

E-1

TOWN/VILLAGE OF HARRISON  
COMPTROLLER'S OFFICE

TO: Ronald Belmont , Supervisor and Members of the Town Board  
FROM: Maureen MacKenzie, Comptroller  
RE: Town Board Meeting of July 19, 2018  
DATE: June 27, 2018

Authorization is requested to renew the annual contract with Corporate Plans Inc., d/b/a/ CPI-HR, for the purpose of assisting The Town of Harrison with compliance of the Affordable Care Act.

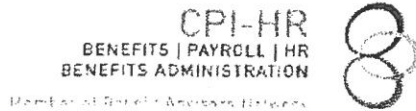
The contract will run from September 2018 until September 2019, at an annual cost of \$14,750. The fee remains the same as the contract for 2017/2018.

Funding for this contract is available in budget line 001-1900-100-4407.

The contract has been reviewed by the law department and has been found to be in order.

Kindly authorize the Supervisor to execute this contract.

Respectfully submitted.



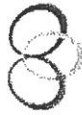
This ACA Assistance agreement ("Agreement") is made October 1, 2018 to September 30, 2019 (the "Effective Date") by and between Town/Village of Harrison, (the "Client") and Corporate Plans, Inc. d/b/a as CPI-HR (the "Company").

Whereas, Client wishes to obtain the services described in Exhibit I from the Company on the terms as set forth herein; and

Whereas, Company wishes to provide such services to Client on the terms as set forth herein.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged and agreed, the parties hereto hereby agree as follow:

1. Scope of Services to be provided by Company. Company will provide the services described on Exhibit I (the "Services") to the Client with respect to the Patient Protection and Affordable Care Act ("ACA").
2. Fees. Client will pay to the Company the fees set forth on Exhibit II, as and when described in Exhibit II. It is acknowledged and understood that Client is solely and exclusively responsible for all taxes, fees and other assessments incurred by it under the ACA.
3. Term. This Agreement shall remain in effect until the first anniversary of the Effective Date, unless earlier terminated as described below; the term of this Agreement will thereafter automatically be extended for an additional term of one (1) year on each anniversary of the Effective Date, unless either party notifies the other, in writing, of its intention to terminate the Agreement as of the next anniversary of the Effective Date, which notice shall be delivered at least thirty (30) days prior to each anniversary of the Effective Date. The term of this Agreement as extended (if applicable) is referred to herein as the "Term." Notwithstanding the foregoing, the Agreement shall terminate immediately upon (i) breach of the Agreement that is not cured (if susceptible to cure) within five (5) business days or (ii) if the Services include access to the Dashboard (as defined on Exhibit I), the date the Company's license to access the Dashboard is terminated. Otherwise, either party may terminate this Agreement by providing thirty (30) days' advance written notice to the other. Notice of termination must be in writing and delivered by certified mail, return receipt requested or overnight carrier to the party's address of record.
4. Personnel. The Company is performing its Services as an independent contractor, and neither the Company nor any of its personnel shall be considered employees of the Client for any purpose. Company will assign its personnel according to the needs of the Client as the Company determines. Company retains the right to substitute personnel.
5. Client's Responsibility. Client will make available such information as may be reasonably requested for Company to perform the services contemplated herein, in a format as reasonably requested by Company **to the extent permitted by law**. Such information will be provided promptly and will be correct and complete. Without in any way limiting any other provision of this Agreement, Client shall be solely and exclusively responsible for the accuracy of all data provided to Company and shall indemnify Company and hold the Company harmless from any claims arising out of or related to the use



of inaccurate data, including without limitation data Company re-formats on behalf of Client that is provided in a format that is inconsistent with Company's systems.

6. **Not Legal Services.** Client acknowledges, understands and agrees that neither the Company nor any consultant providing Services are engaged in the practice of law. The Dashboard does not provide legal services. The Services are not and shall not be deemed to be the provision of legal, tax, financial or similar advice of any kind. Client hereby represents and confirms that for all legal issues arising out of or related to the Services Client will consult with its own legal counsel and is not relying on the Company nor any of its employees or agents to provide legal advice. Company is not responsible for any advice, guidance or support provided to Client by any other entity or third party.
7. **Confidentiality.** All Confidential Information (defined below) disclosed hereunder will remain the exclusive and confidential property of the disclosing party. The receiving party shall not disclose the Confidential Information of the disclosing party and will use at least the same degree of discretion and diligence in protecting such Confidential Information as it uses with respect to its own Confidential Information, but in no case less than reasonable care. For these purposes, Confidential Information will include but is not limited to, software, technical processes, trade secrets, functional and technical specifications, designs, drawings, translations, analysis, research, processes, computer programs, beta versions, algorithms, methods, ideas, "know how," and other technical information, materials, plans, projects, and other business information, and User Information); provided, however, that Confidential Information does not include any data or information which the recipient can demonstrate was (a) publicly known through no fault or breach of this Agreement by the recipient; (b) already known to the recipient prior to disclosure by the disclosing party; (c) lawfully disclosed by a third party; (d) independently developed without reference to the Confidential Information; or (e) disclosed pursuant to legal requirement or order. Each party will protect all Confidential Information of the other party with the same degree of care as it uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information but in no event less than a reasonable degree of care. Neither party will disclose, release or otherwise make available to any third party Confidential Information of the other party except in order to perform its obligations pursuant to this Agreement. The confidentiality obligations of each party shall survive the termination of this Agreement.
8. **DISCLAIMERS.** THE COMPANY HAS TAKEN DUE CARE IN THE DEVELOPMENT OF THE SERVICES CONTEMPLATED HEREIN BASED UPON ITS UNDERSTANDING OF THE REQUIREMENTS OF THE ACA. THE COMPANY WILL ENDEAVOR TO REMAIN UPDATED ON NEW DEVELOPMENTS IN THE ACA. THE COMPANY IS NOT A LAW FIRM AND DOES NOT OFFER LEGAL SERVICES NOR HIRE LAWYERS TRAINED IN THE INTERPRETATION OF THE LAW. THE SERVICES PROVIDED ARE NOT INTENDED TO, NOR SHOULD IT, SUPERSEDE OR SUPPLANT THE ADVICE AND INTERPRETATIONS OF CLIENT'S LAWYERS, ACTUARIES AND ADVISORS. A CHANGE IN DATA OR ASSUMPTIONS IS LIKELY TO YIELD A DIFFERENT OUTCOME. CLIENT ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT IT AND NOT THE COMPANY IS SOLELY AND EXCLUSIVELY RESPONSIBLE FOR ALL ASPECTS OF COMPLIANCE WITH THE ACA.
9. **WARRANTY.** The SERVICES ARE PROVIDED "AS IS." EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, THE COMPANY AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS: (A) DO NOT WARRANT THE ACCURACY, COMPLETENESS, COMPREHENSIVENESS OR CURRENCY



OF THE SERVICES; AND (B) EXPRESSLY DISCLAIM ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

10. **Limitation of Liability; Indemnification.** Neither the Company nor its affiliates, officers, directors, employees or agents shall be liable under any claim, demand or action arising out of or relating to Client's reliance upon the information provided as part of the services contemplated herein. In no event will the Company, its affiliates, officers, directors, employees or agents have any liability for direct, special, incidental, consequential or punitive damages, including, without limitation, damages due to lost profits or business interruption, or other damages, even if they have been advised of the possibility of such loss or damages and whether or not such loss or damages is/are foreseeable and notwithstanding the failure of essential purpose of any limited remedy. Without limiting any of the foregoing terms, the Company's liability in connection with this Agreement shall not exceed, as to any claim, the fee referenced in Section 2 and actually paid to the Company, and, **in the aggregate, fourteen thousand seven hundred fifty dollars (\$14,750).** Client agrees to indemnify and hold the Company, its affiliates, officers, directors, employees and agents harmless from any claims, lawsuits, proceedings, costs, attorneys' fees, damages or other losses arising out of or relating to Client's use of the Services.
11. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts taken together shall constitute one and the same instrument. The parties hereto agree that this Agreement and any related documents may be executed by facsimile or digital signature, which will have the same effect as an original signature.
12. **Amendments and Waivers.** Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and is signed, in the case of the amendment, by each party to this Agreement or, in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.
13. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Further, if any provision of this Agreement becomes inconsistent with any present or future law or regulation of any entity having regulatory jurisdiction over it, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of this Agreement shall remain in full force and effect.
14. **Successors and Assigns.** This Agreement is binding upon the successors and assigns of the parties hereto. The Company may assign this Agreement to an affiliate or a successor in interest upon written notice to the Client. **Client has option of termination clause.**



15. **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; or by overnight delivery service, where receipt is given, and addressed to such party at its last address appearing in the records of the party who is providing the notice; or by e-mailing such person at his, her or its last known e-mail address with a confirmation copy delivered in accordance with this provision.
16. **Governing Law; Jurisdiction.** This Agreement shall be governed by the laws of Ohio, without regard to principles of conflicts of law. Venue for any action under this Agreement shall be in the state or federal courts located in Cleveland, OH. User consents to such jurisdiction and will not challenge jurisdiction on any grounds including without limitation forum non conveniens.
17. **Entire Agreement.** This Agreement contains the entire Agreement between the Company and User related to the subject matter hereof and supersede all prior agreements, proposals or representations, whether written or oral, between the parties relating to the subject matter of this Agreement. All schedules and exhibits hereto are intended to be and hereby are specifically made a part of this Agreement.
18. **Third-Party Beneficiaries.** No provision of this Agreement shall confer upon any person, including but not limited to, Clients, other than the parties hereto any rights or remedies hereunder.

[Town/Village of Harrison]

Corporate Plans, Inc. d/b/a CPI-HR

1 Heineman Place

109 Twin Oaks Drive, U8

Harrison, NY 10528

Syracuse, NY 13206

By: \_\_\_\_\_

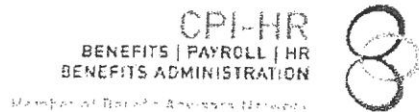
By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

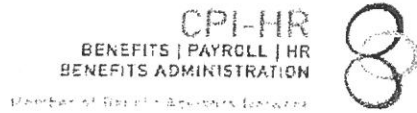


## Exhibit I

### Services

If "ACA Consulting" or "ACA Consulting and Dashboard Access" is selected above, the Services will include ACA Consulting Services, in accordance with the following:

- I. Education and ACA Guidance—the Company will:
  - o Provide guidance and general education to those employees of the Client whom Client identifies on the general requirements of the ACA (including the regulatory and sub-regulatory guidance promulgated thereunder);
  - o Recommend general ACA compliance strategies, including the development of an ACA compliance action plan;
  - o Develop generally accepted practices and procedures for ACA compliance;
  - o Provide, as applicable, guidance on updates to ACA legislation and regulatory and sub-regulatory guidance as the same may be received by the Company; and
  - o Provide general guidance support with respect to questions under the ACA.
- II. Employee tracking information and services—electronic ACA software platform designed to:
  - o Provide guidance on variable hour employee measurements (standard measurement, administrative and stability periods);
  - o Provide guidance on regulatory tracking and filing requirements under the ACA;
  - o Assist Client with the development of a system to track group health insurance plan eligibility using tracking system and payroll information provided by Client;
  - o Provide Client access to historical data and reports; and
  - o Assist client with the timely filing of forms required by Code Sections 6055 and 6056 (1094 & 1095 reporting) pursuant to IRS evolving requirements.
- III. Cadillac Tax—provide Client with predictive modeling with respect to the ACA's Cadillac Tax based on current plans, enrollment and past plan performance.
  - o Using Company Cadillac Tax Calculator, we will provide a cost analysis with financial impact projections for Client, based on data provided by Client and currently available federal guidance.
- IV. Union education meetings—assist with union relationships related to ACA compliance:



- o Meet with Union representatives on a quarterly basis to address ACA and plan education concerns;
  - o Provide non-legal guidance on ACA compliance issues that arise in collective bargaining agreements;
  - o Assist Client with strategy for Union Negotiations relative to ACA compliance
- V. Financial Impact Consulting
- o Consult with Client concerning ACA questions and concerns;
  - o Examine the cost of penalties versus providing coverage;
  - o Estimate the potential cost for covering a higher number of participants on the plan;
  - o Project financial impacts of those who become eligible; and
  - o Discuss market alternatives for minimum value plan for variable hour employees subject to Client need.



If "Dashboard Access" or "ACA Consulting and Dashboard Access" is selected above, the Services will include Dashboard Access, in accordance with the following:

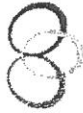
I. Dashboard Access:

- o Access to a proprietary web-based application which assists users in compliance with employee tracking and other provisions of the ACA (referred to herein as the "Dashboard");
- o Access shall be granted via a limited, non-exclusive, non-transferable, non-sublicensable license to use the Dashboard on the Dashboard website;
- o Access will include access to ACA-related content and updates;
- o Client will be able to generate reports ("Reports") that will assist them in analyzing the impact of the ACA on its business (in the case of a client that is an agency or broker ("Agency"), for its Clients;
- o The license to access the Dashboard may not be licensed or sub-licensed and Client will not permit any third-party to access the Dashboard;
- o Client is solely responsible for furnishing any and all equipment required to access the Dashboard; Services beyond Dashboard access (e.g., actuarial and consulting services in connection with reviewing Reports) shall be subject to an additional charge, which shall be agreed to in writing by Client and the Company.

II. Restrictions.

- o Unless otherwise agreed, Client may not (i) use, copy, reproduce, publish, upload, post, transmit, commercialize, distribute, modify or transfer the Dashboard or any content provided thereon; (ii) reverse engineer, disassemble, decompile, or translate the Dashboard, or otherwise attempt to derive the source code of the Dashboard, modify or create derivative works of the Dashboard or any updates thereof, or authorize any third party to do any of the foregoing; (iii) develop, sell or distribute applications that are capable of launching, being launched from, or are otherwise integrated with, the Dashboard; or (iv) rent, lease, loan, resell for profit, distribute, sublicense or use the Dashboard in a time-sharing arrangement;
- o Dashboard and Report usage is subject to the terms of use set out at the Company's website and the Company's privacy policy, as it may be amended and which is available at the Company's website;
- o Client will keep intact, and will not obscure, alter or remove any copyright and proprietary notices attached to the Dashboard and the Reports without the Company's prior written consent.





## Exhibit II

### ACA Consulting Services

Client will pay the Company **\$14,750** for the ACA Consulting Services/Dashboard described in Exhibit I, which will be provided during the first year of the Term. This fee is payable in four (4) quarterly installment payments, due on 10/31/18, 1/15/19, 5/15/19 and 8/15/19.

### General Payment Terms

Payment is due upon receipt of an invoice (for Dashboard access) and/or on the date(s) listed above for ACA Consulting Services. Accounts are delinquent if not paid within thirty (30) days. In the event any balance is delinquent, the Company may recover the amounts due, with interest at 1% per month and may terminate all Services (including Client's access to the Dashboard) without further notice.

Client shall be solely and exclusively responsible for all fees, assessments, taxes, penalties or other amounts due of whatever kind or nature attributable to any Report.

In the event this Agreement is terminated prior to the oneyear anniversary of the Effective Date of this Agreement and the Services include access to the Dashboard, Client shall repay to the Company all costs incurred by the Company in setting up Client's access to the Dashboard provided agreements not terminated due to the actions of Company. Upon any termination of this Agreement, client will shall promptly pay promptly to the Company all amounts due under the Agreement and shall not be entitled to a refund of any amounts paid prior to the date of the termination.

Fees for any renewed Term shall be on the same terms as provided in this Exhibit II, unless both parties sign an amendment to this Exhibit II.