

Company Authorization Agreement

THIS AGREEMENT, made this ____ day of _____, _____, between _____
_____ (COMPANY) whose address is _____,
and _____ (PROCESSOR) and/or TPA and BANK OF NORTH CAROLINA (BNC).

Definitions:

The terms stated below shall have the following meaning:

BNC	BANK OF NORTH CAROLINA.
PROCESSOR	Processor noted above. The terms Processor and TPA are interchangeable.
COMPANY	Company noted above
TRANSACTION	Company's Employee or Company's Customer
ACH	Automated Clearing House: the system through which electronic funds are transferred
NACHA	National Automated Clearing House Association: the governing body which defines the Rules and Regulations and file formats required to transfer money via the ACH system
BANK	A depository financial institution including, but not limited to a commercial bank, savings bank or credit union
CREDIT	Transfer of money to an account/deposit
DEBIT	Transfer of money from an account/withdrawal
TPA	Third party administrator of flexible benefits/cafeteria plan/ERISA plan

I. Services Provided

1.0 Company authorizes Processor and/or TPA to create and transmit ACH files to BNC for the purpose of transferring funds through the Automated Clearing House (ACH) pursuant to the terms of this Agreement and the rules of the National Automated Clearing House Association (NACHA), laws of the State of North Dakota, and applicable federal rules and regulations for various purposes including, but not limited to providing direct deposit of payroll for Company's employees (Transactees), transfers of funds for flexible benefits plans, tax impounding or any other reason Company may desire to transfer funds electronically through the ACH.

1.1 COMPANY UNDERSTANDS THAT BNC PROVIDES ITS SERVICES ONLY TO PROCESSOR AND/OR TPA AND COMPANY. ALL FUNDS TO BE TRANSFERRED, WHETHER PAYROLL, FLEX BENEFITS, OR ANY OTHER FUNDS, MUST BE COLLATERALLY FUNDED AND FULLY GUARANTEED BY PROCESSOR, TPA, AND COMPANY. COMPANY UNDERSTANDS AND AGREES THAT IT WILL NOTIFY ITS TRANSCATEES OF THIS RELATIONSHIP WHEN APPLICABLE.

II. Automated Transfers

2.0 Company warrants to BNC that Company will have sufficient funds on hand to honor all transfer instructions received and processed by BNC in the Company's bank account as disclosed here within and authorized by BNC to electronically transfer from. In the event that transfer instructions are sent

to BNC and there are not sufficient funds on hand to honor the transfer instructions, such transfer instructions shall be "in error".

- 2.1 BNC may refuse to follow Processor's and/or TPA's transfer instructions if BNC reasonably and in good faith believes that Company's bank account balance is insufficient to fund the dollar amount of the payment instructions, BNC reasonably believes that Company, Company's customer, or Company's Transactee Bank will return, reverse or otherwise dishonor the debit to Company's, Company's customer, or Company's Transactee's bank or to TPA's trust account, or for any other reason BNC deems reasonable.
- 2.2 If any amount transferred from or to Company, Company's Transactee or customer's account is dishonored or returned for any reason, including, but not limited to insufficient funds, account closed, unable to locate account, unauthorized transfer, or is reversed by Company, Company's Transactee and/or Transactee's Bank, BNC may:
- a. Reverse any corresponding transfers issued to Processor, TPA, Company, Company's Transactee, Company's customer or any other party without liability to Processor, TPA, Company, or Company's Transactee or any other party;
 - b. Require Processor, TPA or Company to wire transfer to BNC by no later than 2:00 PM Central Time the day Processor, TPA and/or Company were notified of said return;
 - c. Re-submit the item and Processor, TPA and/or Company will be charged a late fee as provided here within and/or later supplemented;
 - d. The parties stipulate and agree that BNC will not suffer any losses because of this Agreement and because of the services it will provide Processor, TPA, Company, Company's customers and/or Company's Transactee. Therefore, in the event that because of the actions or inactions of the Processor, TPA, Company, Company's customers and/or Company's Transactee, BNC has incurred a loss, Processor, TPA and Company hereby agree to reimburse and pay BNC for any and all losses including all costs, attorney's fees, and Processor, TPA and Company agree that BNC may reimburse itself for all losses, costs, and attorney's fees by electronically transferring said amounts from the accounts of Processor, TPA and/or Company.
- 2.3 BNC may reverse any transfer of funds if the transfer was not properly funded or honored by TPA, Company, Company's customers and/or Company's Transactee without any liability to BNC and should BNC suffer any loss, Processor, TPA and Company shall be liable to BNC for all damages/losses incurred including costs, attorney's fees, and other expenses and Processor, TPA and Company hereby authorizes BNC to transfer funds from said accounts to reimburse BNC for all said losses.
- 2.4 Processor, TPA, and Company understand, agree, and acknowledge that as part of the ACH process, once Processor, TPA, and/or Company instructs BNC to cause funds to be debited from the Company bank account, Company's Transactee's bank account, or Company's customer's account, such funds shall be placed in one or more BNC accounts at BNC's bank and that BNC shall be the only entity authorized on such accounts. Processor, TPA, and Company further acknowledge that such BNC accounts shall be subject to set off by BNC's bank.

III. Liability and Indemnification

- 3.0 PROCESSOR, TPA AND COMPANY AGREE TO INDEMNIFY AND HOLD HARMLESS FROM ANY AND ALL CLAIMS OF ANY PERSONS WHATSOEVER ARISING OUT OF BNC'S PROCESSING ACTIVITIES FOR COMPANY OR COMPANY'S EMPLOYEE/CUSTOMER UNDER THE TERMS OF

THIS AGREEMENT EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARISE OUT OF BNC'S GROSS NEGLIGENCE OR WILFULL MISCONDUCT. SUCH CLAIMS MAY INCLUDE, BUT ARE NOT LIMITED TO, CLAIMS OF COMPANY'S CUSTOMER'S, EMPLOYEES, OR OTHER TRANSACTEES CONTENDING THAT THE TRANSFER WAS UNAUTHORIZED, STOP PAYMENT ORDER WAS ISSUED, ACCOUNT CONTAINS INSUFFICIENT FUNDS, AND ANY OTHER CLAIMS ASSERTED BY SAID CUSTOMER OR TRANSACTEE OR TAXING AUTHORITIES WHOSE CREDITS MAY HAVE BEEN REVERSED OR BANKS WHO MAY HAVE SUFFERED DAMAGE OR LOSS BECAUSE OF INSUFFICIENT FUNDS OF COMPANY. COMPANY UNDERSTANDS AND AGREES THAT BNC HAS NO DIRECT FINANCIAL INTEREST IN THE DEBITS AND CREDITS PROVIDED, PURSUANT TO THIS AGREEMENT, AND IS PROVIDING A SERVICE TO COMPANY FOR A FEE. ALL RISK OF LOSS AND LIABILITY TO ANY PERSON OR ORGANIZATION ARISING OUT OF THE SERVICES FURNISHED HEREUNDER SHALL BE THAT OF COMPANY, PROCESSOR AND TPA AND NOT BNC.

- 3.1 Processor, TPA and Company shall have no right to cancel or amend any entry after its receipt by BNC. At Processor's, TPA's, or Company's request, BNC shall use reasonable efforts to cancel or amend an entry prior to transmittal to the ACH but shall have no liability if such cancellation is not affected.
- 3.2 BNC is not responsible for the actions of Processor, TPA, Company, or others with respect to the amount, accuracy, and timeliness of transmittals or authorization of entries received from Processor and/or TPA. The acts of any other person or organization including, without limitation, banks or other financial institutions, or transmissions facilities, shall not be deemed the acts of BNC. Processor, TPA and Company shall hold BNC harmless from any transfers BNC makes upon the direction of Processor, TPA or Company when such direction is without proper authority and/or in error.
- 3.3 BNC's liability to Company or any other person shall in no event exceed the charges made by BNC for the effected transaction. In no event shall BNC be liable for consequential, special or punitive damages or loss of profits.
- 3.4 To the extent that BNC's ability to provide the equipment, facilities or personnel is delayed, reduced, or interrupted by a force beyond BNC's control, including, but not limited to, acts of God, public enemy, inclement weather, interruption of communications systems, physical damage to BNC's premises, labor disputes, orders or directives of any governmental or quasi-governmental authority, BNC shall not be required to perform its obligations under this Agreement or be liable to Processor, Company or Company's Transactee's for any failure to perform.
- 3.5 **Confidentiality:** Each party acknowledges and agrees that it may obtain certain confidential information from the other in the course hereof. Such information includes, but is not limited to, pricing and technical information, operating procedures, and other information pertaining to the business and customers of each party ("Confidential Information"). Such Confidential Information does not include: (a) information that is publicly available; (b) information received from a third party not in violation of any confidentiality obligation; (c) information already known by the receiving party at the time of the disclosure; and (d) independently developed information. Each party agrees: (i) to maintain the confidentiality of the other's Confidential Information, using efforts no less protective than such party uses in the protection of its own information; (ii) not to disclose such information to any third party, except auditors and regulators, or as otherwise required by law; (iii) not to use such information for any purpose whatsoever other than its performance hereunder; and (iv) to return all Confidential Information to the other party upon request. The parties stipulate and agree that it is not confidential information regarding whether Processor, Company, or Company's Transactee, transfer of funds through BNC has been returned, reversed, allegedly unauthorized, or otherwise contested. Parties

agree to follow and abide by the laws of the State of North Dakota, NACHA, ACH, and all other applicable federal laws and in addition, comply with BNC's settlement bank privacy policy.

- 3.6 **Relationship of Parties:** The parties hereunder intend that their relationship to be that of independent contractors. In no event shall either party be deemed an agent, employee, partner or joint venture of the other or have the power or authority to bind the other in any way. Nothing herein shall be construed to grant Processor, TPA, Company, Company's customers or Company's Transactee's, or any other person any right title, interest or license in or to BNC's name, trademarks, or other proprietary information, and Processor, TPA, Company, Company's Transactee shall not use such name, trademarks or information without BNC's prior written consent.
- 3.7 **Third Parties:** This Agreement is solely for the benefit of the undersigned and may not be relied upon or enforced by any third party.
- 3.8 Processor, TPA, and Company warrant and represent they have fully complied with all rules, regulations and laws regarding cafeteria plans/flexible benefit plans/ERISA plans and that they are fully compliant with said laws. Processor, TPA, and Company further stipulate and agree that they have provided Company's customer and Company's Transactee with a toll free telephone number, name, address, and contact person should any dispute or claim arise. Processor, TPA, and Company have further advised Company's customers and Transactees that if their dispute remains unsatisfied, they may contact BNC, Processor and TPA. Company has provided Company's Transactees with BNC's name, address, and toll free telephone number. Processor, TPA, and Company stipulate and agree that they are responsible and liable for any failure to have any authorization of the transfers as contemplated hereunder. Processor, TPA, and Company further stipulate and agree that TPA and Company are responsible for the administration of any flexible benefit plan/cafeteria plan/ERISA plans compliance and taxation laws, rules and regulations regarding the same and that BNC is only providing electronic means to transfer funds and nothing more.

IV. Fees

- 4.0 BNC will charge Processor and/or TPA for all services rendered hereunder, and for any and all other costs, expenses or losses BNC may incur in processing items for Company and/or TPA and for the fees as set forth in the Processor Agreement. BNC may also charge Processor and/or TPA late fees from time to time upon BNC providing Processor and/or TPA five (5) days prior notice regarding any late fee charge. In the event BNC is unable to collect any fees or late fees from the Processor and/or TPA, BNC will charge the Company.
- 4.1 Processor and/or TPA, pursuant to the terms of the Processor Agreement, have authorized BNC to electronically collect all sums of money due BNC. In the event BNC is unable to collect all sums of money due BNC from the Processor and/or TPA, Company authorizes BNC, pursuant to terms and conditions of this Agreement, to collect all sums of money due BNC immediately when due from the bank account as stated in section 5.10 below.

V. Miscellaneous

- 5.0 **Entire Agreement:** This Agreement and the Authorization for Debit and Credit Electronic Funds Transfers constitutes the entire Agreement between Company and BNC and correctly describes the parties mutual understanding of this Agreement. Any and all oral or written agreements, representations or understandings between the parties entered into or made prior to or made contemporaneously with the effective date of this Agreement have been incorporated into this Agreement or were revoked, released or terminated before the effective date of this Agreement. No

modifications, deletions, additions, nor amendments to this Agreement shall be binding on BNC unless the same are reduced to writing and the writing is signed by BNC. All of the terms of this Agreement are subject to the approval of BNC and unless BNC has executed this Agreement, such approval has neither been obtained nor granted.

5.1 Document Execution: The parties to this Agreement agree to execute whatever documents are reasonably necessary to carry out the terms and effect of this Agreement.

5.2 Governing Law: This Agreement shall be governed by the laws of the State of South Carolina; NACHA; and applicable Federal law including, but not limited to, regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve System Banks; Electronic Funds Transfer Act of 1978 and amendments; Foreign Assets Control Regulations, and any and all other applicable laws, rules and regulations. Parties to this agreement also stipulate and agree disputes regarding this Agreement shall be venued and filed and are subject to the exclusive jurisdiction of the United States Federal District Court.

5.3 Default:

- a. Company: Any failure by the Company, Processor or TPA to observe any term or condition of this Agreement, to provide BNC with honored funds, or otherwise, shall allow BNC to immediately terminate this Agreement and fax notice of such termination of Agreement to Company. BNC shall provide Company with notice of termination either by telephone or fax followed up by written correspondence to be issued within ten (10) days of the date thereof.
- b. BNC: In the event that BNC fails to comply with any term or condition of this Agreement, Company may terminate this Agreement upon five (5) days written notice faxed to BNC with the five (5) days notice of termination of Agreement commencing upon BNC's actual receipt of the notice of termination.

5.4 Non-Default Termination of Agreement: Any time while this Agreement is in effect during which time neither party is in breach of this Agreement, any party to this Agreement may terminate this Agreement upon fifteen (15) days notice of termination to be faxed to either party and followed up by written correspondence. Upon termination of this Agreement, Company's representations, obligations and duties shall survive termination of this Agreement and Company shall still indemnify and hold BNC harmless and shall be liable to BNC for all sums of monies due and payable hereunder to BNC.

5.5 Term of this Agreement: Term of this Agreement: The term of the Agreement will be for one (1) year from the date of this Agreement or unless this Agreement is subsequently supplemented or replaced. This Agreement will automatically renew for subsequent successive periods of one (1) year each thereafter, unless either party provides the other party written notice of termination fifteen (15) days prior to the end of any succeeding term of this Agreement, or this Agreement is later supplemented.

5.6 Electronic Funds Transfer (15 U.S.C. § 1693): Company acknowledges that it has been fully advised by its financial institutions and represents and warrants that all of the parties having funds, pursuant to this Agreement, debited and/or credited to or from their financial accounts, are fully advised of and aware of their rights and remedies pursuant to the Electronic Funds Transfer Act found at 15 U.S.C. § 1693, ex el., including, but not limited to the right to receive documentation, right to stop payment, or preauthorized transfers, charges for electronic funds transfers for the right to make such transfers and that Company is in full compliance with such act.

5.7 Authorization: Company represents that all debit and credit entries have been authorized and that an authorization agreement is of record. Processor, TPA and Company will indemnify and hold BNC harmless for any failure by Processor, TPA and Company to have authorization agreements of record. TPA and Company stipulate and agree that they believe Company has fully complied with all applicable laws regarding ERISA benefits (flex benefit plans) and hereby indemnify and hold BNC harmless from any and all liabilities that may arise from TPA and Company's failure to properly manage, obtain authorization, fund, or otherwise operate and institute a flexible benefit plan.

5.8 Apparent Authority: Company stipulates that any action that BNC takes hereunder is pursuant to apparent authority of Processor and Company, its agents, assigns, officers, directors, employees. In the event that Processor's and/or Company's agent, assigns, officers, directors, or employees does not have the authority to the debit or the credit process by BNC, Processor and Company hereby hold BNC harmless from such actions and agrees to indemnify BNC for such action pursuant to this Agreement. Processor and Company stipulate and agree that Company and not BNC is liable for such action.

5.9 Limitation of Action: Company, Company's customers and/or Company's Transactee will have 60 days from the transaction date to notify Processor and/or TPA, in writing, of any discrepancies, errors or problems with a transaction processed. This will include but not limited to, errors in amounts, erroneous transactions, or other transactions processed. Processor, TPA and/or Company must notify BNC telephonically and in writing of any said discrepancies, errors or problems with a particular processed transaction and provide BNC with the following information:

- a. Company transaction processed under with Fed Tax ID Number;
- b. The name, account number and ABA number on the transaction in question;
- c. The dollar amount of the transaction in question;
- d. Description of the error and explanation of the error;

BNC will inform Company and /or Processor and/or TPA of the results of its investigation within 30 days and will correct any error promptly. If BNC needs more time, BNC may take up to 45 days to investigate any complaint. For transfers initiated outside the United States or transfers resulting from point of sale or debit/access cards, the time periods for resolving errors will be 45 days and 90 days respectively.

5.10 Account Authorization: Company authorizes Processor, TPA, and BNC to initiate electronic debit and or credit entries to and from the bank account disclosed below. Company understands that adjustment entries may be made to this account to insure an accurate and balanced accounting of all transactions. This authorization will remain in effect until Company cancels authorization in writing.

Bank Account

Bank Name _____

Bank Routing Number (nine digits) _____

Bank Account Number _____

Account Type (checking or savings) _____

5.11 Counterparts: The parties hereto may execute this Agreement in any number of separate counterparts (including by portable document format (pdf) or facsimile), each of which, when



executed and delivered by the parties hereto, shall have the force and effect of any original. All such counterparts shall be deemed to constitute one and the same instrument.

5.12 **Notification:** All notices or other communications required or permitted hereunder shall be in writing and shall be effective upon the earliest of: (a) personal service, (b) upon receipt if mailed, (c) the next business day, if sent by overnight courier within the United States, or (d) upon confirmation (including electronic verification) of receipt of a facsimile message, addressed:

If to BNC, to:

BANK OF NORTH CAROLINA
3751 Robert M. Grissom Parkway
Suite 100
Myrtle Beach, SC 29577
843.916.7818 (fax)

If to Processor, to: _____

Legal Name of Processor: _____

Street Address: _____

Fax: _____

Attn: _____

If to TPA, to: _____

Legal Name of TPA: _____

Street Address: _____

Fax: _____

Attn: _____

If too Company, to: _____

Legal Name of Company: _____

Street Address: _____

Fax: _____

Attn: _____

Notice may be given at such other addresses as may hereafter be furnished in writing by the respective parties if given in the manner required above.

VI. ACH Security Procedures

6.0 Authorized Representative: The Processor, Company and TPA agree to designate Authorized Representatives to act on the Processor's, Company's and TPA's behalf, which shall have the authority to authorize all actions necessary in the preparation and generation of the Processor's, Company's and TPA's entries. The Processor, Company and TPA agree that BNC shall not be under a duty to inquire as to the authority or propriety of any instructions given to BNC by the Processor, Company and TPA or any of the Processor's, Company's and TPA's Authorized Representatives and BNC shall be entitled to rely upon all ACH instructions conveyed to BNC.

BNC shall be entitled to act upon the instructions of any person whom is the Processor's Company's and TPA's Authorized Representative, whether or not the Processor, Company and TPA have authorized such instructions. BNC shall not be liable for any loss, cost, expense or other liability arising out of any such instructions.

6.1 Compliance With OFAC: The Processor, Company and TPA further agree to be in compliance with the Office of Foreign Assets Control Department (OFAC) including verification that Processor, Company and TPA shall not transact business with individuals appearing on the OFAC specifically designated individuals and corporate entities/nationals and blocked persons list (SDN), Cuban and North Korean citizens, individuals currently residing in Cuba or North Korea, companies located in North Korea or Cuba, and governmental entities or officials of Libya, Iraq, North Korea, Cuba, Sudan, Serbia, and the Federal Republic of Yugoslavia.

6.2 Passwords: The Processor, Company and TPA agree that BNC may send notices and other communications, including IDs, USER IDs, AND PASSWORD(S) to the current address shown in BNC's records, whether or not that address includes a designation for delivery to the attention of any particular individual. The Processor, Company and TPA further agree that BNC will not be responsible or liable to the Processor, Company and TPA in any way if information is intercepted by an unauthorized person, either in TRANSIT or at the Processor's Company's and TPA's place of business unless the interception was caused by BNC's breach of reasonable security measures under the circumstances. The Processor, Company and TPA agree to: (1) keep the Processor's, Company's and TPA's PASSWORD(S) secure and strictly confidential, providing it only to Authorized Representatives on the Processor's, Company's and TPA's account(s); (2) instruct each person to whom the Processor, Company and TPA gives PASSWORD(S) that he or she is not to disclose it to any unauthorized person; and (3) immediately notify BNC to get a new PASSWORD assigned if the Processor, Company and TPA believe a PASSWORD may have become known to an unauthorized person.

BNC WILL HAVE NO LIABILITY TO THE PROCESSOR, COMPANY AND TPA FOR ANY UNAUTHORIZED PAYMENT OR TRANSFER MADE USING THE PROCESSOR'S, COMPANY'S AND TPA'S PASSWORDS THAT OCCUR BEFORE THE PROCESSOR, COMPANY AND TPA HAVE NOTIFIED BNC OF POSSIBLE UNAUTHORIZED USE AND BNC HAS HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE WITHIN A REASONABLE TIME. BNC may suspend or cancel the Processor's, Company's and TPA's PASSWORD(S) even without receiving such notice from the Processor, Company and TPA if BNC suspects a PASSWORD is being used in an unauthorized or fraudulent manner.



COMPANY

PROCESSOR

AccuChex Payroll, Inc.

Signature of Authorized Agent

Signature of Authorized Agent

Signature of Authorized Agent

Name Printed

Name Printed

Name Printed

Title

Title

Title

Telephone Number

Federal Tax ID Number

TPA (If Applicable)

Signature of Authorized Agent

Name Printed

Title

Telephone Number