

REIMBURSEMENT SERVICES AGREEMENT

Employer: Union Township Board Of Education

Federal ID: 22-6002350 AFLAC Client ID: 201201706

Employer selects the following flex benefits checked below:

- Medical Care Expense Reimbursement (URM) Commuter Parking & Transit (CSA)
 Dependent Day Care (DDC)

Employer elects FREE Flex Debit Card Services and agrees to the terms in Appendix E: Yes No

Employer elects URM Grace Period services and agrees to the terms in Appendix F: Yes No

Employer elects DDC Grace Period services and agrees to the terms in Appendix F: Yes No

Employer elects one Benefit Funding Method checked below and agrees to the respective terms in Appendix D:

- 1-Daily ACH Debit * 2-Daily Client Bank Settlement 3-Daily ACH Credit
 4-Fast Forward 5-Self Pay

*Daily ACH Debit funding is easiest to use for most employers

Employer Bank Account Information		
Payments for FEES and BENEFIT FUNDS are pulled via WageWorks' initiated ACH debit, except for many Public Sector employers (some schools and governmental entities) where electronic access to an employer's bank account by an unrelated third party service provider for the collection of FEES and/or BENEFIT FUNDS is not permitted by law.		
	Fee Payments <small>Applies to processing service fees</small>	Benefit Funding Payments <small>Do not complete for Funding Method 3 or 5</small>
Name of Bank	Union Center National Bank	Union Center National Bank
Routing Number (9 digits)		
Bank Account Number:		
Name of Employer's Bookkeeping/Finance contact	Manuel Vieira	Manuel Vieira
Email: Bookkeeping/Finance contact	Mvieira@tupunionschools.org	Mvieira@tupunionschools.org
Phone: Bookkeeping/Finance contact	908-851-6419	908-851-6419
Employer is a Public Sector entity	<input type="checkbox"/> Check if ACH debit to pull fees is not permitted by law (and do not complete above)	<input type="checkbox"/> Check if ACH debit to pull benefit funds is not permitted by law (and do not complete above)

ACKNOWLEDGEMENT, EXECUTION AND AGREEMENT

By signing below, you acknowledge (i) that you have the authority to bind the Employer named above to all terms, conditions and obligations identified or set forth on the following pages in this Reimbursement Services Agreement and in Exhibit A (the "Agreement") as of October 1, 2012 ("Transition Date") for the Plan Year beginning March 1, 2012 ("Initial Plan Year"); and (ii) that you have read and understand the Agreement. Signing binds the Employer named above to all provisions of the Agreement.

Employer

WageWorks, Inc.

Signature of Employer's Authorized Signatory:

By Miles S. Ross

By

Miles S. Ross

Print Signatory's Name:

Print Title of Signatory:

Senior Vice President



THIS REIMBURSEMENT SERVICES AGREEMENT, effective upon execution for the Plan Year as set forth herein, by and between Union Township Board Of Education (the "Employer") and WageWorks, Inc. ("WageWorks"). WageWorks agrees to provide all services described herein upon acknowledgement and agreement by Employer on the Transition Date (as such term is defined herein).

WITNESSETH:

WHEREAS, the Employer has adopted a Medical Care Expense Reimbursement ("URM") Plan and/or a Dependent Care Expense Reimbursement ("DDC") Plan for its Employees in conjunction with its Flexible Benefits Plan (collectively referred to, with the commuter benefit program described below, as the "Plan" and attached hereto) to be adopted and administered in accordance with Sections 125 and 129 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Employer offers a commuter benefit program providing qualified transportation benefits to its Employees to the extent permitted under Code Section 132(f) and existing and applicable laws and regulations; and

WHEREAS, the Employer will serve as the Plan Administrator; and

WHEREAS, the Employer desires that WageWorks, as its agent, furnish reimbursement services within a framework of policies, interpretations, rules, practices and procedures (the "reimbursement practices and procedures") made and established by the Employer in: (i) receiving and processing requests for benefits under the Plan ("Requests") and (ii) disbursing benefit payments from Employer funds (as provided for in Section II.A.) for eligible expenses under the flexible spending account provisions of the Plan; and

WHEREAS, the Employer is to pay all plan benefits owed or established under the Plan to its Participants, and WageWorks is to provide the agreed upon services to the Plan without assuming any such liability;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed as follows:

Section I. Enrollment and Determination of Eligibility

A. The Employer shall:

- (1) be responsible for interpreting the Plan and its provisions, its terms, conditions and operation; and
- (2) notify Plan Participants of their ability to apply for reimbursement benefits and supply them with Request forms (to be provided by WageWorks) and Request filing instructions; and
- (3) no later than thirty (30) days prior to the annual renewal date of Plan participation provide WageWorks with the names, addresses, Social Security Numbers or distinct participant ID numbers, and elected amounts of all Participants (and spouse or dependents if applicable) in the Plan; and
- (4) notify WageWorks at least five (5) business days (via means of written communication acceptable to WageWorks) prior to the first payroll date affected as to any new Participants (with elections made after annual enrollment) in any of the reimbursement Plans; and
- (5) notify WageWorks at least five (5) business days (via means of written communication acceptable to WageWorks) prior to the first payroll date affected as to any Change in Status affecting a Participant's election, or any Qualified Beneficiary electing coverage under COBRA and the amount of such election (if COBRA applies to the Employer), or of any other change which will affect WageWorks' responsibilities hereunder.

B. In determining any person's right to benefits under the Plan, WageWorks shall rely on the eligibility information furnished by the Employer, and any signed statements by Participants regarding the eligibility of their Requests under the respective Plan. It is mutually understood that the effective performance of this Agreement by WageWorks will require that it be advised on a timely basis by the Employer during the continuance of this Agreement of the identity of individuals eligible for benefits under each of the respective reimbursement Plans. Information regarding a Participant's enrollment under either reimbursement Plan shall identify the effective date of enrollment and shall be provided to WageWorks (via means of written communication acceptable to WageWorks) in accordance with the applicable timeframes set forth in Sections I.A.(3) through I.A.(5) above. Any delay shall result in a corresponding delay in WageWorks' ability to make benefit determinations. WageWorks shall not be responsible for delays in paying Requests where the Employer has failed to inform WageWorks (in a form and with such information as may reasonably be required by WageWorks) of a Participant's enrollment information in a timely manner. Similarly, information modifying a Participant's eligibility or status/election under either reimbursement Plan or the Commuter Plan shall identify the effective date of eligibility and the termination date of eligibility and shall be provided to WageWorks (via means of written communication acceptable to WageWorks) at least five (5) business days prior to the effective date of such modification in order to be considered by WageWorks in making benefit determinations hereunder. WageWorks shall not be responsible for Requests paid in error where the Employer has failed to inform WageWorks (in a form and with such information as may reasonably be required by WageWorks) of a Participant's eligibility or status change prior to the release of the benefit payment.



Section II. Funding and Payment of Requests for the Plan Benefits

- A. Funding of Requests. Employer must choose and agree to one of the five funding methods described in the Funding Options Schedule (attached hereto as Appendix D), which shall be part of and incorporated into this Agreement.
- B. WageWorks, as agent for the Employer, shall provide those services described in Appendix A, B and C and in the Payment Card Services Appendix (attached hereto).

Upon written request submitted to WageWorks, WageWorks may provide limited assistance with certain of the nondiscrimination tests. The terms and conditions (including applicable fees) under which such services are provided are set forth in Appendix B "Nondiscrimination Testing Services". In providing services, WageWorks shall assume that ERISA and COBRA apply to the Employer's Plan unless the Employer gives WageWorks written direction otherwise.

- C. WageWorks shall not be obligated or responsible for any duty with regard to the administration of the Plan (imposed by the Plan or otherwise) except as specifically provided above or in the attached appendices. Without limiting Employer's responsibilities described therein, it shall be the Employer's sole responsibility (as Plan Administrator) and duty to: ensure compliance with COBRA; perform required nondiscrimination testing; amend the Plan as necessary to ensure ongoing compliance with applicable law; file any required tax or governmental returns (including Form 5500 returns to meet ERISA requirements) relating to the Plan; determine if and when a valid election change has occurred; handle Participant claim appeals; allow WageWorks, by and through independent associates, a reasonable opportunity to discuss WageWorks, and DDC, URM and/or Commuter benefits; execute and retain required Plan and claims documentation; and take all other steps necessary to maintain and operate the Plan in compliance with applicable provisions of the Plan, ERISA, the Code and other applicable federal and state laws.
- D. In the event that WageWorks overpays any person entitled to benefits under the Plan or pays benefits to any person who is not entitled to them, WageWorks shall take all reasonable steps to recover the overpayment, except that WageWorks shall not be required to initiate court proceedings to recover an overpayment. WageWorks shall promptly notify the Employer if it is unsuccessful in recovering any overpayment. Additionally, any overpayment occurring as a result of an ineligible Card Transaction will be handled in accordance with the provisions set forth in the Card Services Appendix (attached hereto).
- E. WageWorks will optically scan and maintain electronic copies of all Plan reimbursement Requests and supporting documentation for a period of seven (7) years after the claim is processed. Copies of claim documents can be reproduced upon written request at WageWorks' currently prevailing rate. Any record attributable to Card Transactions will be made available by WageWorks only to the extent made available to WageWorks by any Card Processor or other Card service provider.

Section III. Liability and Indemnity

- A. In performing its obligations under this Agreement, WageWorks neither assumes nor underwrites any liability of the Employer under the Plan, but with respect to the Employer, acts only as provider of those services specifically described in Section II.B. of this Agreement and with respect to Plan Participants, acts only as the agent of the Employer. The services to be performed by WageWorks shall be ministerial in nature and shall be performed within the framework of policies, interpretations, rules, practices, and procedures made or established by the Employer. WageWorks shall have no discretionary authority or discretionary control over any assets of the Employer, the Plan, or Plan Participants.
- B. WageWorks shall have no duty or obligation to defend any legal action or proceeding brought to recover a Request for Plan benefits. WageWorks shall, however, make available to the Employer and its counsel, such evidence relevant to such action or proceeding as WageWorks may have as a result of its processing of the contested benefit determination.
- C. Except as otherwise explicitly provided in this Agreement, the Employer shall retain the liability for all Plan benefit Requests and all expenses incident to the Plan and for any and all violations of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), if applicable, and agrees to indemnify WageWorks for and hold it, its directors, officers, and employees, harmless from all amounts and expenses (including reasonable attorneys' fees and court costs) for which WageWorks may become liable. This indemnity shall survive the termination of this Agreement.
- D. WageWorks shall use ordinary and reasonable care in the performance of its duties, but shall not be liable to the Employer for mistakes of judgment or other actions taken in good faith unless such error results directly from an intentionally wrongful or grossly negligent act of WageWorks, its officers or employees.
- E. WageWorks shall have no duty or obligation with respect to Requests incurred prior to the Transition Date of this Agreement or pertaining to a plan year prior to the Initial Plan Year (hereafter "Prior Reimbursement Requests") and/or Plan Administrator (or other) services arising prior to the Transition Date of this Agreement or pertaining to a plan year prior to the Initial Plan Year (hereafter "Prior Administration"). The Employer specifically acknowledge(s) and agree(s) that: (i) WageWorks has no responsibility or obligation with respect to Prior Reimbursement Requests and/or Prior Administration; (ii) the Employer will be responsible for processing Prior Reimbursement Requests (including any Run-Off Requests or grace period Requests submitted after the Transition Date of this Agreement) and maintaining legally required records of all Prior Reimbursement Requests and Prior Administration sufficient to comply with applicable legal (e.g., IRS substantiation) requirements and (iii) the Employer agrees to indemnify and hold WageWorks harmless from any liability relating to Prior Reimbursement Requests and/or Prior Administration.



- F. Except as otherwise provided in the HIPAA Business Associate Agreement (Exhibit A), the Employer agrees that WageWorks may communicate confidential, protected, privileged or otherwise sensitive information to Employer through the Named Contact (as designated on the applicable plan document request form or as subsequently updated by the Employer and maintained on file by WageWorks) and specifically agrees to indemnify WageWorks and hold it harmless: i) for any such communications directed to the Employer through the Named Contact attempted via telefax, mail, telephone, e-mail or any other media, acknowledging the possibility that such communications may be inadvertently misrouted or intercepted; and ii) from any claim for the improper use or disclosure of any health information by WageWorks where such information is used or disclosed in a manner consistent with its duties and responsibilities under this Agreement.
- G. IN NO EVENT SHALL EMPLOYER OR WAGeworks BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST BUSINESS, LOSS OF DATA OR COST OF SUBSTITUTE SERVICES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE). IN ADDITION, WAGeworks SHALL ONLY BE LIABLE TO EMPLOYER FOR ANY DIRECT DAMAGES IN AN AMOUNT EQUAL TO ACTUAL DAMAGES OR THE FEES PAID FOR SERVICES GIVING RISE TO THE CLAIM WITHIN THE TWELVE (12) MONTHS PRECEDING THE CLAIM, WHICHEVER IS LESS.
- H. Each party shall indemnify, defend and hold harmless the other party and its officers, directors, shareholders, employees and agents ("Indemnified Parties") from and against claims and proceedings for actual damages or losses (including legal fees and expenses) arising out of any actual or alleged (i) breach by such party of its obligations hereunder (ii) negligence or willful misconduct of such party or its employees, officers or agents (iii) the failure of such party to comply with applicable law (iv) any claims in which one party is named or joined with the other party when such party has not engaged in any wrongful acts or (v) with respect to Employer, it shall identify and hold harmless WageWorks' Indemnified Parties for any act or omission taken by WageWorks pursuant to Employer's instructions. The indemnifying party shall assume and have sole control of the defense of such claim; provided, however, that neither party may settle any claim without the prior written consent of the other party if such settlement exposes the other party to any liability. Notwithstanding the foregoing Employer acknowledges and agrees that WageWorks is not responsible for any negligence or willful misconduct of any Aflac agent arising out of or related to this Agreement and the services being provided hereunder.

Section IV. Reimbursement Request Processing Service Fee

- A. The Employer shall pay WageWorks a fee for services performed under this Agreement (the "Service Fee"). Service Fees are based on a number of factors and are set forth on the Fee Schedule, attached hereto as Appendix C, which shall be part of and incorporated into this Agreement. Failure to pay any applicable monthly Service Fee by the next monthly Request processing cycle shall result in a cessation of Request processing services until such fees are received by WageWorks. If Request processing services are pended for an entire monthly processing cycle, WageWorks may terminate this Agreement in accordance with Section VI.
- B. WageWorks agrees not to raise the fees in Appendix C for a period of 3 years from the Transition Date. WageWorks may revise the Service Fee for services performed under this Agreement effective beginning on the third Anniversary Date (as defined in Section V) of this Agreement by giving the Employer written notice of the revised rate at least thirty (30) days prior to the applicable Anniversary Date.
- C. Notwithstanding any other agreement between the parties (and/or their agents), WageWorks may revise the Service Fee set forth above at any time if revision is deemed necessary by WageWorks by reason of: (i) modification or amendment of the Plan by the Employer; or (ii) a significant suspension, limitation, modification or revocation of the benefits made available to Participants under the Flexible Benefit Plan. WageWorks shall advise the Employer of the revised Service Fee at least thirty (30) days prior to its implementation. If the Employer does not terminate this Agreement (by written notification pursuant to Section VI.A.(3)) within thirty (30) days after the receipt of a notice of such revision, the Employer shall be deemed to have agreed to such revision for the remainder of the Term of the Agreement. Thereafter, the Service Fee on and after the implementation date shall be made on the basis of such revised Service Fee.
- D. WageWorks may revise the Service Fee set forth above at any time if any change in law or regulations imposes on WageWorks greater duties or obligations than contemplated by the Agreement in force at the time of such change.

Section V. Term of Agreement

The initial term of this Agreement shall commence on the later of the (i) Transition Date or (ii) the first day of the Initial Plan Year and shall end on the last day of the Initial Plan Year (the "Initial Term"); thereafter, this Agreement will automatically renew for successive periods of twelve (12) months each, a "Term" from the first day of the Initial Plan Year (the "Anniversary Date") unless, at least thirty (30) days prior to the end of the then current Term (the "Renewal Date"), the Employer or WageWorks gives written notice to the other of its intention not to renew the Agreement. In the event of a short Plan Year (other than the first Initial Plan Year) this Agreement shall automatically renew for an additional twelve months unless the Employer or WageWorks gives written notice to the other of its intention not to renew the Agreement within thirty (30) days after the Employer notifies WageWorks of the short Plan Year.



Section VI. Termination of Agreement

1. This Agreement shall terminate upon the earliest of the following dates:
 - 1) The end of a Term (including the Initial Term) of the Agreement following the delivery of written notice of termination pursuant to Section V.
 - 2) At the option of WageWorks, the date upon which the Employer fails to transfer sufficient funds to WageWorks (upon request by WageWorks): (i) to pay all valid Requests pending under the Plan (as provided in Section II.A.); or (ii) to pay the Service Fee (as provided in Section IV.A. and Appendix C). WageWorks shall promptly communicate its election of this option to the Employer.
 - 3) Upon the implementation date for a proposed Service Fee increase deemed to be unacceptable by the Employer (after delivery of written notice of termination by the Employer) pursuant to Section IV.C.
 - 4) At the option of WageWorks, upon suspension, limitation, modification or revocation of the benefits made available to Participants under the reimbursement Plan or the Flexible Benefit Plan (as determined by WageWorks in its sole discretion), WageWorks shall immediately communicate its election of this option to the Employer.
 - 5) Any other date mutually agreeable to the Employer and WageWorks.
2. Upon termination of this Agreement, WageWorks shall cease the processing of all Requests then in its possession, return any undistributed funds to the Employer, and make all records relating to Requests in process reasonably available to the Employer. If the termination occurs pursuant to VI.A.(1). (above), WageWorks shall process all Run-Off Requests provided any Service Fee(s) is current. Thereafter, the Employer and/or Plan Administrator shall be responsible for all aspects of reimbursement Request processing and Plan administration.

Section VII. Miscellaneous

- (1) Notices. Any notice required to be given hereunder to WageWorks shall be sufficient if in writing and delivered personally, or by telefax to a number specified by WageWorks upon the Employer's request, or by prepaid first class mail to WageWorks 1100 Park Place, 4th Floor, San Mateo, CA 94403, or if to the Employer, at the address of the Employer denoted on the signature page attached hereto, or as subsequently updated by Employer and maintained on file by WageWorks.
- (2) Applicable Law. This Agreement shall be governed by, and shall be construed in accordance with the laws of the State of California, to the extent they are not preempted by ERISA, the Code, or any other federal law.
- (3) Legal and Tax Status. The Employer acknowledges that neither WageWorks nor its agents are providing legal or tax advice, and that neither WageWorks nor its agents serves as the Plan Administrator or a fiduciary under the Plan. The Employer shall be the sole party responsible for determining the legal and tax status of the Plan under applicable law. WageWorks shall have no power or authority to waive, alter, breach, or modify any terms or conditions of the Plan.
- (4) Assignment. This Agreement may be assigned by WageWorks to any other party, including any successor to the business of WageWorks by merger, consolidation, purchase of assets, or otherwise, without the prior consent of the Employer. This Agreement shall be binding upon any corporation into which the Employer may be merged or with which it may be consolidated, or any corporation succeeding to all or substantially all of the business of the Employer.
- (5) Entire Contract. This Agreement constitutes the entire contract between the parties and no modification or amendment hereto shall be valid unless in writing and signed by an officer of the Employer and an Officer or duly authorized representative of WageWorks.
- (6) Tax Reporting and Withholdings. The Employer has ultimate control over the payment of Plan benefits and shall be the sole party responsible for income and employment tax reporting and withholding obligations imposed as a result of any such payments being included in the gross income of recipients. WageWorks is a mere agent of the Employer for the processing of Benefit Requests.
- (7) Confidential Information. The term "Confidential Information" as used in this Agreement means confidential or proprietary information of any party that is not generally known to the public, including, but not limited to compilations, lists of actual or potential customers or suppliers, hardware systems, software, or other documentation of any type, whether in printed or machine readable form, computer databases, forms and form letters, contracts, information regarding specific transactions, and marketing and business plans. For the purposes of this subsection, Confidential Information shall not include the personally identifiable information relating to any of Employer's employees.

The term "Trade Secrets" as used in this Agreement shall mean Confidential Information that: (1) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The terms "Confidential Information" and "Trade Secrets" do not include information that: (a) is known to the receiving party prior to its disclosure by the disclosing party, evidenced by the receiving party's written records; (b) is developed by the receiving party independently of any Confidential Information or Trade Secrets received in confidence from disclosing party, evidenced by the rece



party's written records; (c) is rightfully received by the receiving party from a third party without restriction and without breach of any obligation of confidentiality running to the disclosing party.

Each party agrees that it shall not disclose to others or use for any purpose other than performance of the Agreement any of the other party's Confidential Information or Trade Secrets any time during or after the term of this Agreement. Each party further agrees that it will disclose Confidential Information or Trade Secrets to its employees only as necessary for the performance of the Agreement, and only to employees with a need to know. Each party to this Agreement agrees that all Confidential Information and Trade Secrets are the property of the party disclosing it, and each agrees to promptly return to the disclosing party, upon demand, any Confidential Information or Trade Secrets furnished under this Agreement which is either received in or reduced to material form, and all copies thereof. The Employer agrees that WageWorks may make lawful references to Employer in its marketing activities.

- (8) Individual Information. Each party acknowledges that performance of the Agreement may involve the use and disclosure of personal information relating to the Employer's employees (including but not limited to names, addresses, benefit elections, claims and health information). WageWorks agrees that it will not use any such information disclosed to it by Employer except as authorized by the individual to whom the information relates or as otherwise permitted by applicable state or federal law or regulation. Employer agrees that it will not use any such information disclosed to it by WageWorks except for the purpose for which it received the information and will not further disclose such information without the written authorization of the individual to whom the information relates. This provision is not intended to create any third party beneficiary rights (in favor of Employer's employees or any other party).
- (9) Massachusetts Data Security Regulations (201 CMR 17.00 et seq). WageWorks certifies that it has in place and shall maintain during the term of the Agreement, a written comprehensive security program that is in compliance with the provisions of 201 CMR 17.00 et seq. (the "Regulations"). WageWorks has implemented and will maintain during the term of this Agreement appropriate technical, organizational and security measures and practices that are intended, in accordance with the Regulations, to (a) ensure the security and confidentiality of "Personal Information," as that term is defined in the Regulations, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of Personal Information, and (c) protect against unauthorized access, use, modification, disclosure or destruction of Personal Information. WageWorks shall, in addition: (x) promptly report to Employer any misappropriation, or unauthorized use or disclosure, of any Personal Information that violates the terms of this Agreement, (y) mitigate, to the extent practicable, any harmful effects of such violation that is known to Employer or its agents or subcontractors (if any), and (z) cooperate with Employer in meeting any notification responsibilities required by the Regulations.
- (10) Subcontractors. WageWorks utilizes subcontractors to perform certain services in connection with this Agreement. WageWorks shall be liable for the acts or omissions of its subcontractors.
- (11) Capitalized Terms shall have the same meaning as in the Plan documents unless otherwise defined herein.



Appendix A
Schedule of Services to Be Provided By WageWorks

In accordance with attached Reimbursement Services Agreement WageWorks shall provide the following services for the Employer:

General Plan Services:

- provide the Employer with a sample amended and restated cafeteria plan document, if requested, including a medical care expense reimbursement ("URM") Plan and a dependent care expense reimbursement ("DDC") Plan to be reviewed by the Employer and its legal counsel; and
- provide the Employer with a sample amended flexible benefits summary plan description, if requested, for distribution to each Plan Participant and employees and where may be required by a Change in Status.

Additional Services if DDC, URM or Commuter Benefits Are Offered:

- assist the Employer in explaining the URM and/or DDC features of the cafeteria plan to employees and Commuter benefits to employees; and
- process the Employee-executed Salary Redirection Agreements as they relate to the URM and DDC components of the Employer's flexible spending account and an employee's Commuter account; and
- provide enrollment confirmation information to Participants which directs them to the website to verify their URM, DDC and/or Commuter elections; and
- provide each URM, DDC and/or Commuter Participant with access to the website to verify elections, view account balances and payments, learn about eligible expense, get information about filing claims, etc.
- upon receiving instructions from the Employer on a Change in Status, WageWorks will make the change requested by the Employer; and
- provide each URM, DDC and/or Commuter Participant with a "check stub" account balance statement with each reimbursement Request check issued, and
- make available via the website a current statement of year to date activity downloadable in PDF form; and
- provide each participant with an annual account balance statement (60-day written communication), if 60 days prior to the plan year end there is any remaining balance in the URM and/or DDC; and
- provide the Employer with website access to standard employer-level reports, including transactional summaries and monthly reports on Account activities; and
- receive Requests for URM, DDC and/or Commuter benefits, and expeditiously review such Requests in a non-discretionary manner under reimbursement guidelines established under the requirements of Section 125, 129 and 132(f) of the Internal Revenue Code ("Code"), to determine what amount, if any, is due and payable with respect thereto; and
- disburse the benefit payments it determines to be due (subject to the availability of funds which is the responsibility of the Employer) in accordance with the provisions of the Plan and the following procedures:
 - valid reimbursement for URM and/or DDC benefits shall be paid by WageWorks not later than two (2) business days following the approval of each Request by mailing a check directly to the Participants at their addresses (unless otherwise requested by the Employer as allowed by the terms of the Plan) or by initiating a direct deposit transfer directly to the Participants in their respective bank accounts in the appropriate amount(s); and
 - if the amount of the (otherwise) reimbursable DDC Request exceeds the amount the Participant had withheld for DDC benefits, the excess shall be carried forward (within the same Plan Year) and treated as an Eligible Employment-Related Expense for that month; and
 - if the amount of URM Requests exceeds the amount the Participant has had withheld from URM benefits, the entire amount shall be processed to the extent of the Participant's annual election reduced by previous reimbursements made for expenses during the Plan Year (provided the Employer makes available sufficient funds for WageWorks to satisfy the Request); and
 - unless otherwise specified in writing by the Employer, Requests for URM benefits following a Change in Status impacting the URM election shall be processed using a "blended period of coverage approach" (i.e., the maximum URM benefit for a period of coverage following a Change in Status will be limited to the lesser of: (a) the annual URM maximum set forth in the Plan document less any benefit payments made prior to the Change in Status;



- (b) the sum of the Participant's URM account balance immediately before the Change in Status and any additional contributions made during the remaining period of coverage); and
- notify claimants as to any Requests which are denied because of inadequate Request substantiation or improper Request form submission, and give affected claimants the opportunity to resubmit their Requests; and
 - provide to the claimant within five (5) business days following receipt of a Request, written notification as to the disposition of the Request; and
 - Claim Appeals. Although WageWorks will process Requests in a non-discretionary manner under reimbursement guidelines established under the requirements of Section 125, 129 and 132(f) of the Code, and will further conduct Request review and appeal procedures in a non-discretionary manner, the Employer shall have the ultimate right and responsibility to review contested Request appeals. Any departure specifically requested by the Employer in writing will be implemented by WageWorks, but if WageWorks objects to the departure as inconsistent with the requirements of the Code and WageWorks standard guidelines, implementation will be at the expense and risk of the Employer.



Appendix B
Nondiscrimination Testing Services and Form 5500 Preparation Services
[Provided Upon Annual Request]

Nondiscrimination Testing:

The Employer, upon submission of an annual Non-discrimination Testing Questionnaire, authorizes WageWorks to compile nondiscrimination testing percentages based upon the employee census data provided. As consideration for this service, the Plan Sponsor/Administrator agrees to release and hold WageWorks, its subsidiaries, affiliates, officers, directors, owners, shareholders, attorneys, successors and assigns harmless from any liability arising as a result of the provisions of, or reliance upon such testing percentages. In addition, the Employer understands and agrees that:

- WageWorks is not in the business of providing legal or tax advice, and the Employer, as the plan sponsor/administrator, will not construe the testing percentages provided by WageWorks to be legal or tax advice. Accordingly, the Employer will seek the advice of its own tax or legal advisor to interpret and verify the testing percentages provided, and ensure compliance with applicable nondiscrimination requirements.
- The Employer bears a sole responsibility for nondiscrimination testing and the continued qualified status of its cafeteria plan under all applicable provisions of the Internal Revenue Code.
- The testing percentages provided by WageWorks are merely an indicator of compliance with three of the applicable nondiscrimination tests – the Cafeteria Plan 25% Key Employee Concentration Test, the Dependent Care 5% Shareholder Test, and the Dependent Care 55% Average Benefits Test. The Employer must also ensure compliance with the Eligibility Test and Contributions and Benefits Test applicable to the Cafeteria Plan, the URM, and the DDC Plan, as well as other tests that may apply to the benefits offered through the Cafeteria Plan. To ensure compliance with applicable provisions of the Internal Revenue Code, additional nondiscrimination testing and result verification must be undertaken by the Employer with the assistance of its tax or legal counsel.
- Discrimination testing should be conducted at least 180 days prior to the end of the Plan Year to which the data relates to ensure adequate time to make any required corrections.. WageWorks will assist with discrimination testing no less frequently than once per year and no more frequently than once every ninety (90) days.

Form 5500 Preparation:

Only employers with more than 100 participating employees at the beginning of the plan year are required to file Form 5500.

The employer, upon submission of an annual request for form 5500 Assistance Plan Sponsor and Cafeteria Plan Information Data Sheet, authorizes WageWorks to prepare a "signature-ready" Form 5500 and applicable schedules based upon the information provided regarding the Employer and its cafeteria plan. As consideration for this service, the Plan Sponsor/Administrator agrees to release and hold WageWorks, its subsidiaries, affiliates, officers, directors, owners, shareholders, attorneys, successors and assigns harmless from any liability arising as a result of the provisions of, or reliance upon such "signature-ready" forms. In addition, the Employer understands and agrees that:

- WageWorks is not in the business of providing legal or tax advice, and the Employer, as the plan sponsor/administrator, will not construe the testing percentages provided by WageWorks to be legal or tax advice. Accordingly, the Employer will seek the advice of its own tax or legal advisor to interpret and verify the testing percentages provided, and ensure compliance with applicable nondiscrimination requirements.
- The Employer bears a sole responsibility for nondiscrimination testing and the continued qualified status of its cafeteria plan under all applicable provisions of the Internal Revenue Code.
- Providing WageWorks with the information needed to complete the Form 5500 does not constitute an actual filing with the Internal Revenue Service. The timely submission of the appropriate forms remains the responsibility of the Employer.
- If WageWorks has been asked to prepare sample Form 5500s after the filing deadline has passed, the Employer agrees to hold WageWorks, its subsidiaries, affiliates, officers, directors, owners, shareholders, attorneys, successors and assigns harmless from any liability arising from as a result of late filing.



Appendix C Fee Schedule

In accordance with the attached Reimbursement Services Agreement, the services provided pursuant to this Agreement are subject to the Service Fee described in this Fee Schedule. To the extent this Appendix conflicts with the Agreement, the Agreement shall control.

1. Service Fee.

a) The Service Fee shall be based on:

- (1) The Employee Count (defined below) and
- (2) The number of Participants per Plan benefit (DDC, URM and/or Commuter) enrolled at the beginning of the plan year for which services are rendered.

b) Employee Count.

(1) The number of eligible employees (the "Employee Count") is the factor that determines the Employer's monthly fee rate per Participant in the Plan (the "Fee Rate") under this Agreement. For purposes of this Appendix C, the term "eligible employees" includes all the Employer's employees who may participate in the benefits offered under the Employer's Flexible Benefit Plan (including URM and/or DDC Plan benefits).

(2) The Employee Count on record for the Employer for the Initial Term of this Agreement is 1,200. By executing this Agreement, the Employer certifies that the Employee Count listed above reflects the approximate number of Employer's eligible employees. If no Employee Count is on record for the Employer, WageWorks will assume the Employer's Employee Count falls within the range of 1-50. Upon each Renewal Date of this Agreement, the Employer agrees to verify and update the Employee Count accordingly. Failure to do so will result in WageWorks assuming the Employee Count range of 1-50 applies and will use the applicable Fee Rate to calculate the monthly Service Fee for the renewal Plan year. WageWorks will adjust the assessed Fee Rate for changes in the Employee Count only upon each subsequent Plan year for which this Agreement is renewed, unless otherwise mutually agreed upon by both WageWorks and the Employer.

c) Additional Service Fees: (1) For each participant account requiring an adjustment in the event that an eligibility change is NOT received by WageWorks at least five (5) business days prior to the affected payroll date, a fee of \$25 will be charged. (2) Custom reports, research requests, and special reconciliations will be billed at \$50 per hour. A quote will be provided after report requirements are defined.

d) The Total Monthly Service Fee is calculated as follows: Using the Rate Table below, the total monthly fees for administration will be based on the number of participants enrolled at the beginning of each Plan year times the Monthly Service Fee Per Participant will be invoiced monthly. The Total Monthly Fee will remain constant for the year unless there is a 10% or greater increase in the number of participants. Additional Service Fees will be added to the Total Monthly Service Fee.

2. Rate Table. (Includes Flex Debit Card): Monthly Fee Rate Per Participant \$3.00 subject to a Monthly Minimum Fee of \$50.00.

3. Billing and Collection of Fees.

- a) Public Sector* Employers: Service Fees will be invoiced on the 15th of each month and due with 30 days. Except as otherwise agreed to by the parties, WageWorks is not authorized to withdraw the Service Fee from the Account.
- b) Private Employers: Service Fees will be invoiced each month and collected by WageWorks with initiated ACH debit on the 15th day of each month.

* Public Sector Employers include schools, governmental entities and other employers where electronic access to an employer's bank account by an unrelated third party service provider is not permitted by law.



Appendix D
Funding Options Schedule

Method 1 – Daily ACH Debit

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from a WageWorks owned account ("the Account") with funds provided from the general assets of the Employer. Benefits will be remitted from the Account without prior funds confirmation and without Employer preapproval of claims payments to be disbursed. On a daily basis, Employer will reimburse WageWorks for benefits paid on the previous day by allowing an ACH debit on Employer bank account. Employer's bank account may include a zero balance feature, although this is not required.
- b. WageWorks will notify the Employer by email with the amount of the daily reimbursement made by WageWorks through ACH Debit. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account rep. Agreed upon corrections to participant balances shall be adjusted within 2 business days and credited back to Employer account. Credits shall be applied to Employer account weekly and netted against funds requirements
- c. Payment features for participants: Flex debit card, check, direct deposit.
- d. All transactions (card, checks and direct deposit) will settle directly from the WageWorks owned account, which is secured by the Positive Pay Security Feature.

2. Employer Obligations:

The Employer shall:

- a. Make sufficient funds from its general assets available an Employer owned account for amounts allocable to eligible reimbursement benefits under its Plan [Note: the Account should not be opened in the Plan's or WageWorks' name]
- b. Grant WageWorks the authority to initiate ACH debits on the Employer owned account sufficient to replenish the Account daily for benefits paid from the Account.
- c. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes
- d. Ensure that any filters, debit blocks, or similar financial restrictions on the Account are removed or modified in such a way as to ensure the successful drafts or electronic transfers for remittance of eligible reimbursement benefits under the Employer's plan
- e. Bear sole responsibility for any fees imposed with respect to Employer owned account
- f. If, at any time, the amount of reimbursement benefits payable under the applicable Plan provisions exceeds the amount deposited by the Employer in the Account, the Employer shall transfer an amount necessary to the Account to fulfill its reimbursement obligations under the applicable Plan before any further reimbursement benefit payment is made. WageWorks is under no obligation to advance funds on behalf of the Employer.
- g. WageWorks will not be responsible for paying claims to the extent sufficient funds are not provided to WageWorks within five (5) business days of the receipt of the request for such funds from WageWorks. Furthermore, WageWorks will immediately cease to provide the services outlined within this Agreement until such time as an amount equal to the aggregate of all Requests payable under the Employer's Plan are received by WageWorks from the Employer. The Employer agrees to indemnify WageWorks for all amounts and expenses resulting from the Employer's failure to provide sufficient funds and shall hold WageWorks, its officers and directors, harmless for any liability for which the Employer or the Plan may become liable.



**Appendix D
Funding Options Schedule**

Method 2 – Daily Client Bank Settlement

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from an Employer-owned and named account (the "Account") in a financial institution selected by the Employer and agreed upon by WageWorks. The Account may include a zero balance feature, although it is not required. Benefits will be remitted from the Account without prior funds confirmation and without Employer preapproval of claims payments to be disbursed. WageWorks shall not be responsible for any delay in remitting such funds for benefits to the extent that such delay is the result of Employer's delay in making sufficient funds available in the Account
- b. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account rep. Agreed upon corrections to participant balances shall be adjusted within 2 business days and credited back to Employer account. Credits shall be applied to Employer account weekly and netted against funds requirements
- c. Payment features for participants: Flex debit card, check, direct deposit
- d. Transactions on the Flex debit card and direct deposit will settle directly from the Account by WageWorks initiating daily ACH debits on the Account. All checks will settle directly from Account which is owned by the Employer.
- e. This funding option does not include the Positive Pay Security Feature.

2. Employer Obligations

The Employer shall:

- a. Make sufficient funds from its general assets available in the Account to pay eligible reimbursement benefits under its Plan [Note: the Account should not be opened in the Plan's or WageWorks' name]
- b. Grant WageWorks withdrawal authority over the Account sufficient to enable it to pay benefits under the Employer's Plan in order to:
 - i. draw benefit checks directly on the employer owned Account
 - ii. electronically transfer benefit payments from the employer owned Account
 - iii. electronically access Account Information
 - iv. execute the financial institution's standard Deposit/Account Agreement on the Employer's behalf (subject to the terms and conditions set forth herein and as WageWorks may otherwise establish)
- c. Provide WageWorks with the name, address and contact person at the financial institution associated with the Account, and provide timely notice to WageWorks if such information changes
- d. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes
- e. Upon request by WageWorks, provide copies of all deposit verification receipts, Account statements, and other correspondence from the financial institution
- f. Bear sole responsibility for any fees imposed with respect to the Account by the financial institution, including but not limited to: Account maintenance fees, insufficient funds fees, fees with respect to voided or stopped checks, etc. unless such fees are solely the result of administrative error by WageWorks
- g. Ensure that any filters, debit blocks, or similar financial restrictions on the Account are removed or modified in such a way as to ensure the successful remittance of eligible reimbursement benefits under the Employer's plan
- h. If, at any time, the amount of reimbursement benefits payable under the applicable Plan provisions exceeds the amount deposited by the Employer in the Account, the Employer shall transfer an amount necessary to the Account to fulfill its reimbursement obligations under the applicable Plan before any further reimbursement benefit payment is made. WageWorks is under no obligation to advance funds on behalf of the Employer.
- i. WageWorks will not be responsible for paying claims to the extent sufficient funds are not provided to WageWorks within five (5) business days of the receipt of the request for such funds from WageWorks. Furthermore, WageWorks will immediately cease to provide the services outlined within this Agreement until such time as an amount equal to the aggregate of all Requests payable under the Employer's Plan are received by WageWorks from the Employer. The Employer agrees to indemnify WageWorks for all amounts and expenses resulting from the Employer's failure to provide sufficient funds and shall hold WageWorks, its officers and directors, harmless for any liability for which the Employer or the Plan may become liable.



**Appendix D
Funding Options Schedule**

Method 3 – Daily ACH Credit

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from a WageWorks owned account ("the Account") with funds provided from the general assets of the Employer. Benefits will be remitted from the Account without prior funds confirmation and without Employer preapproval of claims payments to be disbursed. On a daily basis, Employer will reimburse WageWorks for benefits paid on the previous day by wiring funds to WageWorks via ACH credit.
- b. WageWorks will notify the Employer by email with the amount of the daily reimbursement that the Employer must wire to WageWorks. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account representative. Agreed upon corrections to participant balances shall be adjusted within 2 business days and credited back to Employer account. Credits shall be applied to Employer account weekly and netted against funds requirements.
- c. Payment features for participants: Flex debit card, check, direct deposit.
- d. All transactions (card, checks and direct deposit) will settle directly from the WageWorks owned account, which is secured by the Positive Pay Security Feature.

2. Employer Obligations:

The Employer shall

- a. Make sufficient funds available from its general assets for amounts allocable to eligible reimbursement benefits under its Plan
- b. Each day, the Employer will wire funds to WageWorks by Initiating ACH credits from an Employer owned account sufficient to replenish the Account for benefits paid by from the Account.
- c. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes.
- d. Bear sole responsibility for any fees imposed with respect to Employer owned account.
- e. If, at any time, the amount of reimbursement benefits payable under the applicable Plan provisions exceeds the amount deposited by the Employer in the Account, the Employer shall transfer an amount necessary to the Account to fulfill its reimbursement obligations under the applicable Plan before any further reimbursement benefit payment is made. WageWorks is under no obligation to advance funds on behalf of the Employer.
- f. WageWorks will not be responsible for paying claims to the extent sufficient funds are not provided to WageWorks within five (5) business days of the receipt of the request for such funds from WageWorks. Furthermore, WageWorks will immediately cease to provide the services outlined within this Agreement until such time as an amount equal to the aggregate of all Requests payable under the Employer's Plan are received by WageWorks from the Employer. The Employer agrees to indemnify WageWorks for all amounts and expenses resulting from the Employer's failure to provide sufficient funds and shall hold WageWorks, its officers and directors, harmless for any liability for which the Employer or the Plan may become liable.



Appendix D
Funding Options Schedule

Method 4 – Fast Forward

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from a WageWorks owned account ("the Account") with funds provided from the general assets of the Employer. Benefits will be remitted from the Account without prior funds confirmation and without Employer preapproval of claims payments to be disbursed. On a semi-monthly basis, Employer will provide participant payroll deductions to WageWorks
- b. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account rep. Agreed upon corrections to participant balances shall be adjusted within 2 business days and credited back to Employer account. Credits shall be applied to Employer account weekly and netted against funds requirements
- c. Payment features for participants: Flex debit card, check, direct deposit
- d. All transactions (card, checks and direct deposit) will settle directly from the WageWorks owned account, which is secured by the Positive Pay Security Feature.

2. Employer Obligations:

The Employer shall:

- a. Make sufficient funds available from its general assets for amounts allocable to eligible reimbursement benefits under its plan:
 - 1) Public Sector** Employers: Employer shall remit entire FSA deduction amounts every pay period to WageWorks to be maintained by WageWorks in a WageWorks owned account (the "Account") to facilitate the timely processing of Requests under the Plan. If permitted by law, Employer shall grant WageWorks the authority to initiate ACH debits on the Employer's account for FSA deductions. Otherwise, employer shall remit FSA deductions via wire or check to WageWorks; or
 - 2) Private Employers: In compliance with ERISA regulations, twice monthly, employers shall Grant WageWorks the authority to initiate ACH debits on an Employer owned account sufficient to remit 1/24th of their annual aggregate participant elections to be maintained by WageWorks in a WageWorks owned account (the "Account") to facilitate the timely processing of Requests under the Plan.
 - (a) For Private Employers only, if, at any time, the amount of reimbursement benefits payable under the applicable Plan provisions exceeds the amount deposited by the Employer in the Account, WageWorks is under no obligation to advance funds on behalf of the Employer.
 - (b) WageWorks will not be responsible for paying claims to the extent sufficient funds are not provided to WageWorks within five (5) business days of the receipt of the request for such funds from WageWorks. Furthermore, WageWorks will immediately cease to provide the services outlined within this Agreement until such time as an amount equal to the aggregate of all Requests payable under the Employer's Plan are received by WageWorks from the Employer. The Employer agrees to indemnify WageWorks for all amounts and expenses resulting from the Employer's failure to provide sufficient funds and shall hold WageWorks, its officers and directors, harmless for any liability for which the Employer or the Plan may become liable.
- b. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes.
- c. Bear sole responsibility for any fees imposed with respect to Employer owned account.

** Public Sector Employers include schools, governmental entities and other employers where FSA payroll deductions would NOT be considered plan assets by the DOL under ERISA rules.



Funding Options Schedule

Method 5 – Self Pay

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from an Employer owned account ("the Account") with funds provided from the general assets of the Employer. On a weekly basis, Employer will remit payments directly to participants.
- b. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account rep. Agreed upon corrections to participant balances shall be adjusted within 2 business days
- c. Payment features for participants: Checks only (written by employer).
- d. No flex debit card or direct deposit.
- e. This funding option does not include the Positive Pay Security Feature.

2. Employer Obligations:

The Employer shall:

- a. Make sufficient funds available from its general assets for amounts allocable to eligible reimbursement benefits under its Plan.
- b. Review WageWorks' reimbursement determinations and issue reimbursement checks from its general assets (the "Account") within seven days of the receipt thereof for those Requests which are reimbursable pursuant to the terms of its Plan.
- c. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes
- d. Upon request by WageWorks, provide proof of all timely benefit check disbursements, Account statements, check register, and other correspondence from the financial institution.
- e. Bear sole responsibility for any fees imposed with respect to the Account by the financial institution, including but not limited to: Account maintenance fees, insufficient funds fees, fees with respect to voided and stopped checks, etc



Appendix E
FREE Flex Debit Payment Card Services

The following additional provisions shall apply with respect to Flex Debit Card Payment Services for FSAs and Commuter benefits and the issuance of WageWorks debit cards to Participants. The term, "Card," shall mean a WageWorks' debit card issued to a Participant.

1. Unless otherwise directed by you in writing, each employee that enrolls in the Plan will receive a free flex debit card and be allowed to order additional free cards for their spouse and/or dependents. Cards will be accompanied by and subject to a cardholder agreement between our issuing bank and the cardholder. There is no charge (to you, your employees or their dependents) for the debit cards.
2. WageWorks shall be responsible to provide administrative services to Participants, including updating Participants' records, maintaining accurate account balances and deposit information, activating and deactivating Cards, responding to Participants' inquiries and providing appropriate notices of actions taken.
3. Payment of Card transactions shall be withdrawn against the applicable Participant's Account and shall be reimbursed by the Employer based on the benefit claims funding method chosen by the Employer.
4. WageWorks agrees to reasonably ensure compliance with proper use of the Card and take whatever action is necessary to investigate and resolve errors in Card transactions asserted by Participants.
5. WageWorks agrees to cancel, as soon as is administratively practicable, access to a Participant's Card when a Card is reported as being lost or stolen.
6. The debit card may only be used for the payment of qualified expenses and (as required by the IRS) all transactions are subject to review. Some transactions will be reviewed and adjudicated automatically. For example, (if we have your health plan co-pays in our system) transactions at a doctor's office that are equal to the employee's medical co-pay will be automatically adjudicated, and no further verification will be required. Also, at "certified" drugstores, grocers, and superstores, the debit card separates purchases into flex-eligible and ineligible items and only pays for qualified healthcare items. This eliminates the inconvenience of requesting receipts (for further verification) when employees use the card at 40,000 "certified retail" locations. The employee will be directed to supply receipts for all remaining transactions that were not adjudicated automatically. This requirement applies to payments from FSA and HRA accounts.
7. WageWorks agrees, upon notice from Employer of termination or ineligibility of a Participant to, as soon as is administratively practicable, to deactivate such Participant's Card. If Employer fails to provide this notice in a timely manner causing payment of ineligible expenses, Employer will be responsible for all costs incurred for subsequent Card transactions made by the terminated or ineligible Participant.
8. At the time of each employee's enrollment in the Plan and in the cardholder agreement, the employee agrees to reimburse you for the amount of any card transaction that was not for a qualified expense. For transactions determined to be for non-qualified expenses ("NQE"), the employee will automatically be notified of the amount due on the employee website. The amount due can be repaid at the employee web site. If the any portion of an amount due still remains outstanding, we will offset the amount due against future claim reimbursements under the Plan. If the employee does not repay any remaining amount due, you may, to the extent allowed by applicable law, withhold the amount at issue from the employee's pay or may bill the employee. However, you are responsible for determining whether applicable law will permit you to withhold such amounts and should consult legal counsel concerning such withholding. You must also take action to ensure that further violations do not occur, including denial of access to the card. In the event the amount cannot be collected from the employee, you should include the amount due as income on the employee's W-2 form for the year in which you have exhausted collection efforts and have determined the amount to be uncollectible. This requirement applies to payments from FSA and HRA accounts.
9. Employer acknowledges that any and all data or information necessary to provide a Card will reside on servers owned by or operated on behalf of WageWorks' service providers. Employer hereby grants to WageWorks and its service providers the right to receive process and perform services with all information and data that is submitted to WageWorks in order for WageWorks to provide Cards. Employer further grants to WageWorks and its service providers the right to derive and use aggregate and statistical data from such information and data.
10. Employer hereby grants to WageWorks and its service providers a non-exclusive, non-transferable, royalty-free license to use Employer's trademarks in connection with the Card programs, in the forms and formats approved by Employer on (i) Cards; (ii) periodic statements; and (iii) other communications to Plan Participants with respect to the accounts. Employer agrees that the name of the financial institution which issues the Cards, a web site Uniform Resource Locator, and a customer service phone number will be printed on all Cards.
11. Employer agrees to notify WageWorks immediately upon suspicion or confirmation of inappropriate or fraudulent Card use.
12. As provided in this Appendix, Employer has authorized and instructed WageWorks to implement its standard administrative procedures to provide services in accordance with this Appendix and the Agreement. Such standard administrative procedures may be different for one or more Card transactions or groups or categories of Card transactions, as determined solely by WageWorks.



Appendix F Grace Period Services

WageWorks will perform grace period administrative services in accordance with the following terms with regard to reimbursement requests received on or after the later of the effective date of the grace period as identified or the date this Agreement is received by WageWorks.

The grace period will begin on the first day of the Plan Year following the Plan Year to which it relates and will end two (2) months and fifteen (15) days later. For example, if the Plan Year ends December 31st, the grace period begins January 1st and ends March 15th.

Eligible Medical Expenses and/or Eligible Employment-Related Expenses incurred during the grace period (as noted above) and approved for reimbursement will be paid first from available amounts that were remaining at the end of the Plan Year to which the grace period relates and then from any amounts that are available to reimburse expenses incurred during the current Plan Year.

Expenses incurred during the grace period (as noted above) must be submitted before the end of the Run-off Period. This is the same Run-off Period for expenses incurred during the Plan Year to which the grace period relates.

The Employer will not amend/change their Run-off Period without first notifying WageWorks at least one (1) month prior to the existing Run-off Period. WageWorks will continue to assume that your current Run-off Period still applies unless notified otherwise prior to the end of the Run-off Period. If your current Run-off Period does not extend past the grace period, WageWorks will assume that there is no Run-off Period for grace period expenses. Failure to timely notify WageWorks of any changes in the Run-off Period may result in an increase in the service fees as set forth in Section IV of the RSA.

Any unused amounts that are not used to reimburse eligible expenses incurred either during the Plan Year to which the grace period (as noted above) relates or during the grace period will be forfeited to the employer if not submitted for reimbursement before the end of the Run-off Period.



Exhibit A

HIPAA BUSINESS ASSOCIATE AGREEMENT

THIS APPENDIX, effective upon the execution of the Reimbursement Services Agreement attached hereto, by and between WageWorks, Inc. (WageWorks) and the Union Township Board Of Education MEDICAL CARE REIMBURSEMENT PLAN (the "URM Plan") is adopted by the Union Township Board Of Education (the "Employer") on behalf of the URM Plan and is incorporated into and made part of the Reimbursement Services Agreement ("Agreement") between WageWorks and the Employer. This Exhibit A is intended to comply with the business associate agreement provisions set forth in 45 CFR §§ 164.314 and 164.504(e), and any other applicable provisions of 45 CFR parts 160 and 164, issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 as amended, including by the Health Information Technology for Economic & Clinical Health Act of the American Recovery and Reinvestment Act of 2009 ("ARRA"), (collectively "HIPAA").

WageWorks recognizes that in the performance of services for the URM Plan under the Agreement it will have access to, create, and/or receive from the URM Plan or on its behalf Protected Health Information ("PHI"). For purposes herein, PHI shall have the meaning given to such term in 45 CFR § 1640.103, limited to the information created or received from the URM Plan or on its behalf by WageWorks. Whenever used in this Exhibit A other capitalized terms shall have the respective meaning set forth below, unless a different meaning shall be clearly required by the context. In addition, other capitalized terms used in this Exhibit A but not defined herein, shall have the same meaning as those terms are defined under HIPAA.

SECTION 1. WAGeworks RESPONSIBILITIES

- 1.1 WageWorks may use or disclose PHI, provided that such use or disclosure of PHI would not violate HIPAA, as follows: (a) as permitted or required in this Exhibit A and in the Agreement; (b) as Required by law in accordance with 45 CFR § 164.512; (c) for the proper management and administration of WageWorks; (d) to fulfill any present or future legal responsibilities; (e) for Data Aggregation services to the URM Plan (as defined in 45 CFR § 164.501; or (f) any use and disclosure of PHI that has been de-identified within the meaning of 45 CFR § 164.514.
- 1.2 WageWorks agrees to implement commercially reasonable and appropriate safeguards to prevent the use and disclosure of PHI other than as provided for by this Exhibit A.
- 1.3 WageWorks agrees to implement commercially reasonable administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the URM Plan.
- 1.4 WageWorks agrees to report to the URM Plan any successful Security Incident that is material or any use or disclosure of PHI of which it becomes aware that is not provided for by this Exhibit A or in the Agreement.
- 1.5 WageWorks agrees to ensure that any agent, including a subcontractor, to whom it provides PHI agrees to similar restrictions and conditions that apply through this Exhibit A to WageWorks with respect to such information.
- 1.6 At the request of the URM Plan, and in a mutually agreeable time and manner, WageWorks agrees to provide access to PHI it holds in a Designated Record Set (as defined in 45 CFR § 164.501), to the URM Plan, or as directed by the URM Plan, to an Individual in order to meet the requirements under 45 CFR § 164.524. WageWorks shall have the right to charge the Individual a reasonable cost-based fee, as permitted by 45 CFR § 164.524. WageWorks assumes no obligation to coordinate the provision of PHI maintained by other business associates of the URM Plan.
- 1.7 At the request of the URM Plan, and in a mutually agreeable time and manner, WageWorks agrees to make any amendment(s) to PHI it holds in a Designated Record Set that the URM Plan directs or agrees to pursuant to 45 CFR § 164.526 at the request of the URM Plan or an Individual.
- 1.8 At the request of the URM Plan, and in a mutually agreeable time and manner, WageWorks agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by WageWorks on behalf of the URM Plan available to the Secretary (as defined in 45 CFR § 160.103), for purposes of the Secretary determining the URM Plan's compliance with the Privacy and Security Rules.
- 1.9 WageWorks agrees to document such disclosures of PHI and information related to such disclosures of PHI and information related to such disclosures as would be required for the URM Plan to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.



- 1.10 WageWorks agrees to provide to URM Plan or an Individual, in the time and manner designated by URM Plan, information collected in accordance with 1.09 to permit the URM Plan to respond to an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
- 1.11 Except as provided for herein, or as required by law, upon termination of the Agreement, WageWorks agrees to return to the URM Plan or destroy PHI and retain no copies in any form, if feasible. In the event WageWorks determines that returning or destroying the PHI is infeasible, WageWorks agrees to extend the protections, limitations and restrictions of this Exhibit A to such PHI and to limit any further uses and/or disclosures of such PHI retained to the purposes that make the return or destruction of the PHI infeasible, for as long as WageWorks maintains such PHI. Both parties agree that this Section 1.11 shall survive the expiration or termination of the Agreement and remain in full force and effect thereafter for so long as WageWorks or any of WageWorks' employees, subcontractors, or agents remain in possession of any PHI, and shall expire thereafter.

SECTION 2. PLAN AND EMPLOYER RESPONSIBILITIES

- 2.1 Employer acting as the Plan Sponsor agrees to comply with the administrative requirements set forth in 45 CFR §§ 164.530 and 164.504(f), including but not limited to amending the URM Plan to restrict uses and disclosures of PHI.
- 2.2 The Employer acknowledges and agrees that WageWorks shall only disclose PHI in its possession to the Named Contact as designated (and through the modes specified) in Section III.F of the Agreement. The employees who are identified on the applicable plan document request form (and in the Plan documents) shall be the Designated Persons in accordance with 45 CFR § 164.504(f), and disclosures to such persons by WageWorks are solely for purposes of carrying out plan administration functions that the Employer performs for the URM Plan.
- 2.3 Employer shall timely notify WageWorks in writing of any changes to the names or positions of employees listed in subsection 2.2 as Designated Persons. WageWorks shall have no duty to inquire whether the list of Designated Persons is accurate.
- 2.4 Employer acknowledges and agrees that under the HIPAA Privacy Rules Designated Persons may only request the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure. WageWorks shall have no duty to ensure that the amount of PHI requested by the Designated Persons is the minimum amount necessary.
- 2.5 WageWorks shall have no liability for uses or disclosures contemplated in the Agreement. Employer shall indemnify and hold harmless WageWorks (and its employees) for any and all liability WageWorks may incur as a result of any improper use or disclosure of PHI by the URM Plan, Employer or a Designated Person(s).
- 2.6 URM Plan shall not request WageWorks to use or disclose PHI in any manner that would not be permissible under the Privacy and Security Rules if done by the URM Plan, except that WageWorks may use or disclose PHI as provided in Section 1.1.
- 2.7 URM Plan shall provide URM Plan participants and beneficiaries with adequate notice of the uses and disclosures of PHI that may be made by the URM Plan, and of the individual's rights and the URM Plan's responsibilities with respect to PHI as required in 45 CFR § 164.520. The URM Plan further agrees to forward a copy of such notice to WageWorks, as well as any changes to such notices.
- 2.8 URM Plan shall provide WageWorks with any changes to, or revocation of, permission by a Participant or Beneficiary to use or disclose PHI, if such changes affect WageWorks' permitted or required uses or disclosures.
- 2.9 URM Plan shall not agree to any special privacy restrictions requested by an individual without WageWorks' written approval, including those provided for 45 CFR § 164.522.
- 2.10 Notwithstanding any other provision of this Agreement, WageWorks recognizes that the URM Plan may have other business associates and its sharing of PHI with such other business associates of the URM Plan will be reasonable and necessary to facilitate URM Plan administration. WageWorks agrees to disclose PHI in its possession to such other entities as directed by the URM Plan, provided that such other business associates agree to comply with the Privacy and Security Rules with respect to the use and disclosure of such PHI. The URM Plan shall be solely responsible for ensuring that it has entered into appropriate business associate agreements with its other business associates in accordance with 45 C.F.R. § 164.504(e).

SECTION 3. MISCELLANEOUS

- 3.1 Both parties agree that nothing expressed or implied in this Exhibit A is intended to confer, nor shall anything herein confer, upon any person other than WageWorks, the URM Plan, the Employer, and their respective successors, assigns, any rights, remedies, obligations, or liabilities whatsoever.



- 3.2 This Exhibit A shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy and Security Rules, and any ambiguity in this Exhibit A shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy and Security Rules. Both parties agree that the provisions of this Exhibit A shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions of this Exhibit A.
- 3.3 Both parties acknowledge that future changes to the requirements of HIPAA, the Privacy and Security Rules, and other applicable laws relating to the security and confidentiality of PHI may require amendment to this Exhibit A. Upon the written request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Exhibit A. If either party disagrees with any such amendment, it shall so notify the other party in writing within 30 days of notice. If the parties are unable to agree on an amendment within 30 days thereafter, then any of the parties may terminate the Agreement in accordance with the termination section of the Agreement.
- 3.4 Notwithstanding Section 3.3 above and without limiting the rights of the parties under the Agreement, upon written notice of the existence of an alleged material breach of the terms of this Exhibit A, the URM Plan shall afford WageWorks an opportunity to cure said breach upon mutually agreeable terms. Failure to cure within 30 days shall be immediate grounds for termination of the Agreement.
- 3.5 Section 1.11 shall survive the termination or expiration of the Agreement for the reasons stated therein. The other provisions of this Exhibit A shall survive the termination of the Agreement and remain in full force and effect thereafter for so long as WageWorks or any of its employees, agents or subcontractors remains in possession of PHI in accordance with Section 1.11 of this Exhibit A and shall expire thereafter.



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Date: 09/11/2012 10:14AM PDT Re: Afiac RSA Union Township Board Of
Education

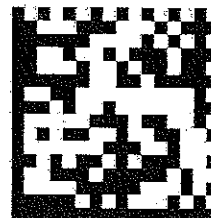
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REIMBURSEMENT SERVICES AGREEMENT

Employer: Union Township Board Of Education

Federal ID: 22-6002350 AFLAC Client ID: 201201706

Employer selects the following flex benefits checked below:

- Medical Care Expense Reimbursement (URM) Commuter Parking & Transit (CSA)
 Dependent Day Care (DDC)

Employer elects FREE Flex Debit Card Services and agrees to the terms in Appendix E: Yes No

Employer elects URM Grace Period services and agrees to the terms in Appendix F: Yes No

Employer elects DDC Grace Period services and agrees to the terms in Appendix F: Yes No

Employer elects one Benefit Funding Method checked below and agrees to the respective terms in Appendix D:

- 1-Daily ACH Debit * 2-Daily Client Bank Settlement 3-Daily ACH Credit
 4-Fast Forward 5-Self Pay

*Daily ACH Debit funding is easiest to use for most employers

Employer Bank Account Information		
Payments for FEES and BENEFIT FUNDS are pulled via WageWorks' initiated ACH debit, except for many Public Sector employers (some schools and governmental entities) where electronic access to an employer's bank account by an unrelated third party service provider for the collection of FEES and/or BENEFIT FUNDS is not permitted by law.		
	Fee Payments <small>Applies to processing service fees</small>	Benefit Funding Payments <small>Do not complete for Funding Method 3 or 5</small>
Name of Bank		
Routing Number (9 digits)		
Bank Account Number:		
Name of Employer's Bookkeeping/Finance contact		
Email: Bookkeeping/Finance contact		
Phone: Bookkeeping/Finance contact		
Employer is a Public Sector entity	<input type="checkbox"/> Check if ACH debit to pull fees is not permitted by law (and do not complete above)	<input type="checkbox"/> Check if ACH debit to pull benefit funds is not permitted by law (and do not complete above)

ACKNOWLEDGEMENT, EXECUTION AND AGREEMENT

By signing below, you acknowledge (i) that you have the authority to bind the Employer named above to all terms, conditions and obligations identified or set forth on the following pages in this Reimbursement Services Agreement and in Exhibit A (the "Agreement") as of October 1, 2012 ("Transition Date") for the Plan Year beginning March 1, 2012 ("Initial Plan Year"); and (ii) that you have read and understand the Agreement. Signing binds the Employer named above to all provisions of the Agreement.

Employer

WageWorks, Inc.

Signature of Employer's Authorized Signatory:

By *Miles S. Ross*

By

Print Signatory's Name:

Miles S. Ross

Print Title of Signatory:

Senior Vice President



THIS REIMBURSEMENT SERVICES AGREEMENT, effective upon execution for the Plan Year as set forth herein, by and between Union Township Board Of Education (the "Employer") and WageWorks, Inc. ("WageWorks"). WageWorks agrees to provide all services described herein upon acknowledgement and agreement by Employer on the Transition Date (as such term is defined herein).

WITNESSETH:

WHEREAS, the Employer has adopted a Medical Care Expense Reimbursement ("URM") Plan and/or a Dependent Care Expense Reimbursement ("DDC") Plan for its Employees in conjunction with its Flexible Benefits Plan (collectively referred to, with the commuter benefit program described below, as the "Plan" and attached hereto) to be adopted and administered in accordance with Sections 125 and 129 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Employer offers a commuter benefit program providing qualified transportation benefits to its Employees to the extent permitted under Code Section 132(f) and existing and applicable laws and regulations; and

WHEREAS, the Employer will serve as the Plan Administrator; and

WHEREAS, the Employer desires that WageWorks, as its agent, furnish reimbursement services within a framework of policies, interpretations, rules, practices and procedures (the "reimbursement practices and procedures") made and established by the Employer in: (i) receiving and processing requests for benefits under the Plan ("Requests") and (ii) disbursing benefit payments from Employer funds (as provided for in Section II.A.) for eligible expenses under the flexible spending account provisions of the Plan; and

WHEREAS, the Employer is to pay all plan benefits owed or established under the Plan to its Participants, and WageWorks is to provide the agreed upon services to the Plan without assuming any such liability;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed as follows:

Section I. Enrollment and Determination of Eligibility

A. The Employer shall:

- (1) be responsible for interpreting the Plan and its provisions, its terms, conditions and operation; and
- (2) notify Plan Participants of their ability to apply for reimbursement benefits and supply them with Request forms (to be provided by WageWorks) and Request filing instructions; and
- (3) no later than thirty (30) days prior to the annual renewal date of Plan participation provide WageWorks with the names, addresses, Social Security Numbers or distinct participant ID numbers, and elected amounts of all Participants (and spouse or dependents if applicable) in the Plan; and
- (4) notify WageWorks at least five (5) business days (via means of written communication acceptable to WageWorks) prior to the first payroll date affected as to any new Participants (with elections made after annual enrollment) in any of the reimbursement Plans; and
- (5) notify WageWorks at least five (5) business days (via means of written communication acceptable to WageWorks) prior to the first payroll date affected as to any Change in Status affecting a Participant's election, or any Qualified Beneficiary electing coverage under COBRA and the amount of such election (if COBRA applies to the Employer), or of any other change which will affect WageWorks' responsibilities hereunder.

B. In determining any person's right to benefits under the Plan, WageWorks shall rely on the eligibility information furnished by the Employer, and any signed statements by Participants regarding the eligibility of their Requests under the respective Plan. It is mutually understood that the effective performance of this Agreement by WageWorks will require that it be advised on a timely basis by the Employer during the continuance of this Agreement of the identity of individuals eligible for benefits under each of the respective reimbursement Plans. Information regarding a Participant's enrollment under either reimbursement Plan shall identify the effective date of enrollment and shall be provided to WageWorks (via means of written communication acceptable to WageWorks) in accordance with the applicable timeframes set forth in Sections I.A.(3) through I.A.(5) above. Any delay shall result in a corresponding delay in WageWorks' ability to make benefit determinations. WageWorks shall not be responsible for delays in paying Requests where the Employer has failed to inform WageWorks (in a form and with such information as may reasonably be required by WageWorks) of a Participant's enrollment information in a timely manner. Similarly, information modifying a Participant's eligibility or status/election under either reimbursement Plan or the Commuter Plan shall identify the effective date of eligibility and the termination date of eligibility and shall be provided to WageWorks (via means of written communication acceptable to WageWorks) at least five (5) business days prior to the effective date of such modification in order to be considered by WageWorks in making benefit determinations hereunder. WageWorks shall not be responsible for Requests paid in error where the Employer has failed to inform WageWorks (in a form and with such information as may reasonably be required by WageWorks) of a Participant's eligibility or status change prior to the release of the benefit payment.



Section II. Funding and Payment of Requests for the Plan Benefits

- A. Funding of Requests. Employer must choose and agree to one of the five funding methods described in the Funding Options Schedule (attached hereto as Appendix D), which shall be part of and incorporated into this Agreement.
- B. WageWorks, as agent for the Employer, shall provide those services described in Appendix A, B and C and in the Payment Card Services Appendix (attached hereto).

Upon written request submitted to WageWorks, WageWorks may provide limited assistance with certain of the nondiscrimination tests. The terms and conditions (including applicable fees) under which such services are provided are set forth in Appendix B "Nondiscrimination Testing Services". In providing services, WageWorks shall assume that ERISA and COBRA apply to the Employer's Plan unless the Employer gives WageWorks written direction otherwise.

- C. WageWorks shall not be obligated or responsible for any duty with regard to the administration of the Plan (imposed by the Plan or otherwise) except as specifically provided above or in the attached appendices. Without limiting Employer's responsibilities described therein, it shall be the Employer's sole responsibility (as Plan Administrator) and duty to: ensure compliance with COBRA; perform required nondiscrimination testing; amend the Plan as necessary to ensure ongoing compliance with applicable law; file any required tax or governmental returns (including Form 5500 returns to meet ERISA requirements) relating to the Plan; determine if and when a valid election change has occurred; handle Participant claim appeals; allow WageWorks, by and through independent associates, a reasonable opportunity to discuss WageWorks, and DDC, URM and/or Commuter benefits; execute and retain required Plan and claims documentation; and take all other steps necessary to maintain and operate the Plan in compliance with applicable provisions of the Plan, ERISA, the Code and other applicable federal and state laws.
- D. In the event that WageWorks overpays any person entitled to benefits under the Plan or pays benefits to any person who is not entitled to them, WageWorks shall take all reasonable steps to recover the overpayment, except that WageWorks shall not be required to initiate court proceedings to recover an overpayment. WageWorks shall promptly notify the Employer if it is unsuccessful in recovering any overpayment. Additionally, any overpayment occurring as a result of an ineligible Card Transaction will be handled in accordance with the provisions set forth in the Card Services Appendix (attached hereto).
- E. WageWorks will optically scan and maintain electronic copies of all Plan reimbursement Requests and supporting documentation for a period of seven (7) years after the claim is processed. Copies of claim documents can be reproduced upon written request at WageWorks' currently prevailing rate. Any record attributable to Card Transactions will be made available by WageWorks only to the extent made available to WageWorks by any Card Processor or other Card service provider.

Section III. Liability and Indemnity

- A. In performing its obligations under this Agreement, WageWorks neither assumes nor underwrites any liability of the Employer under the Plan, but with respect to the Employer, acts only as provider of those services specifically described in Section II.B. of this Agreement and with respect to Plan Participants, acts only as the agent of the Employer. The services to be performed by WageWorks shall be ministerial in nature and shall be performed within the framework of policies, interpretations, rules, practices, and procedures made or established by the Employer. WageWorks shall have no discretionary authority or discretionary control over any assets of the Employer, the Plan, or Plan Participants.
- B. WageWorks shall have no duty or obligation to defend any legal action or proceeding brought to recover a Request for Plan benefits. WageWorks shall, however, make available to the Employer and its counsel, such evidence relevant to such action or proceeding as WageWorks may have as a result of its processing of the contested benefit determination.
- C. Except as otherwise explicitly provided in this Agreement, the Employer shall retain the liability for all Plan benefit Requests and all expenses incident to the Plan and for any and all violations of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), if applicable, and agrees to indemnify WageWorks for and hold it, its directors, officers, and employees, harmless from all amounts and expenses (including reasonable attorneys' fees and court costs) for which WageWorks may become liable. This indemnity shall survive the termination of this Agreement.
- D. WageWorks shall use ordinary and reasonable care in the performance of its duties, but shall not be liable to the Employer for mistakes of judgment or other actions taken in good faith unless such error results directly from an intentionally wrongful or grossly negligent act of WageWorks, its officers or employees.
- E. WageWorks shall have no duty or obligation with respect to Requests incurred prior to the Transition Date of this Agreement or pertaining to a plan year prior to the Initial Plan Year (hereafter "Prior Reimbursement Requests") and/or Plan Administrator (or other) services arising prior to the Transition Date of this Agreement or pertaining to a plan year prior to the Initial Plan Year (hereafter "Prior Administration"). The Employer specifically acknowledge(s) and agree(s) that: (i) WageWorks has no responsibility or obligation with respect to Prior Reimbursement Requests and/or Prior Administration; (ii) the Employer will be responsible for processing Prior Reimbursement Requests (including any Run-Off Requests or grace period Requests submitted after the Transition Date of this Agreement) and maintaining legally required records of all Prior Reimbursement Requests and Prior Administration sufficient to comply with applicable legal (e.g., IRS substantiation) requirements and (iii) the Employer agrees to indemnify and hold WageWorks harmless from any liability relating to Prior Reimbursement Requests and/or Prior Administration.



- F. Except as otherwise provided in the HIPAA Business Associate Agreement (Exhibit A), the Employer agrees that WageWorks may communicate confidential, protected, privileged or otherwise sensitive information to Employer through the Named Contact (as designated on the applicable plan document request form or as subsequently updated by the Employer and maintained on file by WageWorks) and specifically agrees to indemnify WageWorks and hold it harmless: i) for any such communications directed to the Employer through the Named Contact attempted via telefax, mail, telephone, e-mail or any other media, acknowledging the possibility that such communications may be inadvertently misrouted or intercepted; and ii) from any claim for the improper use or disclosure of any health information by WageWorks where such information is used or disclosed in a manner consistent with its duties and responsibilities under this Agreement.
- G. IN NO EVENT SHALL EMPLOYER OR WAGeworks BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST BUSINESS, LOSS OF DATA OR COST OF SUBSTITUTE SERVICES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE). IN ADDITION, WAGeworks SHALL ONLY BE LIABLE TO EMPLOYER FOR ANY DIRECT DAMAGES IN AN AMOUNT EQUAL TO ACTUAL DAMAGES OR THE FEES PAID FOR SERVICES GIVING RISE TO THE CLAIM WITHIN THE TWELVE (12) MONTHS PRECEDING THE CLAIM, WHICHEVER IS LESS.
- H. Each party shall indemnify, defend and hold harmless the other party and its officers, directors, shareholders, employees and agents ("Indemnified Parties") from and against claims and proceedings for actual damages or losses (including legal fees and expenses) arising out of any actual or alleged (i) breach by such party of its obligations hereunder (ii) negligence or willful misconduct of such party or its employees, officers or agents (iii) the failure of such party to comply with applicable law (iv) any claims in which one party is named or joined with the other party when such party has not engaged in any wrongful acts or (v) with respect to Employer, it shall identify and hold harmless WageWorks' Indemnified Parties for any act or omission taken by WageWorks pursuant to Employer's instructions. The indemnifying party shall assume and have sole control of the defense of such claim; provided, however, that neither party may settle any claim without the prior written consent of the other party if such settlement exposes the other party to any liability. Notwithstanding the foregoing Employer acknowledges and agrees that WageWorks is not responsible for any negligence or willful misconduct of any Aflac agent arising out of or related to this Agreement and the services being provided hereunder.

Section IV. Reimbursement Request Processing Service Fee

- A. The Employer shall pay WageWorks a fee for services performed under this Agreement (the "Service Fee"). Service Fees are based on a number of factors and are set forth on the Fee Schedule, attached hereto as Appendix C, which shall be part of and incorporated into this Agreement. Failure to pay any applicable monthly Service Fee by the next monthly Request processing cycle shall result in a cessation of Request processing services until such fees are received by WageWorks. If Request processing services are pended for an entire monthly processing cycle, WageWorks may terminate this Agreement in accordance with Section VI.
- B. WageWorks agrees not to raise the fees in Appendix C for a period of 3 years from the Transition Date. WageWorks may revise the Service Fee for services performed under this Agreement effective beginning on the third Anniversary Date (as defined in Section V) of this Agreement by giving the Employer written notice of the revised rate at least thirty (30) days prior to the applicable Anniversary Date.
- C. Notwithstanding any other agreement between the parties (and/or their agents), WageWorks may revise the Service Fee set forth above at any time if revision is deemed necessary by WageWorks by reason of: (i) modification or amendment of the Plan by the Employer; or (ii) a significant suspension, limitation, modification or revocation of the benefits made available to Participants under the Flexible Benefit Plan. WageWorks shall advise the Employer of the revised Service Fee at least thirty (30) days prior to its implementation. If the Employer does not terminate this Agreement (by written notification pursuant to Section VI.A.(3)) within thirty (30) days after the receipt of a notice of such revision, the Employer shall be deemed to have agreed to such revision for the remainder of the Term of the Agreement. Thereafter, the Service Fee on and after the implementation date shall be made on the basis of such revised Service Fee.
- D. WageWorks may revise the Service Fee set forth above at any time if any change in law or regulations imposes on WageWorks greater duties or obligations than contemplated by the Agreement in force at the time of such change.

Section V. Term of Agreement

The initial term of this Agreement shall commence on the later of the (i) Transition Date or (ii) the first day of the Initial Plan Year and shall end on the last day of the Initial Plan Year (the "Initial Term"); thereafter, this Agreement will automatically renew for successive periods of twelve (12) months each, a "Term" from the first day of the Initial Plan Year (the "Anniversary Date") unless, at least thirty (30) days prior to the end of the then current Term (the "Renewal Date"), the Employer or WageWorks gives written notice to the other of its intention not to renew the Agreement. In the event of a short Plan Year (other than the first Initial Plan Year) this Agreement shall automatically renew for an additional twelve months unless the Employer or WageWorks gives written notice to the other of its intention not to renew the Agreement within thirty (30) days after the Employer notifies WageWorks of the short Plan Year.



Section VI. Termination of Agreement

1. This Agreement shall terminate upon the earliest of the following dates:
 - 1) The end of a Term (including the Initial Term) of the Agreement following the delivery of written notice of termination pursuant to Section V.
 - 2) At the option of WageWorks, the date upon which the Employer fails to transfer sufficient funds to WageWorks (upon request by WageWorks): (i) to pay all valid Requests pending under the Plan (as provided in Section II.A.); or (ii) to pay the Service Fee (as provided in Section IV.A. and Appendix C). WageWorks shall promptly communicate its election of this option to the Employer.
 - 3) Upon the implementation date for a proposed Service Fee increase deemed to be unacceptable by the Employer (after delivery of written notice of termination by the Employer) pursuant to Section IV.C.
 - 4) At the option of WageWorks, upon suspension, limitation, modification or revocation of the benefits made available to Participants under the reimbursement Plan or the Flexible Benefit Plan (as determined by WageWorks in its sole discretion), WageWorks shall immediately communicate its election of this option to the Employer.
 - 5) Any other date mutually agreeable to the Employer and WageWorks.
2. Upon termination of this Agreement, WageWorks shall cease the processing of all Requests then in its possession, return any undistributed funds to the Employer, and make all records relating to Requests in process reasonably available to the Employer. If the termination occurs pursuant to VI.A.(1). (above), WageWorks shall process all Run-Off Requests provided any Service Fee(s) is current. Thereafter, the Employer and/or Plan Administrator shall be responsible for all aspects of reimbursement Request processing and Plan administration.

Section VII. Miscellaneous

- (1) Notices. Any notice required to be given hereunder to WageWorks shall be sufficient if in writing and delivered personally, or by telefax to a number specified by WageWorks upon the Employer's request, or by prepaid first class mail to WageWorks 1100 Park Place, 4th Floor, San Mateo, CA 94403, or if to the Employer, at the address of the Employer denoted on the signature page attached hereto, or as subsequently updated by Employer and maintained on file by WageWorks.
- (2) Applicable Law. This Agreement shall be governed by, and shall be construed in accordance with the laws of the State of California, to the extent they are not preempted by ERISA, the Code, or any other federal law.
- (3) Legal and Tax Status. The Employer acknowledges that neither WageWorks nor its agents are providing legal or tax advice, and that neither WageWorks nor its agents serves as the Plan Administrator or a fiduciary under the Plan. The Employer shall be the sole party responsible for determining the legal and tax status of the Plan under applicable law. WageWorks shall have no power or authority to waive, alter, breach, or modify any terms or conditions of the Plan.
- (4) Assignment. This Agreement may be assigned by WageWorks to any other party, including any successor to the business of WageWorks by merger, consolidation, purchase of assets, or otherwise, without the prior consent of the Employer. This Agreement shall be binding upon any corporation into which the Employer may be merged or with which it may be consolidated, or any corporation succeeding to all or substantially all of the business of the Employer.
- (5) Entire Contract. This Agreement constitutes the entire contract between the parties and no modification or amendment hereto shall be valid unless in writing and signed by an officer of the Employer and an Officer or duly authorized representative of WageWorks.
- (6) Tax Reporting and Withholdings. The Employer has ultimate control over the payment of Plan benefits and shall be the sole party responsible for income and employment tax reporting and withholding obligations imposed as a result of any such payments being included in the gross income of recipients. WageWorks is a mere agent of the Employer for the processing of Benefit Requests.
- (7) Confidential Information. The term "Confidential Information" as used in this Agreement means confidential or proprietary information of any party that is not generally known to the public, including, but not limited to compilations, lists of actual or potential customers or suppliers, hardware systems, software, or other documentation of any type, whether in printed or machine readable form, computer databases, forms and form letters, contracts, information regarding specific transactions, and marketing and business plans. For the purposes of this subsection, Confidential Information shall not include the personally identifiable information relating to any of Employer's employees.

The term "Trade Secrets" as used in this Agreement shall mean Confidential Information that: (1) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The terms "Confidential Information" and "Trade Secrets" do not include information that: (a) is known to the receiving party prior to its disclosure by the disclosing party, evidenced by the receiving party's written records; (b) is developed by the receiving party independently of any Confidential Information or Trade Secrets received in confidence from disclosing party, evidenced by the rece



party's written records; (c) is rightfully received by the receiving party from a third party without restriction and without breach of any obligation of confidentiality running to the disclosing party.

Each party agrees that it shall not disclose to others or use for any purpose other than performance of the Agreement any of the other party's Confidential Information or Trade Secrets any time during or after the term of this Agreement. Each party further agrees that it will disclose Confidential Information or Trade Secrets to its employees only as necessary for the performance of the Agreement, and only to employees with a need to know. Each party to this Agreement agrees that all Confidential Information and Trade Secrets are the property of the party disclosing it, and each agrees to promptly return to the disclosing party, upon demand, any Confidential Information or Trade Secrets furnished under this Agreement which is either received in or reduced to material form, and all copies thereof. The Employer agrees that WageWorks may make lawful references to Employer in its marketing activities.

- (8) Individual Information. Each party acknowledges that performance of the Agreement may involve the use and disclosure of personal information relating to the Employer's employees (including but not limited to names, addresses, benefit elections, claims and health information). WageWorks agrees that it will not use any such information disclosed to it by Employer except as authorized by the individual to whom the information relates or as otherwise permitted by applicable state or federal law or regulation. Employer agrees that it will not use any such information disclosed to it by WageWorks except for the purpose for which it received the information and will not further disclose such information without the written authorization of the individual to whom the information relates. This provision is not intended to create any third party beneficiary rights (in favor of Employer's employees or any other party).
- (9) Massachusetts Data Security Regulations (201 CMR 17.00 et seq). WageWorks certifies that it has in place and shall maintain during the term of the Agreement, a written comprehensive security program that is in compliance with the provisions of 201 CMR 17.00 *et seq.* (the "Regulations"). WageWorks has implemented and will maintain during the term of this Agreement appropriate technical, organizational and security measures and practices that are intended, in accordance with the Regulations, to (a) ensure the security and confidentiality of "Personal Information," as that term is defined in the Regulations, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of Personal Information, and (c) protect against unauthorized access, use, modification, disclosure or destruction of Personal Information. WageWorks shall, in addition: (x) promptly report to Employer any misappropriation, or unauthorized use or disclosure, of any Personal Information that violates the terms of this Agreement, (y) mitigate, to the extent practicable, any harmful effects of such violation that is known to Employer or its agents or subcontractors (if any), and (z) cooperate with Employer in meeting any notification responsibilities required by the Regulations.
- (10) Subcontractors. WageWorks utilizes subcontractors to perform certain services in connection with this Agreement. WageWorks shall be liable for the acts or omissions of its subcontractors.
- (11) Capitalized Terms shall have the same meaning as in the Plan documents unless otherwise defined herein.



Appendix A
Schedule of Services to Be Provided By WageWorks

In accordance with attached Reimbursement Services Agreement WageWorks shall provide the following services for the Employer:

General Plan Services:

- provide the Employer with a sample amended and restated cafeteria plan document, if requested, including a medical care expense reimbursement ("URM") Plan and a dependent care expense reimbursement ("DDC") Plan to be reviewed by the Employer and its legal counsel; and
- provide the Employer with a sample amended flexible benefits summary plan description, if requested, for distribution to each Plan Participant and employees and where may be required by a Change in Status.

Additional Services if DDC, URM or Commuter Benefits Are Offered:

- assist the Employer in explaining the URM and/or DDC features of the cafeteria plan to employees and Commuter benefits to employees; and
- process the Employee-executed Salary Redirection Agreements as they relate to the URM and DDC components of the Employer's flexible spending account and an employee's Commuter account; and
- provide enrollment confirmation information to Participants which directs them to the website to verify their URM, DDC and/or Commuter elections; and
- provide each URM, DDC and/or Commuter Participant with access to the website to verify elections, view account balances and payments, learn about eligible expense, get information about filing claims, etc.
- upon receiving instructions from the Employer on a Change in Status, WageWorks will make the change requested by the Employer; and
- provide each URM, DDC and/or Commuter Participant with a "check stub" account balance statement with each reimbursement Request check issued, and
- make available via the website a current statement of year to date activity downloadable in PDF form; and
- provide each participant with an annual account balance statement (60-day written communication), if 60 days prior to the plan year end there is any remaining balance in the URM and/or DDC; and
- provide the Employer with website access to standard employer-level reports, including transactional summaries and monthly reports on Account activities; and
- receive Requests for URM, DDC and/or Commuter benefits, and expeditiously review such Requests in a non-discretionary manner under reimbursement guidelines established under the requirements of Section 125, 129 and 132(f) of the Internal Revenue Code ("Code"), to determine what amount, if any, is due and payable with respect thereto; and
- disburse the benefit payments it determines to be due (subject to the availability of funds which is the responsibility of the Employer) in accordance with the provisions of the Plan and the following procedures:
 - valid reimbursement for URM and/or DDC benefits shall be paid by WageWorks not later than two (2) business days following the approval of each Request by mailing a check directly to the Participants at their addresses (unless otherwise requested by the Employer as allowed by the terms of the Plan) or by initiating a direct deposit transfer directly to the Participants in their respective bank accounts in the appropriate amount(s); and
 - if the amount of the (otherwise) reimbursable DDC Request exceeds the amount the Participant had withheld for DDC benefits, the excess shall be carried forward (within the same Plan Year) and treated as an Eligible Employment-Related Expense for that month; and
 - if the amount of URM Requests exceeds the amount the Participant has had withheld from URM benefits, the entire amount shall be processed to the extent of the Participant's annual election reduced by previous reimbursements made for expenses during the Plan Year (provided the Employer makes available sufficient funds for WageWorks to satisfy the Request); and
 - unless otherwise specified in writing by the Employer, Requests for URM benefits following a Change in Status impacting the URM election shall be processed using a "blended period of coverage approach" (i.e., the maximum URM benefit for a period of coverage following a Change in Status will be limited to the lesser of: (a) the annual URM maximum set forth in the Plan document less any benefit payments made prior to the Change in Status;



(b) the sum of the Participant's URM account balance immediately before the Change in Status and any additional contributions made during the remaining period of coverage); and

- notify claimants as to any Requests which are denied because of inadequate Request substantiation or improper Request form submission, and give affected claimants the opportunity to resubmit their Requests; and
- provide to the claimant within five (5) business days following receipt of a Request, written notification as to the disposition of the Request; and
- Claim Appeals. Although WageWorks will process Requests in a non-discretionary manner under reimbursement guidelines established under the requirements of Section 125, 129 and 132(f) of the Code, and will further conduct Request review and appeal procedures in a non-discretionary manner, the Employer shall have the ultimate right and responsibility to review contested Request appeals. Any departure specifically requested by the Employer in writing will be implemented by WageWorks, but if WageWorks objects to the departure as inconsistent with the requirements of the Code and WageWorks standard guidelines, implementation will be at the expense and risk of the Employer.



Appendix B
Nondiscrimination Testing Services and Form 5500 Preparation Services
[Provided Upon Annual Request]

Nondiscrimination Testing:

The Employer, upon submission of an annual Non-discrimination Testing Questionnaire, authorizes WageWorks to compile nondiscrimination testing percentages based upon the employee census data provided. As consideration for this service, the Plan Sponsor/Administrator agrees to release and hold WageWorks, its subsidiaries, affiliates, officers, directors, owners, shareholders, attorneys, successors and assigns harmless from any liability arising as a result of the provisions of, or reliance upon such testing percentages. In addition, the Employer understands and agrees that:

- WageWorks is not in the business of providing legal or tax advice, and the Employer, as the plan sponsor/administrator, will not construe the testing percentages provided by WageWorks to be legal or tax advice. Accordingly, the Employer will seek the advice of its own tax or legal advisor to interpret and verify the testing percentages provided, and ensure compliance with applicable nondiscrimination requirements.
- The Employer bears a sole responsibility for nondiscrimination testing and the continued qualified status of its cafeteria plan under all applicable provisions of the Internal Revenue Code.
- The testing percentages provided by WageWorks are merely an indicator of compliance with three of the applicable nondiscrimination tests – the Cafeteria Plan 25% Key Employee Concentration Test, the Dependent Care 5% Shareholder Test, and the Dependent Care 55% Average Benefits Test. The Employer must also ensure compliance with the Eligibility Test and Contributions and Benefits Test applicable to the Cafeteria Plan, the URM, and the DDC Plan, as well as other tests that may apply to the benefits offered through the Cafeteria Plan. To ensure compliance with applicable provisions of the Internal Revenue Code, additional nondiscrimination testing and result verification must be undertaken by the Employer with the assistance of its tax or legal counsel.
- Discrimination testing should be conducted at least 180 days prior to the end of the Plan Year to which the data relates to ensure adequate time to make any required corrections.. WageWorks will assist with discrimination testing no less frequently than once per year and no more frequently than once every ninety (90) days.

Form 5500 Preparation:

Only employers with more than 100 participating employees at the beginning of the plan year are required to file Form 5500.

The employer, upon submission of an annual request for form 5500 Assistance Plan Sponsor and Cafeteria Plan Information Data Sheet, authorizes WageWorks to prepare a "signature-ready" Form 5500 and applicable schedules based upon the information provided regarding the Employer and its cafeteria plan. As consideration for this service, the Plan Sponsor/Administrator agrees to release and hold WageWorks, its subsidiaries, affiliates, officers, directors, owners, shareholders, attorneys, successors and assigns harmless from any liability arising as a result of the provisions of, or reliance upon such "signature-ready" forms. In addition, the Employer understands and agrees that:

- WageWorks is not in the business of providing legal or tax advice, and the Employer, as the plan sponsor/administrator, will not construe the testing percentages provided by WageWorks to be legal or tax advice. Accordingly, the Employer will seek the advice of its own tax or legal advisor to interpret and verify the testing percentages provided, and ensure compliance with applicable nondiscrimination requirements.
- The Employer bears a sole responsibility for nondiscrimination testing and the continued qualified status of its cafeteria plan under all applicable provisions of the Internal Revenue Code.
- Providing WageWorks with the information needed to complete the Form 5500 does not constitute an actual filing with the Internal Revenue Service. The timely submission of the appropriate forms remains the responsibility of the Employer.
- If WageWorks has been asked to prepare sample Form 5500s after the filing deadline has passed, the Employer agrees to hold WageWorks, its subsidiaries, affiliates, officers, directors, owners, shareholders, attorneys, successors and assigns harmless from any liability arising from as a result of late filing.



Appendix C Fee Schedule

In accordance with the attached Reimbursement Services Agreement, the services provided pursuant to this Agreement are subject to the Service Fee described in this Fee Schedule. To the extent this Appendix conflicts with the Agreement, the Agreement shall control.

1. Service Fee.

- a) The Service Fee shall be based on:
 - (1) The Employee Count (defined below) and
 - (2) The number of Participants per Plan benefit (DDC, URM and/or Commuter) enrolled at the beginning of the plan year for which services are rendered.
- b) Employee Count.
 - (1) The number of eligible employees (the "Employee Count") is the factor that determines the Employer's monthly fee rate per Participant in the Plan (the "Fee Rate") under this Agreement. For purposes of this Appendix C, the term "eligible employees" includes all the Employer's employees who may participate in the benefits offered under the Employer's Flexible Benefit Plan (including URM and/or DDC Plan benefits).
 - (2) The Employee Count on record for the Employer for the Initial Term of this Agreement is 1,200. By executing this Agreement, the Employer certifies that the Employee Count listed above reflects the approximate number of Employer's eligible employees. If no Employee Count is on record for the Employer, WageWorks will assume the Employer's Employee Count falls within the range of 1-50. Upon each Renewal Date of this Agreement, the Employer agrees to verify and update the Employee Count accordingly. Failure to do so will result in WageWorks assuming the Employee Count range of 1-50 applies and will use the applicable Fee Rate to calculate the monthly Service Fee for the renewal Plan year. WageWorks will adjust the assessed Fee Rate for changes in the Employee Count only upon each subsequent Plan year for which this Agreement is renewed, unless otherwise mutually agreed upon by both WageWorks and the Employer.
- c) Additional Service Fees: (1) For each participant account requiring an adjustment in the event that an eligibility change is NOT received by WageWorks at least five (5) business days prior to the affected payroll date, a fee of \$25 will be charged. (2) Custom reports, research requests, and special reconciliations will be billed at \$50 per hour. A quote will be provided after report requirements are defined.
- d) The Total Monthly Service Fee is calculated as follows: Using the Rate Table below, the total monthly fees for administration will be based on the number of participants enrolled at the beginning of each Plan year times the Monthly Service Fee Per Participant will be invoiced monthly. The Total Monthly Fee will remain constant for the year unless there is a 10% or greater increase in the number of participants. Additional Service Fees will be added to the Total Monthly Service Fee.

2. Rate Table. (Includes Flex Debit Card): Monthly Fee Rate Per Participant \$3.00 subject to a Monthly Minimum Fee of \$50.00.

3. Billing and Collection of Fees.

- a) Public Sector* Employers: Service Fees will be invoiced on the 15th of each month and due with 30 days. Except as otherwise agreed to by the parties, WageWorks is not authorized to withdraw the Service Fee from the Account.
- b) Private Employers: Service Fees will be invoiced each month and collected by WageWorks with initiated ACH debit on the 15th day of each month.

* Public Sector Employers include schools, governmental entities and other employers where electronic access to an employer's bank account by an unrelated third party service provider is not permitted by law.



**Appendix D
Funding Options Schedule**

Method 1 – Daily ACH Debit

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from a WageWorks owned account ("the Account") with funds provided from the general assets of the Employer. Benefits will be remitted from the Account without prior funds confirmation and without Employer preapproval of claims payments to be disbursed. On a daily basis, Employer will reimburse WageWorks for benefits paid on the previous day by allowing an ACH debit on Employer bank account. Employer's bank account may include a zero balance feature, although this is not required.
- b. WageWorks will notify the Employer by email with the amount of the daily reimbursement made by WageWorks through ACH Debit. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account rep. Agreed upon corrections to participant balances shall be adjusted within 2 business days and credited back to Employer account. Credits shall be applied to Employer account weekly and netted against funds requirements
- c. Payment features for participants: Flex debit card, check, direct deposit.
- d. All transactions (card, checks and direct deposit) will settle directly from the WageWorks owned account, which is secured by the Positive Pay Security Feature.

2. Employer Obligations:

The Employer shall:

- a. Make sufficient funds from its general assets available an Employer owned account for amounts allocable to eligible reimbursement benefits under its Plan [Note: the Account should not be opened in the Plan's or WageWorks' name]
- b. Grant WageWorks the authority to initiate ACH debits on the Employer owned account sufficient to replenish the Account daily for benefits paid from the Account.
- c. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes
- d. Ensure that any filters, debit blocks, or similar financial restrictions on the Account are removed or modified in such a way as to ensure the successful drafts or electronic transfers for remittance of eligible reimbursement benefits under the Employer's plan
- e. Bear sole responsibility for any fees imposed with respect to Employer owned account
- f. If, at any time, the amount of reimbursement benefits payable under the applicable Plan provisions exceeds the amount deposited by the Employer in the Account, the Employer shall transfer an amount necessary to the Account to fulfill its reimbursement obligations under the applicable Plan before any further reimbursement benefit payment is made. WageWorks is under no obligation to advance funds on behalf of the Employer.
- g. WageWorks will not be responsible for paying claims to the extent sufficient funds are not provided to WageWorks within five (5) business days of the receipt of the request for such funds from WageWorks. Furthermore, WageWorks will immediately cease to provide the services outlined within this Agreement until such time as an amount equal to the aggregate of all Requests payable under the Employer's Plan are received by WageWorks from the Employer. The Employer agrees to indemnify WageWorks for all amounts and expenses resulting from the Employer's failure to provide sufficient funds and shall hold WageWorks, its officers and directors, harmless for any liability for which the Employer or the Plan may become liable.



**Appendix D
Funding Options Schedule**

Method 2 – Daily Client Bank Settlement

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from an Employer-owned and named account (the "Account") in a financial institution selected by the Employer and agreed upon by WageWorks. The Account may include a zero balance feature, although it is not required. Benefits will be remitted from the Account without prior funds confirmation and without Employer preapproval of claims payments to be disbursed. WageWorks shall not be responsible for any delay in remitting such funds for benefits to the extent that such delay is the result of Employer's delay in making sufficient funds available in the Account
- b. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account rep. Agreed upon corrections to participant balances shall be adjusted within 2 business days and credited back to Employer account. Credits shall be applied to Employer account weekly and netted against funds requirements
- c. Payment features for participants: Flex debit card, check, direct deposit
- d. Transactions on the Flex debit card and direct deposit will settle directly from the Account by WageWorks initiating daily ACH debits on the Account. All checks will settle directly from Account which is owned by the Employer.
- e. This funding option does not include the Positive Pay Security Feature.

2. Employer Obligations

The Employer shall:

- a. Make sufficient funds from its general assets available in the Account to pay eligible reimbursement benefits under its Plan [Note: the Account should not be opened in the Plan's or WageWorks' name]
- b. Grant WageWorks withdrawal authority over the Account sufficient to enable it to pay benefits under the Employer's Plan in order to:
 - i. draw benefit checks directly on the employer owned Account
 - ii. electronically transfer benefit payments from the employer owned Account
 - iii. electronically access Account Information
 - iv. execute the financial institution's standard Deposit/Account Agreement on the Employer's behalf (subject to the terms and conditions set forth herein and as WageWorks may otherwise establish)
- c. Provide WageWorks with the name, address and contact person at the financial institution associated with the Account, and provide timely notice to WageWorks if such information changes
- d. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes
- e. Upon request by WageWorks, provide copies of all deposit verification receipts, Account statements, and other correspondence from the financial institution
- f. Bear sole responsibility for any fees imposed with respect to the Account by the financial institution, including but not limited to: Account maintenance fees, insufficient funds fees, fees with respect to voided or stopped checks, etc. unless such fees are solely the result of administrative error by WageWorks
- g. Ensure that any filters, debit blocks, or similar financial restrictions on the Account are removed or modified in such a way as to ensure the successful remittance of eligible reimbursement benefits under the Employer's plan
- h. If, at any time, the amount of reimbursement benefits payable under the applicable Plan provisions exceeds the amount deposited by the Employer in the Account, the Employer shall transfer an amount necessary to the Account to fulfill its reimbursement obligations under the applicable Plan before any further reimbursement benefit payment is made. WageWorks is under no obligation to advance funds on behalf of the Employer.
- i. WageWorks will not be responsible for paying claims to the extent sufficient funds are not provided to WageWorks within five (5) business days of the receipt of the request for such funds from WageWorks. Furthermore, WageWorks will immediately cease to provide the services outlined within this Agreement until such time as an amount equal to the aggregate of all Requests payable under the Employer's Plan are received by WageWorks from the Employer. The Employer agrees to indemnify WageWorks for all amounts and expenses resulting from the Employer's failure to provide sufficient funds and shall hold WageWorks, its officers and directors, harmless for any liability for which the Employer or the Plan may become liable.



**Appendix D
Funding Options Schedule**

Method 3 – Daily ACH Credit

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from a WageWorks owned account ("the Account") with funds provided from the general assets of the Employer. Benefits will be remitted from the Account without prior funds confirmation and without Employer preapproval of claims payments to be disbursed. On a daily basis, Employer will reimburse WageWorks for benefits paid on the previous day by wiring funds to WageWorks via ACH credit.
- b. WageWorks will notify the Employer by email with the amount of the daily reimbursement that the Employer must wire to WageWorks. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account representative. Agreed upon corrections to participant balances shall be adjusted within 2 business days and credited back to Employer account. Credits shall be applied to Employer account weekly and netted against funds requirements.
- c. Payment features for participants: Flex debit card, check, direct deposit.
- d. All transactions (card, checks and direct deposit) will settle directly from the WageWorks owned account, which is secured by the Positive Pay Security Feature.

2. Employer Obligations:

The Employer shall

- a. Make sufficient funds available from its general assets for amounts allocable to eligible reimbursement benefits under its Plan
- b. Each day, the Employer will wire funds to WageWorks by Initiating ACH credits from an Employer owned account sufficient to replenish the Account for benefits paid by from the Account.
- c. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes.
- d. Bear sole responsibility for any fees imposed with respect to Employer owned account.
- e. If, at any time, the amount of reimbursement benefits payable under the applicable Plan provisions exceeds the amount deposited by the Employer in the Account, the Employer shall transfer an amount necessary to the Account to fulfill its reimbursement obligations under the applicable Plan before any further reimbursement benefit payment is made. WageWorks is under no obligation to advance funds on behalf of the Employer.
- f. WageWorks will not be responsible for paying claims to the extent sufficient funds are not provided to WageWorks within five (5) business days of the receipt of the request for such funds from WageWorks. Furthermore, WageWorks will immediately cease to provide the services outlined within this Agreement until such time as an amount equal to the aggregate of all Requests payable under the Employer's Plan are received by WageWorks from the Employer. The Employer agrees to indemnify WageWorks for all amounts and expenses resulting from the Employer's failure to provide sufficient funds and shall hold WageWorks, its officers and directors, harmless for any liability for which the Employer or the Plan may become liable.



**Appendix D
Funding Options Schedule**

Method 4 – Fast Forward

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from a WageWorks owned account ("the Account") with funds provided from the general assets of the Employer. Benefits will be remitted from the Account without prior funds confirmation and without Employer preapproval of claims payments to be disbursed. On a semi-monthly basis, Employer will provide participant payroll deductions to WageWorks
- b. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account rep. Agreed upon corrections to participant balances shall be adjusted within 2 business days and credited back to Employer account. Credits shall be applied to Employer account weekly and netted against funds requirements
- c. Payment features for participants: Flex debit card, check, direct deposit
- d. All transactions (card, checks and direct deposit) will settle directly from the WageWorks owned account, which is secured by the Positive Pay Security Feature.

2. Employer Obligations:

The Employer shall:

- a. Make sufficient funds available from its general assets for amounts allocable to eligible reimbursement benefits under its plan:
 - 1) Public Sector** Employers: Employer shall remit entire FSA deduction amounts every pay period to WageWorks to be maintained by WageWorks in a WageWorks owned account (the "Account") to facilitate the timely processing of Requests under the Plan. If permitted by law, Employer shall grant WageWorks the authority to initiate ACH debits on the Employer's account for FSA deductions. Otherwise, employer shall remit FSA deductions via wire or check to WageWorks; or
 - 2) Private Employers: In compliance with ERISA regulations, twice monthly, employers shall Grant WageWorks the authority to initiate ACH debits on an Employer owned account sufficient to remit 1/24th of their annual aggregate participant elections to be maintained by WageWorks in a WageWorks owned account (the "Account") to facilitate the timely processing of Requests under the Plan.
 - (a) For Private Employers only, if, at any time, the amount of reimbursement benefits payable under the applicable Plan provisions exceeds the amount deposited by the Employer in the Account, WageWorks is under no obligation to advance funds on behalf of the Employer.
 - (b) WageWorks will not be responsible for paying claims to the extent sufficient funds are not provided to WageWorks within five (5) business days of the receipt of the request for such funds from WageWorks. Furthermore, WageWorks will immediately cease to provide the services outlined within this Agreement until such time as an amount equal to the aggregate of all Requests payable under the Employer's Plan are received by WageWorks from the Employer. The Employer agrees to indemnify WageWorks for all amounts and expenses resulting from the Employer's failure to provide sufficient funds and shall hold WageWorks, its officers and directors, harmless for any liability for which the Employer or the Plan may become liable.
- b. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes.
- c. Bear sole responsibility for any fees imposed with respect to Employer owned account.

** Public Sector Employers include schools, governmental entities and other employers where FSA payroll deductions would NOT be considered plan assets by the DOL under ERISA rules.



Funding Options Schedule

Method 5 – Self Pay

In accordance with the attached Reimbursement Services Agreement, Employer has designated this funding option. To the extent this Appendix conflicts with the Agreement (with the exception of Section II.C. and Section III: Liability and Indemnity Section of the Agreement), this Appendix shall control. For purposes of the foregoing, an executed Funding Option Change Form shall be valid and in force only if agreed to by WageWorks.

1. Settlement of Claims

- a. Benefits under the Employer's Plan will be paid from an Employer owned account ("the Account") with funds provided from the general assets of the Employer. On a weekly basis, Employer will remit payments directly to participants.
- b. Review of claims payments disbursed are available daily to the Employer on the WageWorks website. Any identified discrepancy with disbursed payments shall be discussed with Employer account rep. Agreed upon corrections to participant balances shall be adjusted within 2 business days
- c. Payment features for participants: Checks only (written by employer).
- d. No flex debit card or direct deposit.
- e. This funding option does not include the Positive Pay Security Feature.

2. Employer Obligations:

The Employer shall:

- a. Make sufficient funds available from its general assets for amounts allocable to eligible reimbursement benefits under its Plan.
- b. Review WageWorks' reimbursement determinations and issue reimbursement checks from its general assets (the "Account") within seven days of the receipt thereof for those Requests which are reimbursable pursuant to the terms of its Plan.
- c. Provide WageWorks with the name, address and contact person at the Employer associated with the Account, and provide timely notice to WageWorks if such information changes
- d. Upon request by WageWorks, provide proof of all timely benefit check disbursements, Account statements, check register, and other correspondence from the financial institution.
- e. Bear sole responsibility for any fees imposed with respect to the Account by the financial institution, including but not limited to: Account maintenance fees, insufficient funds fees, fees with respect to voided and stopped checks, etc



Appendix E
FREE Flex Debit Payment Card Services

The following additional provisions shall apply with respect to Flex Debit Card Payment Services for FSAs and Commuter benefits and the issuance of WageWorks debit cards to Participants. The term, "Card," shall mean a WageWorks' debit card issued to a Participant.

1. Unless otherwise directed by you in writing, each employee that enrolls in the Plan will receive a free flex debit card and be allowed to order additional free cards for their spouse and/or dependents. Cards will be accompanied by and subject to a cardholder agreement between our issuing bank and the cardholder. There is no charge (to you, your employees or their dependents) for the debit cards.
2. WageWorks shall be responsible to provide administrative services to Participants, including updating Participants' records, maintaining accurate account balances and deposit information, activating and deactivating Cards, responding to Participants' inquiries and providing appropriate notices of actions taken.
3. Payment of Card transactions shall be withdrawn against the applicable Participant's Account and shall be reimbursed by the Employer based on the benefit claims funding method chosen by the Employer.
4. WageWorks agrees to reasonably ensure compliance with proper use of the Card and take whatever action is necessary to investigate and resolve errors in Card transactions asserted by Participants.
5. WageWorks agrees to cancel, as soon as is administratively practicable, access to a Participant's Card when a Card is reported as being lost or stolen.
6. The debit card may only be used for the payment of qualified expenses and (as required by the IRS) all transactions are subject to review. Some transactions will be reviewed and adjudicated automatically. For example, (if we have your health plan co-pays in our system) transactions at a doctor's office that are equal to the employee's medical co-pay will be automatically adjudicated, and no further verification will be required. Also, at "certified" drugstores, grocers, and superstores, the debit card separates purchases into flex-eligible and ineligible items and only pays for qualified healthcare items. This eliminates the inconvenience of requesting receipts (for further verification) when employees use the card at 40,000 "certified retail" locations. The employee will be directed to supply receipts for all remaining transactions that were not adjudicated automatically. This requirement applies to payments from FSA and HRA accounts.
7. WageWorks agrees, upon notice from Employer of termination or ineligibility of a Participant to, as soon as is administratively practicable, to deactivate such Participant's Card. If Employer fails to provide this notice in a timely manner causing payment of ineligible expenses, Employer will be responsible for all costs incurred for subsequent Card transactions made by the terminated or ineligible Participant.
8. At the time of each employee's enrollment in the Plan and in the cardholder agreement, the employee agrees to reimburse you for the amount of any card transaction that was not for a qualified expense. For transactions determined to be for non-qualified expenses ("NQE"), the employee will automatically be notified of the amount due on the employee website. The amount due can be repaid at the employee web site. If the any portion of an amount due still remains outstanding, we will offset the amount due against future claim reimbursements under the Plan. If the employee does not repay any remaining amount due, you may, to the extent allowed by applicable law, withhold the amount at issue from the employee's pay or may bill the employee. However, you are responsible for determining whether applicable law will permit you to withhold such amounts and should consult legal counsel concerning such withholding. You must also take action to ensure that further violations do not occur, including denial of access to the card. In the event the amount cannot be collected from the employee, you should include the amount due as income on the employee's W-2 form for the year in which you have exhausted collection efforts and have determined the amount to be uncollectible. This requirement applies to payments from FSA and HRA accounts.
9. Employer acknowledges that any and all data or information necessary to provide a Card will reside on servers owned by or operated on behalf of WageWorks' service providers. Employer hereby grants to WageWorks and its service providers the right to receive process and perform services with all information and data that is submitted to WageWorks in order for WageWorks to provide Cards. Employer further grants to WageWorks and its service providers the right to derive and use aggregate and statistical data from such information and data.
10. Employer hereby grants to WageWorks and its service providers a non-exclusive, non-transferable, royalty-free license to use Employer's trademarks in connection with the Card programs, in the forms and formats approved by Employer on (i) Cards; (ii) periodic statements; and (iii) other communications to Plan Participants with respect to the accounts. Employer agrees that the name of the financial institution which issues the Cards, a web site Uniform Resource Locator, and a customer service phone number will be printed on all Cards.
11. Employer agrees to notify WageWorks immediately upon suspicion or confirmation of inappropriate or fraudulent Card use.
12. As provided in this Appendix, Employer has authorized and instructed WageWorks to implement its standard administrative procedures to provide services in accordance with this Appendix and the Agreement. Such standard administrative procedures may be different for one or more Card transactions or groups or categories of Card transactions, as determined solely by WageWorks.



Appendix F Grace Period Services

WageWorks will perform grace period administrative services in accordance with the following terms with regard to reimbursement requests received on or after the later of the effective date of the grace period as identified or the date this Agreement is received by WageWorks.

The grace period will begin on the first day of the Plan Year following the Plan Year to which it relates and will end two (2) months and fifteen (15) days later. For example, if the Plan Year ends December 31st, the grace period begins January 1st and ends March 15th.

Eligible Medical Expenses and/or Eligible Employment-Related Expenses incurred during the grace period (as noted above) and approved for reimbursement will be paid first from available amounts that were remaining at the end of the Plan Year to which the grace period relates and then from any amounts that are available to reimburse expenses incurred during the current Plan Year.

Expenses incurred during the grace period (as noted above) must be submitted before the end of the Run-off Period. This is the same Run-off Period for expenses incurred during the Plan Year to which the grace period relates.

The Employer will not amend/change their Run-off Period without first notifying WageWorks at least one (1) month prior to the existing Run-off Period. WageWorks will continue to assume that your current Run-off Period still applies unless notified otherwise prior to the end of the Run-off Period. If your current Run-off Period does not extend past the grace period, WageWorks will assume that there is no Run-off Period for grace period expenses. Failure to timely notify WageWorks of any changes in the Run-off Period may result in an increase in the service fees as set forth in Section IV of the RSA.

Any unused amounts that are not used to reimburse eligible expenses incurred either during the Plan Year to which the grace period (as noted above) relates or during the grace period will be forfeited to the employer if not submitted for reimbursement before the end of the Run-off Period.



Exhibit A
HIPAA
BUSINESS ASSOCIATE AGREEMENT

THIS APPENDIX, effective upon the execution of the Reimbursement Services Agreement attached hereto, by and between WageWorks, Inc. (WageWorks) and the Union Township Board Of Education MEDICAL CARE REIMBURSEMENT PLAN (the "URM Plan") is adopted by the Union Township Board Of Education (the "Employer") on behalf of the URM Plan and is incorporated into and made part of the Reimbursement Services Agreement ("Agreement") between WageWorks and the Employer. This Exhibit A is intended to comply with the business associate agreement provisions set forth in 45 CFR §§ 164.314 and 164.504(e), and any other applicable provisions of 45 CFR parts 160 and 164, issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 as amended, including by the Health Information Technology for Economic & Clinical Health Act of the American Recovery and Reinvestment Act of 2009 ("ARRA"), (collectively "HIPAA").

WageWorks recognizes that in the performance of services for the URM Plan under the Agreement it will have access to, create, and/or receive from the URM Plan or on its behalf Protected Health Information ("PHI"). For purposes herein, PHI shall have the meaning given to such term in 45 CFR § 164.0103, limited to the information created or received from the URM Plan or on its behalf by WageWorks. Whenever used in this Exhibit A other capitalized terms shall have the respective meaning set forth below, unless a different meaning shall be clearly required by the context. In addition, other capitalized terms used in this Exhibit A but not defined herein, shall have the same meaning as those terms are defined under HIPAA.

SECTION 1. WAGeworks RESPONSIBILITIES

- 1.1 WageWorks may use or disclose PHI, provided that such use or disclosure of PHI would not violate HIPAA, as follows: (a) as permitted or required in this Exhibit A and in the Agreement; (b) as Required by law in accordance with 45 CFR § 164.512; (c) for the proper management and administration of WageWorks; (d) to fulfill any present or future legal responsibilities; (e) for Data Aggregation services to the URM Plan (as defined in 45 CFR § 164.501; or (f) any use and disclosure of PHI that has been de-identified within the meaning of 45 CFR § 164.514.
- 1.2 WageWorks agrees to implement commercially reasonable and appropriate safeguards to prevent the use and disclosure of PHI other than as provided for by this Exhibit A.
- 1.3 WageWorks agrees to implement commercially reasonable administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the URM Plan.
- 1.4 WageWorks agrees to report to the URM Plan any successful Security Incident that is material or any use or disclosure of PHI of which it becomes aware that is not provided for by this Exhibit A or in the Agreement.
- 1.5 WageWorks agrees to ensure that any agent, including a subcontractor, to whom it provides PHI agrees to similar restrictions and conditions that apply through this Exhibit A to WageWorks with respect to such information.
- 1.6 At the request of the URM Plan, and in a mutually agreeable time and manner, WageWorks agrees to provide access to PHI it holds in a Designated Record Set (as defined in 45 CFR § 164.501), to the URM Plan, or as directed by the URM Plan, to an Individual in order to meet the requirements under 45 CFR § 164.524. WageWorks shall have the right to charge the individual a reasonable cost-based fee, as permitted by 45 CFR § 164.524. WageWorks assumes no obligation to coordinate the provision of PHI maintained by other business associates of the URM Plan.
- 1.7 At the request of the URM Plan, and in a mutually agreeable time and manner, WageWorks agrees to make any amendment(s) to PHI it holds in a Designated Record Set that the URM Plan directs or agrees to pursuant to 45 CFR § 164.526 at the request of the URM Plan or an Individual.
- 1.8 At the request of the URM Plan, and in a mutually agreeable time and manner, WageWorks agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by WageWorks on behalf of the URM Plan available to the Secretary (as defined in 45 CFR § 160.103), for purposes of the Secretary determining the URM Plan's compliance with the Privacy and Security Rules.
- 1.9 WageWorks agrees to document such disclosures of PHI and information related to such disclosures of PHI and information related to such disclosures as would be required for the URM Plan to respond to a request by Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.



- 1.10 WageWorks agrees to provide to URM Plan or an Individual, in the time and manner designated by URM Plan, information collected in accordance with 1.09 to permit the URM Plan to respond to an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
- 1.11 Except as provided for herein, or as required by law, upon termination of the Agreement, WageWorks agrees to return to the URM Plan or destroy PHI and retain no copies in any form, if feasible. In the event WageWorks determines that returning or destroying the PHI is infeasible, WageWorks agrees to extend the protections, limitations and restrictions of this Exhibit A to such PHI and to limit any further uses and/or disclosures of such PHI retained to the purposes that make the return or destruction of the PHI infeasible, for as long as WageWorks maintains such PHI. Both parties agree that this Section 1.11 shall survive the expiration or termination of the Agreement and remain in full force and effect thereafter for so long as WageWorks or any of WageWorks' employees, subcontractors, or agents remain in possession of any PHI, and shall expire thereafter.

SECTION 2. PLAN AND EMPLOYER RESPONSIBILITIES

- 2.1 Employer acting as the Plan Sponsor agrees to comply with the administrative requirements set forth in 45 CFR §§ 164.530 and 164.504(f), including but not limited to amending the URM Plan to restrict uses and disclosures of PHI.
- 2.2 The Employer acknowledges and agrees that WageWorks shall only disclose PHI in its possession to the Named Contact as designated (and through the modes specified) in Section III.F of the Agreement. The employees who are identified on the applicable plan document request form (and in the Plan documents) shall be the Designated Persons in accordance with 45 CFR § 164.504(f), and disclosures to such persons by WageWorks are solely for purposes of carrying out plan administration functions that the Employer performs for the URM Plan.
- 2.3 Employer shall timely notify WageWorks in writing of any changes to the names or positions of employees listed in subsection 2.2 as Designated Persons. WageWorks shall have no duty to inquire whether the list of Designated Persons is accurate.
- 2.4 Employer acknowledges and agrees that under the HIPAA Privacy Rules Designated Persons may only request the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure. WageWorks shall have no duty to ensure that the amount of PHI requested by the Designated Persons is the minimum amount necessary.
- 2.5 WageWorks shall have no liability for uses or disclosures contemplated in the Agreement. Employer shall indemnify and hold harmless WageWorks (and its employees) for any and all liability WageWorks may incur as a result of any improper use or disclosure of PHI by the URM Plan, Employer or a Designated Person(s).
- 2.6 URM Plan shall not request WageWorks to use or disclose PHI in any manner that would not be permissible under the Privacy and Security Rules if done by the URM Plan, except that WageWorks may use or disclose PHI as provided in Section 1.1.
- 2.7 URM Plan shall provide URM Plan participants and beneficiaries with adequate notice of the uses and disclosures of PHI that may be made by the URM Plan, and of the individual's rights and the URM Plan's responsibilities with respect to PHI as required in 45 CFR § 164.520. The URM Plan further agrees to forward a copy of such notice to WageWorks, as well as any changes to such notices.
- 2.8 URM Plan shall provide WageWorks with any changes to, or revocation of, permission by a Participant or Beneficiary to use or disclose PHI, if such changes affect WageWorks' permitted or required uses or disclosures.
- 2.9 URM Plan shall not agree to any special privacy restrictions requested by an individual without WageWorks' written approval, including those provided for 45 CFR § 164.522.
- 2.10 Notwithstanding any other provision of this Agreement, WageWorks recognizes that the URM Plan may have other business associates and its sharing of PHI with such other business associates of the URM Plan will be reasonable and necessary to facilitate URM Plan administration. WageWorks agrees to disclose PHI in its possession to such other entities as directed by the URM Plan, provided that such other business associates agree to comply with the Privacy and Security Rules with respect to the use and disclosure of such PHI. The URM Plan shall be solely responsible for ensuring that it has entered into appropriate business associate agreements with its other business associates in accordance with 45 C.F.R. § 164.504(e).

SECTION 3. MISCELLANEOUS

- 3.1 Both parties agree that nothing expressed or implied in this Exhibit A is intended to confer, nor shall anything herein confer, upon any person other than WageWorks, the URM Plan, the Employer, and their respective successors assigns, any rights, remedies, obligations, or liabilities whatsoever.



- 3.2 This Exhibit A shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy and Security Rules, and any ambiguity in this Exhibit A shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy and Security Rules. Both parties agree that the provisions of this Exhibit A shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions of this Exhibit A.
- 3.3 Both parties acknowledge that future changes to the requirements of HIPAA, the Privacy and Security Rules, and other applicable laws relating to the security and confidentiality of PHI may require amendment to this Exhibit A. Upon the written request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Exhibit A. If either party disagrees with any such amendment, it shall so notify the other party in writing within 30 days of notice. If the parties are unable to agree on an amendment within 30 days thereafter, then any of the parties may terminate the Agreement in accordance with the termination section of the Agreement.
- 3.4 Notwithstanding Section 3.3 above and without limiting the rights of the parties under the Agreement, upon written notice of the existence of an alleged material breach of the terms of this Exhibit A, the URM Plan shall afford WageWorks an opportunity to cure said breach upon mutually agreeable terms. Failure to cure within 30 days shall be immediate grounds for termination of the Agreement.
- 3.5 Section 1.11 shall survive the termination or expiration of the Agreement for the reasons stated therein. The other provisions of this Exhibit A shall survive the termination of the Agreement and remain in full force and effect thereafter for so long as WageWorks or any of its employees, agents or subcontractors remains in possession of PHI in accordance with Section 1.11 of this Exhibit A and shall expire thereafter.



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