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# Payroll Service Agreement

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This Payroll Service Agreement (the "**Agreement**") is made and entered into by and between you and ZenPayroll, Inc. ("**ZenPayroll**"). This Agreement contains the terms and conditions that govern the use of, and the terms and conditions upon which ZenPayroll will provide to you, certain payroll processing, payroll tax service and other related payroll services (collectively the "**Service**"), which is provided through ZenPayroll's website and/or mobile application operated by ZenPayroll.

You are required to indicate your acceptance of the terms and conditions below in order to access and use the Service. By accessing and/or using the Service, you are consenting to be bound by this Agreement. If you are agreeing to these terms on behalf of a business, you represent and warrant that you have authority to bind that business to this Agreement, and your agreement to these terms will be treated as the agreement of the business. In that event, "you" and "your" refer to that business.

**1. SERVICE.** As long as you meet your payment obligations and comply with the terms this Agreement, ZenPayroll will provide you the Service for the purpose of calculating payroll and its associated liabilities for your business and/or household employees, and making related payroll and tax payments or tax filings electronically, for the period of time provided in your ordering and activation terms. You may not use the Service on a professional basis for anyone other than you.

Depending on the type of Service you request, you may need to agree to additional terms and conditions and complete and sign additional forms or authorizations that ZenPayroll provides to you as required by law or otherwise necessary to provide the Service.

You consent to and authorize ZenPayroll at any time to obtain credit reports about you and/or your business, and to report adverse credit information about you and/or your business, to others, including the Internal Revenue Service and any applicable state taxing authorities. ZenPayroll may, at its discretion, decline to offer the Service to you for any reason, including in the event that the enrollment process is not satisfactorily completed, ZenPayroll is unable to verify satisfactory credit of you and/or your principals and/or for other lawful business reasons.

Prior to your initial payroll processing date, you must submit the completed and executed documents ZenPayroll requires for providing the Service, including your payroll and bank account information, any required federal, state or local powers of attorney, and any additional information requested by ZenPayroll. In performing the Service, you acknowledge and agree that ZenPayroll is not acting in a fiduciary capacity for you and/or your business and using the Service does not relieve you of your obligations under federal or state laws or regulations to retain records relating to the data contained in ZenPayroll's files.

The Service does not include obtaining access to the Internet for connecting to the Service. You acknowledge that the operation and availability of the communications systems used for accessing and interacting with the Service or to transmit information to the taxing authorities can be unpredictable and may, from time to time, interfere with or prevent access to the Service or its operation. ZenPayroll is not in any way responsible for any such interference with or prevention of your use of or access to the Service. In such cases, you must contact customer support by other means for instructions on how to calculate paychecks for your employees and make tax payments and filings. You will, at your own cost and expense, obtain, install and, at all times during its utilization of the Service, maintain in good working order all software, hardware and other equipment necessary for you to perform in accordance with this Agreement. In the event of any failure of such software, hardware or other equipment, you will deliver to ZenPayroll all data which you would otherwise have provided that is necessary for ZenPayroll to perform ZenPayroll's obligations in connection with the Services.

You agree not to: (i) use the Service other than as authorized in this Agreement; (ii) use any device, software, or routine that interferes with any application, function, or use of the Service, or is intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or communication; (iii) resell, sublicense, time-share, or otherwise share the Service with any third party; (iv) frame or mirror the Service; (v) decompile, disassemble or reverse-engineer the underlying software or application that is part of the Service or otherwise attempt to derive its source code; (vi) use the Service either directly or indirectly to support any activity that is illegal; (vii) access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes; or (viii) authorize any third parties to do any of the above.

**2. PAYROLL ACCOUNT.** You will designate and authorize either yourself and/or one or more individual users of the Service with authority to act on your behalf and to bind you and/or your business (each a "**Payroll Administrator**"), who may access the Service by entering a confidential user ID and password created by following the instructions provided via the Service and which will entitle them, depending on their designation and permissions given, to have authority to access, review, modify and/or provide approvals on your behalf. The Payroll Administrator will approve and submit the Payroll Information thereby authorizing ZenPayroll to create and transmit credit or debit entries ("**Entries**") necessary to process your payroll and payroll tax transactions.

You will, and will cause your authorized users to, take reasonable steps to maintain the confidentiality of the authorization procedures and the user IDs and passwords and related instructions provided by ZenPayroll. If you believe or suspect that any such user IDs and passwords or related instructions have been known or accessed by unauthorized persons, you will immediately notify ZenPayroll in a manner affording ZenPayroll a reasonable opportunity to act on the information, and you acknowledge that failure to immediately notify ZenPayroll could result in loss of funds and unauthorized access to confidential information concerning you and your employees. ZenPayroll reserves the right to prevent access to the Service should ZenPayroll have reason to believe the confidentiality of the security procedure or the confidentiality of the user IDs and passwords have been compromised. You are responsible for any actions taken on the Service by your Payroll Administrator and/or any other authorized users, and for any transactions resulting from your failure to maintain the confidentiality of your account. You agree that the provision of a user ID and password by you, your Payroll Administrator and/or any other authorized users, will have the same effect as providing

a written signature authorizing electronic payments, filings and other actions on the Service.

**3. PAYROLL INFORMATION.** ZenPayroll will notify you via electronic communication or by other means when all data necessary to begin the Service has been received and the enrollment process has been completed. You shall then, prior to submitting your first payroll, review for completeness and accuracy the Payroll Information. For purposes of this Agreement, "**Payroll Information**" shall mean all information posted for your review on the Service. You must correct incorrect or missing Payroll Information, either by itself or by notifying ZenPayroll in the manner specified in the electronic communication and within the time period specified therein. You are fully responsible for the accuracy of all information you provide, submit and/or approve, including, without limitation any IRS or other penalties and/or interest arising therefrom.

You agree that by submitting each payroll (including the first payroll): (i) you have approved all Payroll Information, (ii) you have represented and warranted to ZenPayroll that no Payroll Information submitted to ZenPayroll will result in Entries that would violate the sanctions program of the Office of Foreign Assets Control of the U.S. Treasury or any other applicable laws or regulations, (iii) you have waived and released any claim against ZenPayroll arising out of any errors in the Payroll Information which you have not yourself corrected or have not requested ZenPayroll to correct, and (iv) any subsequent request for corrections will be considered special handling and additional fees may be charged. Final audit responsibility rests with you. ZenPayroll will not have any responsibility for verifying the accuracy of any data you provide or directly input via the Service or any other method.

ZenPayroll may permit, but shall not be obligated to permit your Payroll Administrator or other a designated representative to communicate with ZenPayroll by electronic mail or other means about the Service. You acknowledge that any such electronic mail communication or other means of communication will be made available for your benefit and convenience, that any Payroll Information, Entries or other instructions communicated to ZenPayroll will be deemed to have been fully authorized by you and you shall be fully responsible for the accuracy of such information including, without limitation, any IRS or other penalties and/or interest arising therefrom; and that, notwithstanding such deemed authorization, ZenPayroll may in its sole discretion refuse to accept or act upon any such instructions.

ZenPayroll, its employees and agents will hold in strict confidence all data furnished by you or produced by ZenPayroll under this Agreement; provided, however, that such parties will not be held liable if such data is released through other sources, or if ZenPayroll, its employees and agents release the data because of a reasonable belief that you have consented to such disclosure.

**4. PAYROLL AUTHORIZATIONS.** ZenPayroll will verify the authenticity of an instruction approving, releasing, cancelling or amending the Payroll Information used to create Entries (each, a "**Payment Order**") to be originated by ZenPayroll using the authorization procedures described herein. ZenPayroll does not verify or review Payment Orders for the purpose of detecting any errors. You will be bound by any Payment Order received and verified by ZenPayroll in compliance with the designated authorization procedure, and you shall indemnify and hold ZenPayroll harmless from and against any loss suffered or liability incurred by, or arising from, the execution of a Payment Order in good faith and in compliance with such procedures.

If a Payment Order describes the receiver inconsistently by name and account number (i) payment may be made on the basis of the account number even if you identify a person different from the named receiver or (ii) ZenPayroll may in its sole discretion refuse to accept or may return the Payment Order. If a Payment Order describes a participating financial institution inconsistently by name and identification number, the identification number may be relied upon as the proper identification of the financial institution. If a Payment Order identifies a non-existent or unidentifiable person or account as the receiver or the receiver's account, ZenPayroll may in its sole discretion refuse to accept or may return the Payment Order.

**5. BANK ACCOUNT DEBITING.** On or prior to your payroll direct deposit and/or payroll tax deposit date or other applicable settlement or due date, you authorize ZenPayroll to initiate debit entries to your designated bank account specified by you through the Service (your "**Bank Account**") at the depository financial institution the routing number of which is given above (your "**Bank**"), and to debit your Bank Account in such amounts as are necessary to (i) fund your direct deposits, (ii) pay any fees or charges associated with the Service, including, without limitation, finance charges, (iii) pay your payroll taxes, (iv) pay any debit, correcting or reversing entry initiated pursuant to this Agreement which is later returned to ZenPayroll, and (v) pay any other amount that is owing under this Agreement or in connection with the Service. This authorization is to remain in full force and effect until ZenPayroll has received written notice from you of termination in such time and such manner as to afford ZenPayroll and your Bank a reasonable opportunity to act upon it. You will maintain in your Bank Account as of the applicable settlement date and time immediately available funds sufficient to cover all credit entries you originate through ZenPayroll. Your obligation to pay ZenPayroll for each credit entry matures at the time ZenPayroll transmits or otherwise delivers the credit entry to the Automated Clearing House ("**ACH**") or gateway operator and is unaffected by termination of the Service. ZenPayroll may set off against any amount it owes to you in order to obtain payment of your obligation as set forth in this Agreement. You acknowledge that the origination of ACH transactions to its account must comply with the provisions of U.S. law. Amounts withdrawn for payroll taxes will be held by ZenPayroll at ZenPayroll's financial institution (the "Payroll Tax Account") until such time as those payments are due to the appropriate taxing agencies, and no interest will be paid to you on these amounts.

If you do not have sufficient funds in your Bank Account to pay disbursements, fees, payroll taxes or any other amounts due under this Agreement at the time required, or if you refuse to pay, ZenPayroll may (i) debit the Payroll Tax Account or any other account owned in whole or in part by you to pay disbursements, fees or charges, payroll taxes, or other amounts due, (ii) refuse to pay any unremitted payroll taxes, in which case the payroll tax liability will become your sole responsibility, (iii) refuse to perform further services, and/or (iv) immediately terminate this Agreement. ZenPayroll may assess finance charges on any amounts owing and unpaid ten (10) days after demand. Finance charges are assessed at a rate of 1.5% per month (18% per annum) or the highest amount permitted by law, whichever is less. ZenPayroll may recover from you any costs including, without limitation, reasonable attorneys' fees and expert witnesses' fees ZenPayroll may incur in connection with any termination of this Agreement or collection of amounts due hereunder.

**6. ACH ORIGINATION.** The Service will enable you to enter the Payroll Information and to approve and submit it to ZenPayroll for creation, formatting and transmission of



Entries in accordance with the ACH Rules (as defined below). ZenPayroll may reject any Payroll Information or Entry which does not comply with the requirements in this Agreement or the ACH Rules or with respect to which your Bank Account does not contain sufficient available funds to pay for the Entry. If any Payroll Information or Entry is rejected, ZenPayroll will make a reasonable effort to notify you promptly so that you may correct such Payroll Information or request that the ZenPayroll correct the Entry and resubmit it. A notice of rejection will be effective when given. ZenPayroll will have no liability to you by reason of the rejection of any Payroll Information or Entry, the fact that notice is not given at an earlier time than that provided for in this Agreement or for any loss resulting from ZenPayroll's failure to provide notice. If you request that ZenPayroll repair an Entry on your behalf, ZenPayroll may attempt to do so; provided, however, that ZenPayroll will not be liable for its failure to make any requested repair.

You will have no right to cancel or amend any Payroll Information received by ZenPayroll after it has been approved by your Payroll Administrator and submitted to ZenPayroll. ZenPayroll will use reasonable efforts to act on such request prior to transmitting the Entries to the ACH or gateway operator, but will have no liability if the cancellation or amendment is not affected. You will reimburse ZenPayroll for any expenses, losses or damages ZenPayroll may incur in effecting or attempting to affect your request. Except for Entries created from Payroll Information that have been reapproved and resubmitted by you in accordance with the requirements of this Agreement, ZenPayroll will have no obligation to retransmit a returned Entry to the ACH or gateway operator if ZenPayroll complied with the terms of this Agreement with respect to the original Entry.

ZenPayroll will process the Payroll Information and Entries in accordance with its then current processing schedule, provided (i) the Payroll Information is approved by your Payroll Administrator and received by ZenPayroll no later than your applicable cut-off time on a business day and (ii) the ACH is open for business on that business day. If ZenPayroll receives approved Payroll Information after the cut-off time, ZenPayroll will not be responsible for failure to process the Payroll Information on that day. If any of the requirements of clause (i) or (ii) of this Subsection are not met, ZenPayroll will use reasonable efforts to process the Payroll Information and transmit the Entries to the ACH with the next regularly scheduled file created by ZenPayroll which is on a business day on which the ACH is open for business.

Origination, receipt, return, adjustment, correction, cancellation, amendment and transmission of Entries must be in accordance with the Operating Rules of the ACH in which ZenPayroll is a participant and, with respect to credit entries which constitute Payment Orders, Article 4A of the Uniform Commercial Code as adopted in the state whose law governs this Agreement, as both are varied by this Agreement, and as both are amended from time to time (the "**ACH Rules**"). You acknowledge that you have had an opportunity to review and agree to comply with and be bound by the ACH Rules and all future amendments.

Any credit ZenPayroll gives to you is provisional until ZenPayroll receives final settlement and the Entry for which credit was given is deemed to be finally paid as provided in this Agreement, the ACH Rules and all laws, rules and regulations governing any aspect of the Entry, including the laws, rules and regulations of the country to which the Entry was sent. If ZenPayroll does not receive final settlement, it is entitled to a refund from the credited person and you will not be deemed to have paid that person. Upon request, ZenPayroll will make a reasonable effort to reverse an Entry, but will have no responsibility for the failure of any other person or entity to honor your

request. You agree to reimburse ZenPayroll for any expenses incurred in attempting to honor such request.

You expressly acknowledge that ZenPayroll does not intentionally or knowingly engage in or support International ACH Transactions ("**IATs**"), as defined in the Operating Rules of the National Automated Clearing House Association ("**NACHA Rules**"). You represent and warrant that (i) the direct funding for the Entries originated by ZenPayroll on behalf of you does not come from or involve a financial agency office that is located outside the territorial jurisdiction of the United States; (ii) you will not instruct ZenPayroll to create, originate or transmit Entries that are IATs or Entries using a Standard Entry Class Code (as defined in the NACHA Rules) other than IAT if such Entries are required to be IATs under the NACHA Rules; and (iii) you will not engage in any act or omission that causes or results in ZenPayroll creating, originating or transmitting an IAT or a payment that should have been categorized as an IAT pursuant to the NACHA Rules. ZenPayroll may, in its sole discretion, temporarily or permanently suspend providing the Service to you, without liability, if ZenPayroll has reason to believe that you have breached any of foregoing representations and warranties in this paragraph. You acknowledge that you are the originator of each Entry and that under the ACH Rules, ZenPayroll makes certain warranties with respect to each Entry. You agree to reimburse ZenPayroll for any loss ZenPayroll incurs, including its reasonable attorneys' fees and legal expenses, as the result of a breach of a warranty made by ZenPayroll unless the breach resulted solely from ZenPayroll's own gross negligence or intentional misconduct. You acknowledge that under the ACH Rules, ZenPayroll indemnifies certain persons. You agree to reimburse ZenPayroll for any loss ZenPayroll incurs, including its reasonable attorneys' fees and legal expenses, as the result of the enforcement of an indemnity, unless enforcement resulted solely from ZenPayroll's own gross negligence or intentional misconduct.

**7. TAXES; LIABILITY.** In order to use the Service, you must submit accurate wage and payroll information to ZenPayroll during the enrollment process. ZenPayroll will not be liable for any penalty, interest or other liability that results from inaccurate or incomplete information you supply. The wage and payroll information must be reconciled with your payroll tax returns for the current calendar year and your wage and payroll tax information for the current quarter. Thereafter, you shall timely and accurately update all wage and payroll information as necessary to reflect changes and respond with additional information requested from time to time by ZenPayroll. It is your responsibility to submit complete and accurate information to ZenPayroll in connection with the Service. Any penalty or interest incurred due to inaccurate information provided by you will be your sole responsibility. You further agree to hold ZenPayroll harmless from such liability. ZenPayroll, at its option, may decide not to file your payroll tax returns, pay your payroll taxes or otherwise process your payroll if there are any unresolved problems with any information requested by ZenPayroll or submitted by you. ZenPayroll's sole liability and your sole remedy for ZenPayroll's negligent failure to perform the payroll tax portion of the Service shall be (i) ZenPayroll will remit the payroll taxes received from you to the appropriate taxing authority and (ii) ZenPayroll will reimburse you or pay directly to the appropriate taxing authority any penalties resulting from such negligent error or omission by ZenPayroll.

You are responsible for: (i) depositing any FICA, Federal, State and Local withholding liabilities incurred to date (before the payroll processing with the ZenPayroll); (ii) submitting any payroll returns to tax agencies (state, federal, and/or local) that are now due; and (iii) cancelling any prior payroll service or leasing agency.

**8. SERVICE FEES AND CHARGES.** You agree to pay the fees for the Service in accordance with applicable fee schedule. You agree to reimburse ZenPayroll for any sales, use and similar taxes arising from the provision of the Service that any federal, state or local governments may impose. ZenPayroll may charge additional fees for exceptions processing, setup and other special services. ZenPayroll reserves the right to change the schedule of fees from time to time. You will be notified of any change in fees at least 30 days in advance of the effective date. If a fee increase or change to this Agreement is not acceptable, you may cancel the Service as provided herein prior to the time when it takes effect. Your continued use of the Service constitutes your agreement to those changes. If ZenPayroll is unable to collect fees due because of insufficient funds in your Bank Account or for any other reason, you must pay the amount due immediately upon demand, plus any applicable exceptions processing fees, bank fees or charges for return items, plus interest at the lesser of 18% annually or the maximum allowed by law, plus attorney's fees and other costs of collection as allowed by law. In addition, ZenPayroll may suspend the Service or terminate this Agreement and avail itself of any other available remedy. ZenPayroll also reserves the right to make any appropriate reports to credit reporting agencies, financial institutions, tax agencies and law enforcement authorities, and cooperate with them in any resulting investigation or prosecution.

**9. PROPRIETARY RIGHTS.** ZenPayroll owns all worldwide right, title and interest in and to the Service and the website, applications and software platform that ZenPayroll uses to provide the Service ("ZenPayroll IP"). This Agreement does not convey any proprietary interest in or to any ZenPayroll IP or rights of entitlement to the use thereof except as expressly set forth herein. You acknowledge and agree that the fees paid pursuant to this Agreement apply only to the use of the Service by you. Any feedback, comments and suggestions you may provide for improvements to the Service ("Feedback") is given entirely voluntary and ZenPayroll will be free to use, disclose, reproduce, license or otherwise distribute, and exploit such Feedback as it sees fit, entirely without obligation or restriction of any kind.

**10. DISCLAIMER.** Your use of the Service is entirely at your own risk. ZenPayroll is not in the business of providing legal, tax, financial, accounting, employment, or other professional services or advice. You should consult a professional trained in those areas if you need such assistance. The Service is provided "AS IS" and on an "AS AVAILABLE" basis. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ZENPAYROLL DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DATA LOSS, NON-INFRINGEMENT, OR THE ACCURACY, RELIABILITY, QUALITY OF ANY INFORMATION OR CONTENT IN OR LINKED TO THE SERVICE. ZENPAYROLL DOES NOT WARRANT THAT THE SERVICE WILL BE COMPLETELY SECURE, FREE FROM BUGS, VIRUSES, INTERRUPTION, ERRORS, THEFT OR DESTRUCTION. If the exclusions for any implied warranties do not apply to you, any implied warranties are limited to 60 days from the date of delivery of the Service.

**11. TERM; TERMINATION.** The Service will continue until such time as you or ZenPayroll gives 30 days' prior written notice (which may be given by email or through a notice in your account), unless termination is for cause. ZenPayroll may terminate or temporarily suspend your access to the Service in the event that: (i) you breach any material provision of this Agreement that, (if it is capable of being cured) is not cured

within 10 days from notice to you (5 days in the case of non-payment); or (ii) ZenPayroll determines that your actions are likely to cause legal liability for ZenPayroll or that you have misrepresented any data or information required by ZenPayroll in connection with the Service or at any other time. ZenPayroll may immediately terminate this Agreement without notice to you if you file, or have filed against you, a petition under the U.S. Bankruptcy Code or a similar state or federal law. The termination of the Service or this Agreement will not affect your or ZenPayroll's rights with respect to transactions which occurred before termination. Upon any termination of the Service, your right to access and use the Service will automatically terminate, and you may not continue to access or use the Service. ZenPayroll will have no liability for any costs, losses, damages, or liabilities arising out of or related to ZenPayroll's termination of this Agreement. Sections 5 through 17 will survive and remain in effect even if the Agreement is terminated, cancelled or rescinded.

**12. INDEMNITY; LIMITATION OF LIABILITY.** You agree to indemnify, defend and hold ZenPayroll and its agents, contractors, services providers and affiliates (each, an "Indemnified Party"), harmless against all liabilities, claims, demands, damages, losses, fines, judgments, disputes, costs, charges and expenses (including, without limitation, reasonable attorneys' fees incurred in connection with such claims) made by you or others resulting from, arising out of or related to (i) any acts or omissions by you, your Payroll Administrator and/or any other authorized users, or (ii) ZenPayroll's or any other Indemnified Party's reliance on information and data furnished by you or resulting from activities that ZenPayroll or any other Indemnified Party undertakes at your request, or at the request of anyone ZenPayroll or any other Indemnified Party believes in good faith to be your authorized agent, in providing the Service. In no event will ZenPayroll's or any other Indemnified Party's liability for any act or omission relating to the Service exceed the total charge for services provided for the six (6) month period immediately preceding such act or omission by the ZenPayroll. IN NO EVENT WILL ZENPAYROLL OR ANY OTHER INDEMNIFIED PARTY HAVE LIABILITY FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR INDIRECT LOSS OR DAMAGES REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY OR FORM OF ACTION OR WHETHER ZENPAYROLL OR ANY OTHER INDEMNIFIED PARTY KNEW OR SHOULD HAVE KNOWN OF THE LIKELIHOOD OF SUCH DAMAGES IN ANY CIRCUMSTANCES.

**13. GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the State of California, without regard to the conflicts of laws principles thereof. You irrevocably submit (for yourself and in respect of your property and business) to the jurisdiction of any state or federal court sitting in San Francisco County, California, in any action or proceeding arising out of, or relating to, this Agreement and acknowledge and agree that all claims in respect of the action or proceeding may be heard and determined in any such court. You also agree not to bring any action or proceeding arising out of, or relating to, this Agreement in any other court. You waive any defense of inconvenient forum to the maintenance of any action or proceeding so brought.

**14. ALTERNATIVE DISPUTE RESOLUTION.** Notwithstanding any other provision in this Agreement, if either you or ZenPayroll have any unresolvable dispute, controversy or claim, whether founded in contract, tort, statutory or common law, concerning, arising out of or relating to this Agreement or the Service, including any claim regarding the



applicability, interpretation, scope or validity of this arbitration clause and/or this Agreement (a "Claim") and upon the demand of either party, it will be settled by individual (not class or class-wide) binding arbitration administered by the American Arbitration Association (AAA) in accordance with the then current Commercial Financial Disputes Arbitration Rules, including any expedited procedures. A demand that a Claim be submitted to arbitration may be made before the initiation of any legal proceeding or within ninety (90) days following the service of a complaint, third-party complaint, cross-claim or counterclaim and if a party in a pending legal proceeding demands a Claim to be submitted to arbitration, the party initiating the action will immediately dismiss the legal proceeding and file the claim in arbitration. Arbitration hearings will be held in a mutually agreeable location or if no such agreement can be reached, the city where the dispute occurred. A single arbitrator will be appointed by the AAA and shall be a practicing attorney or retired judge having experience with and knowledge of payroll and online commerce law. The arbitrator will follow the law and will give effect to any applicable statutes of limitation. The prevailing party shall be entitled to an award of the costs and expenses of the arbitration, including attorneys' fees and expert witness fees. A judgment on the award may be entered by any court having jurisdiction. The parties agree and acknowledge that this agreement evidences a transaction involving interstate commerce and that the Federal Arbitration Act (Title 9 of the United States Code) shall govern the interpretation, enforcement, and proceedings pursuant to the arbitration clause in this Agreement.

**15. CHANGES TO THE SERVICE.** ZenPayroll reserves the right to change the terms, conditions, and services at any time, which will be effective when posted on the Service or when you are notified by other means. ZenPayroll will try to, but is not obligated to, provide thirty (30) days prior notice of any such material change. If you do not wish to be bound by such change, you may discontinue using and terminate the Service before the change becomes effective. Your continued use of the Service after the change becomes effective, indicates your agreement to the change.

**16. GENERAL.** This Agreement constitutes the entire agreement between ZenPayroll and you regarding the Service and replaces all prior understandings, communications and agreements, oral or written, regarding its subject matter. This Agreement may be modified only by a written amendment signed by the parties or as otherwise provided herein. If any court of law, having the jurisdiction, rules that any part of this Agreement is invalid, that section will be removed without affecting the remainder of the Agreement. The remaining terms will be valid and enforceable. You may not assign this Agreement without the prior written consent of ZenPayroll. The provisions of this Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and permitted assigns.

**17. ELECTRONIC TRANSMISSION.** This Agreement, and any amendments hereto, by whatever means accepted, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effect as if it were an original signed version thereof delivered in person. Neither party hereto shall argue that a contract was not formed hereunder based on either (i) the use of electronic means to deliver a signature or to indicate acceptance of this Agreement or (ii) the fact that any signature or acceptance of this Agreement was transmitted or communicated through electronic means; and each party forever waives any related defense.

**18. SPECIAL PROVISIONS APPLICABLE TO DEVELOPERS/OPERATORS OF APPLICATIONS AND WEBSITES USING ZENPAYROLL API** If you are a developer or

operator of an application or website that connects to ZenPayroll through our API, you agree to our [Terms of Service API Addendum](#).

## Granting Applications Access to your ZenPayroll Account

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These terms only apply to you if you authorize another application to connect to your ZenPayroll Account.

By authorizing another application to link to your ZenPayroll Account, you agree to be bound by these [ZenPayroll Terms of Service](#) as well as the [ZenPayroll Terms of Service API Addendum](#). This agreement will extend to any new functionality that may be exposed via the API in the future. You specifically agree as follows:

- 1. APPLICATION PERMISSIONS** By authorizing an application to link to your ZenPayroll Account (a "Partner Application") you are authorizing ZenPayroll to permit the Partner Application to (a) access your ZenPayroll Account and Data, (b) create and/or update new payrolls in your ZenPayroll Account, (c) create, update and dismiss employees in your ZenPayroll Account, (d) update your Account details, including any company details, and (e) generally execute actions available through the ZenPayroll web interface on your behalf. The Partner may charge you fees for using their application ("Partner Fees") and any such Partner Fees will be in addition to ZenPayroll's own fees and charges.
- 2. DURATION** Once you have authorized a Partner Application it will continue to have access to your ZenPayroll Account and be authorized as described in the ZenPayroll API Terms of Service until you specifically withdraw your authorization by changing the settings in your ZenPayroll Account Settings.
- 3. NO LIABILITY** You expressly understand and agree that ZenPayroll shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if ZenPayroll has been advised of the possibility of such damages), resulting from your use of the API or third-party products that access data via the API.
- 4. ABUSE/EXCESSIVE REQUESTS** Abuse or excessively frequent requests to ZenPayroll via the API may result in the temporary or permanent suspension of your account's access to the API. ZenPayroll, in its sole discretion, will determine abuse or excessive usage of the API. ZenPayroll will make a reasonable attempt via email to warn the account owner prior to suspension.
- 5. RIGHT TO MODIFY/DISCONTINUE** ZenPayroll reserves the right at any time to modify or discontinue, temporarily or permanently, your access to the API (or any part thereof) with or without notice.