21, 2022, attached hereto and made a part hereof for all pertinent purposes.

Modification 24 Attachment:  
Alliance Services ADP Global Master Services Agreement

*For and in consideration of the amount stated above, which is the final contract modification amount agreed to by both parties, the receipt of and sufficiency of which is hereby acknowledged and confessed. The contractor has released, acquitted, and forever discharged and by the presents does for itself, its successors and assigns release, acquit and forever discharge Capital Metropolitan Transportation Authority (Capital Metro) from and against any claims, debts, demands, or cause of action which the contractor has or may have had a result of furnishing labor, supplies, or materials for the change orders stated above. This modification may be executed in multiple originals, and an executed facsimile shall have the same force and effect as an original document.*

**END OF MODIFICATION 24**

# GLOBAL MASTER SERVICES AGREEMENT

Effective Date: September 21, 2022

As between:

**ADP, Inc.**

-and-

**Capital Metropolitan Transportation  
Authority**

(Referred to in this agreement as  
"ADP")  
One ADP Boulevard  
Roseland, NJ 07068

(Referred to in this agreement as "Client")  
700 Lavaca Suite 1400  
Austin, TX 78701

ADP and Client agree that ADP shall provide Client with the following services in accordance with the terms set forth in this Global Master Services Agreement.

- Alliance Services:
  - ADP Employment Tax Services – delivered via the Employment Tax Module
  - Print and Online Statement Services

Third Party Provider:

Appendices

- Pricing and Financial Terms



**ADP, Inc.**

Signature of Authorized Representative

Rob Hamilton

Printed Name

SVP/GM

Title

9/21/22

Date



**Capital Metropolitan Transportation  
Authority**

E-SIGNED by Catherine Walker  
on 2022-08-15 18:39:49 GMT

Signature of Authorized Representative

Catherine Walker

Printed Name

EVP, Chief Financial & Risk Officer

Title

August 15, 2022

Date



## Global Master Terms and Conditions

### 1. Definitions

#### 1.1. ADP HCM Services

**1.1.1. Alliance Services.** Compliance-related services to assist in the following:

**1.1.1.1. ADP Employment Tax Services.** Coordination of payroll-related tax and/or regulatory agency deposits, filings, and reconciliations on behalf of employers.

**1.1.1.2. 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.

#### 1.2. General

**1.2.1. “ADP”** has the meaning set forth on the cover page.

**1.2.2. “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.

**1.2.3. “Affiliate”** means, with respect to any entity, any other entity that controls, is controlled by or under control with such first entity. For purposes of this Agreement, “control” (or variants of it) means the ability, whether directly or indirectly, to direct the management and action of an entity by means of ownership, contract or otherwise.

**1.2.4. “Agreement”** means this Global Master Services Agreement, consisting of the signature pages, the Global Master Terms and Conditions, all exhibits, annexes, appendices and schedules, and each Amendment, if any.

**1.2.5. “Alliance Services”** means the services listed on the cover page comprising a part of the Services provided under the Agreement for use in the Approved Country.

**1.2.6. “Amendment”** means a written amendment to this Agreement modifying, supplementing or amending the terms and conditions of this Agreement.

**1.2.7. “Approved Country”** means each country in which, subject to the terms of this Agreement, Client is authorized to use or receive the Services. A list of Approved Countries for each Service is set forth in the Pricing and Financial Terms. For purposes of the Alliance Services, Approved Country means the United States of America, which is the only country in which Client is authorized to use or receive the Alliance Services subject to the terms of this Agreement.

**1.2.8. “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.

**1.2.9. “Client”** has the meaning set forth on the cover page.

**1.2.10. “Client Content”** means all information and materials provided by the Client Group, their agents or employees, regardless of form.



**1.2.11. “Client Group”** means Client and Client’s Affiliates listed in the Pricing and Financial Terms who are authorized to receive the Services.

**1.2.12. “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 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.

**1.2.13. “Confidential Information”** means all trade secrets, processes, proprietary data and documentation and any pricing and product information, Personal Data, the terms of this Agreement, and any other information that is confidential or proprietary provided by the disclosing party to the receiving party for use in connection with the Services or this Agreement, but does not include information that (i) the receiving party already knows prior to its disclosure by the disclosing party, (ii) becomes generally available to the public, except as a result of disclosure by the receiving party in violation of this Agreement or (iii) becomes known to the receiving party on a non-confidential basis from a source other than the disclosing party.

**1.2.14. “Cost Reimbursement Fee”** means those amounts set forth in the Pricing and Financial Terms to be paid to ADP in the event Client terminates any Services prior to the expiration of the Initial Term, other than for material breach pursuant to Section 12.2.

**1.2.15. “Data Security Breach”** means a security breach as defined by applicable law or any incident that compromises the confidentiality, integrity, or availability of Personal Data.

**1.2.16. “Documentation”** means all manuals, tutorials and related materials that may be provided or made available to Client by ADP in connection with the Services.

**1.2.17. “Effective Date”** has the meaning set forth on the cover page.

**1.2.18. “Global Master Terms and Conditions”** means the terms and conditions contained in the main body of this document following the signature pages.

**1.2.19. “Go-Live Date”** means the date of commencement of the first “live” processing of a given Service.

**1.2.20. “Gross Negligence”** means (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.

**1.2.21. “Improvements”** has the meaning set forth in Section 5.4.

**1.2.22. “Incentive”** means tax, financial or operational benefits, including tax credits, pursued through the Services provided, in whole or part, by ADP.



**1.2.23. “Indemnitee”** has the meaning set forth in Section 6.3.

**1.2.24. “Indemnitor”** has the meaning set forth in Section 6.3.

**1.2.25. “Initial Term”** has the meaning set forth in Section 12.1.

**1.2.26. “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.

**1.2.27. “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.

**1.2.28. “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.

**1.2.29. “Payment Services”** means Services that involve electronic or check payments being made by ADP to third parties on Client’s behalf and at its direction.

**1.2.30. “Personal Data”** means any information relating to an identified or identifiable natural person. An identifiable 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.

**1.2.31. “Renewal Term”** has the meaning set forth in Section 12.1.

**1.2.32. “Services”** means the services listed on the cover page of this Agreement (including implementation services related thereto) and such other services as the parties may agree to be performed from time to time.

**1.2.33. “SOC 1 Reports”** has the meaning set forth in Section 9.1.

**1.2.34. “Tax Locator”** has the meaning set forth in Section 14.2.1.

**1.2.35. “Term”** means the Initial Term together with each Renewal Term, if any.

**1.2.36. “Third Party Provider”** means Client’s third party payroll, enterprise resource planning, recruiting, talent management, applicant tracking system, or other third party business process outsourcing provider identified on the cover page of the Agreement.

**1.2.37. “Third Party Provider Agreement”** means the agreement executed by Client and Third Party Provider relating to the provision by Third Party Provider and the receipt by Client of certain services (including, without limitation, the Alliance Services). The Third Party Provider Agreement includes, without limitation, the schedules, exhibits, order forms, and other similar documents signed by Third Party Provider and Client pursuant to which Third Party Provider and Client agree on the fees payable by Client to Third Party Provider with respect to the Alliance Services to be provided by ADP to Client pursuant to this Agreement. For the avoidance of doubt, and notwithstanding anything to the contrary contained herein, Client acknowledges and agrees that, except for provisions relating to the payment of fees by Client to



Third Party Provider in connection with the Alliance Services, nothing contained in the Third Party Provider Agreement will be deemed to modify, amend, replace, or otherwise affect the terms and conditions of this Agreement.

**1.2.38. “Transition Services”** has the meaning set forth in Section 13.1.

**1.2.39. “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 Group in accordance with the terms of this Agreement. 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 successfully 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 Business Purposes in the Approved 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. Furthermore, if Client during the implementation process or as part of the ongoing Services configures the ADP Application Programs to process additional data elements beyond those data elements that are required by ADP to perform the Services, Client will remain solely responsible for such configurations, including the processing of Personal Data pursuant to applicable law.

**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.** Unless expressly included as a part of the Services, and 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 or provided to ADP in connection with the Services to the extent required by law or Client’s internal policies.

## **3. Compliance**

**3.1. Applicable Laws.** Each party will comply with 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 ADP’s 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 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 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 satisfies Client's obligations under applicable laws and the consequences resulting from such determinations.

**3.4. Data Protection Laws.** During the Term of the Agreement (i) Personal Data transferred by Client or at Client's direction to ADP has been collected by Client in accordance with applicable privacy laws; and (ii) Client has the authority to provide such Personal Data to ADP under applicable privacy laws. ADP may not retain, sell (as defined by applicable privacy laws), use or disclose the Personal Data for any purpose other than as needed to perform the Services, as permitted by the Agreement, or as required 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 Group'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 Group'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. If ADP agrees to a Client request to provide ADP Confidential Information to a third party vendor of Client, Client will cause such third party to (i) use at least the same degree of care, discretion and diligence in protecting the ADP Confidential Information as the third party is required to use with respect to Client Group's Confidential Information, but in any event no less than a reasonable standard of care in protecting the ADP Confidential Information; and (ii) use the ADP Confidential Information solely for providing services to Client for Client's internal operations. Client further authorizes ADP to disclose Client Group's Confidential Information to Third Party Provider as reasonably necessary in connection with the Alliance Services. Client further authorizes ADP to disclose Client Group's Confidential Information to Third Party Provider as reasonably necessary in connection with the Alliance Services. 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 following a request for return or destruction of same from the disclosing party, such portion of the disclosing party's Confidential Information shall remain subject to the generally applicable statutory requirements and the confidentiality protections contained in Section 4.1.

## **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 a non-exclusive, worldwide, non-transferable, 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 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 solely up to the maximum number of Users (if any) indicated in the Pricing and Financial Terms. 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, 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. If Client fails to implement Improvements provided or made available to Client by ADP, ADP shall be relieved of any responsibility for errors or degradation in the Services and shall have no obligation to provide support for the ADP Application Programs.

## **6. Indemnities**

**6.1. ADP Indemnity.** Subject to the remainder of this Section 6.1, and Sections 6.3 and 7, ADP will defend Client against any third party claims and will indemnify and hold Client harmless from any resulting damage awards or settlement amounts in any cause of action to the extent such cause of action



is based on a claim 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 and return to Client any unearned fees prepaid by Client to ADP.

**6.2. Client Indemnity.** To the extent authorized or allowed by applicable law and 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 the greater of: (i) 12 times the average ongoing monthly Services fees paid or payable to ADP by Client during such calendar year for all Services and (ii) One Hundred Thousand Dollars (\$100,000) (the "**Ordinary Cap**").

**7.2. Extraordinary Cap.** As an exception to Section 7.1, if damages arise from a breach of Section 4 (Confidentiality) or Section 9.3 (Data Security), the Ordinary Cap will be increased by the greater of (i) an additional 12 times the average ongoing monthly Services fees paid or payable to ADP by Client during such calendar year for all Services and (ii) an additional One Hundred Thousand Dollars (\$100,000) (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 an amount equal to the greater of: (i) 24 times the average monthly ongoing Services fees paid or payable to ADP by Client during such calendar year for all Services and (ii) Two Hundred Thousand Dollars (\$200,000).

**7.3. Matters not Subject to the Cap.** The foregoing limits on liability shall not apply to the following:

- 7.3.1.** Client's funding obligations in connection with the Payment Services;
- 7.3.2.** Loss or misdirection of Client funds in possession or control of ADP due to ADP's error or omission;



**7.3.3.** In connection with the Employment Tax Services, (i) 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 (ii) all tax penalties resulting from ADP's error or omission in the performance of such Service. The provisions of this Section 7.3.3 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;

**7.3.4.** Either party's Gross Negligence, or willful, criminal or fraudulent misconduct;

**7.3.5.** The infringement indemnity set forth in Section 6.1 and 6.2;

**7.3.6.** Client's obligations to pay the fees for Services; and

**7.3.7.** ADP's obligations to provide credit monitoring as set forth in Section 10.2.

**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 related 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, 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 THIRD-PARTY 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) that are both directly related to those 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 maintains a commercially reasonable business continuity and disaster recovery plan and will follow such plan.

**9.3. Data Security.** ADP has an established information security program containing appropriate administrative, technical and physical measures to protect Client data (including Personal Data) 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 Breach**

**10.1. Notification.** If ADP becomes aware of a Data Security Breach of Client's Personal Data, ADP will take appropriate actions to contain, investigate and mitigate the Data Security Breach. ADP shall notify Client without undue delay after becoming aware that a Data Security Breach has occurred, unless otherwise required or instructed by law enforcement or regulatory authority. ADP will share information in its possession with Client for Client to determine any regulatory reporting obligations required by applicable law.

**10.2. Other ADP Obligations.** In the event that a Data Security Breach 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 the applicable jurisdictions.

## **11. Payment Terms**

**11.1.** Client will pay to ADP the fees and other charges for the Services as set forth in the Pricing and Financial Terms.

## **12. Term; Termination; Suspension**

**12.1. Initial Term.** This Agreement is effective upon the Effective Date and will remain in effect until the third (3<sup>rd</sup>) anniversary of the Effective Date (the "**Initial Term**"). After the Initial Term expires, this Agreement will automatically renew for additional one year periods (each a "**Renewal Term**") unless terminated by either party upon at least 180 days prior written notice to the other party prior to the end of the Initial Term or Renewal Term, as applicable.

**12.2. Termination.** Either party may terminate this Agreement for the other's material breach of this Agreement if such breach is not cured within 60 days following notice thereof. In addition: (i) ADP may terminate this Agreement in the event (a) Client fails to timely pay fees for Services performed within 10 days following notice that such fees are past due, (b) the provision of Services to Client causes or will cause



ADP or its Affiliates to be in violation of any sanction laws applicable to ADP or its Affiliates (such termination shall be effective immediately upon written notice); and (ii) Client may terminate this Agreement or any Service for any reason for its convenience upon 180 days' notice and payment of the Cost Reimbursement Fee (if applicable) and Deferred Fee (if applicable), each as set forth in the Pricing and Financial Terms.

**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 following notice to Client (i) that Client has failed to remit sufficient, good and available funds within the deadline and via the method of delivery set forth in the Pricing and Financial Terms as it relates to the applicable Payment Services, or (ii) if Client breaches any rules promulgated by the NACHA (or other similar local regulator) as it relates to ADP conducting ACH (or similar 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 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 suspended or terminated 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 suspended or 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 7.3.3), and (y) reimburse ADP for all payments properly made by ADP on behalf of Client to any payee, which has not been paid or reimbursed by Client. If the Payment Services remains suspended for 30 days, the affected Payment Service shall be deemed terminated on the 31st day following suspension.

#### **12.4. Additional Termination Provisions.**

**12.4.1. Additional Termination or Suspension for Alliance Services.** In addition to the termination rights set forth elsewhere in the Agreement, and notwithstanding anything to the contrary contained in the Agreement or otherwise, Client acknowledges and agrees that ADP may, in its sole discretion:

**12.4.1.1.** terminate the Agreement with respect to all or any portion of the Alliance Services immediately upon notice to Client in the event that the master agreement between ADP and Third Party Provider terminates or otherwise expires;

**12.4.1.2.** suspend and/or terminate all or any portion of the Alliance Services upon the direction of Third Party Provider to take such action as a result of Client's failure to pay all applicable fees and expenses due to Third Party Provider for the Alliance Services (and in such event, Client shall hold ADP harmless from any and all negative or adverse consequences to Client, Client Group, their respective employees, and their families and dependents resulting from ADP suspending or terminating all or any portion of the Alliance Services in accordance with such direction from Third Party Provider); and

**12.4.1.3.** suspend all or any portion of the Alliance Services in the event that Third Party Provider is in breach of its obligations to pay ADP the corresponding fees for the Alliance Services owed to ADP by Third Party Provider with respect to the Alliance Services provided to Client pursuant to this Agreement.

**12.4.2. Additional Termination Provisions for ADP Employment Tax Services.** If the ADP Employment Tax Services in the United States are terminated, Client's access to ADP websites





containing Client's data will expire 90 days from the effective date of the termination, and Client will be responsible for downloading all relevant data, including Statements of Deposit (SODs) prior to the expiration of such access. ADP may terminate the Tax Locator feature of the ADP Employment Tax Services at any time by providing 30 days written notice to Client.

### **13. Transition Services**

**13.1. Scope.** Upon expiration or termination of the Services, subject to Sections 13.2 and 13.3, ADP shall provide Client and its designee(s) with reasonable transition services ("**Transition Services**") consisting of continuation of the terminated Services and, if requested by Client and mutually agreed by the parties in writing, any additional services (including technical assistance) that will be delivered at ADP's then prevailing rates. In connection with the Transition Services, ADP will not be required to provide any third party with access to ADP's systems, intellectual property or any Confidential Information of ADP.

**13.2. Performance of Obligations.** During the provision of Transition Services, ADP and Client shall continue to perform their respective obligations under this Agreement, including, with respect to ADP, the provision of ongoing Services to Client and with respect to Client, the payment of all fees for such Services specified in the Pricing and Financial Terms.

**13.3. Past Due Amounts.** If ADP has terminated this Agreement due to Client's failure to pay fees, ADP's provision of Transition Services will be subject to Client's payment of all past due amounts and ADP may require Client to prepay for any Transition Services. With respect to Alliance Services, if ADP has terminated this Agreement due to Client's and/or Third Party Provider's failure to pay fees, ADP's provision of Transition Services relating to the Alliance Services will be subject to Client's and/or Third Party Provider's payment of all past due amounts and ADP may require Client and/or Third Party Provider to prepay for any Transition Services.

### **14. Additional Terms**

**14.1. Alliance Services.** The following additional terms and conditions apply to the Alliance Services:

**14.1.1. Client Vendors.** Client will at its own cost make all necessary arrangements with its third party vendors (including, without limitation, Third Party Provider) to cause such vendors to send data to and receive data from ADP as required for ADP to provide the Alliance Services. Client shall reimburse ADP for any costs ADP is required to bear in connection with or arising out of any such transmissions of data from and/or to such third party vendors.

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

**14.2.1. ADP Tax Locator.** The ADP Employment Tax Services in the United States shall include access to the tax locator, a tool which helps Client locate municipal, school district, county and state codes and tax rates for new hires and transferred employees based upon their work and home addresses ("**Tax Locator**"). Client is solely responsible for the accuracy of data Client inputs into the Tax Locator, and the data Client generates and uses from the Tax Locator.

**14.2.2. Important Tax Information (IRS Disclosure) for U.S. Only.** 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](http://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.

**14.3. Payment Services.** The following additional terms and conditions apply to the Payment Services:

**14.3.1. 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.

**14.3.2. 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.

**14.3.3. 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.

**14.3.4. 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.

**14.3.5. 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.

## **15. Miscellaneous**

**15.1. Amendment.** Except as set forth in the Change Control Procedures set forth in the Pricing and Financial Terms, this Agreement may not be modified, supplemented or amended, except by a writing signed by the authorized representatives of ADP and Client.

**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 these Global Master Terms and Conditions and any such exhibit, annex, appendix or schedule, the Global Master Terms and Conditions 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 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 Texas 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 located in the city and state of the non-moving party. The parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts located in the city and state of the non-moving party 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. Communications Regarding Offers.** In connection with the Services, with the exception of Global HCM, Canadian Services and employees and/or participants outside of the United States, ADP may from time to time identify products and/or services that will benefit Client's employees and/or participants (collectively, "Offers"). In order to extend such Offers to Client's employees and/or participants, Client agrees that ADP may use Client's employee and participant contact information, including\_email addresses for such purpose. Upon thirty days' prior written notice, Client may elect for ADP to cease sending future Offers to its employees and/or participants. In addition, each communication sent by ADP will comply with applicable laws and will enable the recipient to opt-out of receiving additional Offers from ADP.

**15.15. 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.

**15.16. 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 or to ADP at ADP, Inc., 400 W. Covina Boulevard, San Dimas, California 91773, Attn: 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.

**15.17. 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.



# Pricing and Financial Terms

# I. Financial Terms

**Region/Approved Country: United States**

- A. **Client Group:** The Client Group includes the following entities.  
Austin Transit Partnership
- B. **Payment Terms: Fees:** Client will pay to Third Party Provider the fees and other charges for the Alliance Services at the rates agreement upon by Client and Third Party Provider in the Third Party Provider Agreement (and, notwithstanding anything to the contrary contained in the Agreement, Third Party Provider shall be a third party beneficiary of this sentence). In addition, fees payable by Client to Third Party Provider for implementation or similar services, and any cost reimbursement, fee credit, or similar obligations between Client and Third Party Provider, in connection with the Alliance Services will be governed by the Third Party Provider Agreement or other agreement between Client and Third Party Provider. Client acknowledges and agrees that Client or Third Party Provider (to the exclusion of ADP) shall be solely responsible for the collection and payment of all taxes applicable to the Alliance Services provided under this Agreement (exclusive of taxes based on ADP's net income that ADP is required by law to pay). Client agrees to reimburse ADP for all postage, delivery charges, other similar third-party or pass through charges and expenses, and reasonable travel and out-of-pocket expenses incurred by ADP in connection with the Alliance Services.
- C. **Funding Requirements:** Client must be setup with a permanent reverse wire collection method for processing of tax liabilities. A banking pass-through fee will be charged to Client each time the reverse wire is used. Tax liabilities will be collected one (1) one business day prior to the associated payroll check date. Garnishment deductions and liabilities will be collected one (1) business day prior to the associated payroll check date.