

ARCOS MASTER SERVICE AGREEMENT

This Master Service Agreement (“**Agreement**” or “**Master Service Agreement**”), between **ARCOS LLC** an Ohio limited liability company, d/b/a Automated Roster Callout System Company LLC, (“**ARCOS**”), having a principal address at 8800 Lyra Dr, Suite 200, Columbus, Ohio 43240, and **the City of Santa Clara, California**, a chartered California municipal corporation (“**City**” or “**Customer**”), having a principal address at 1500 Warburton Avenue, Santa Clara, California 95050 is effective as of **October 1, 2024** (“**Effective Date**”). This Master Service Agreement sets forth the terms and conditions under which the Parties agree that Customer may, pursuant to an applicable Work Order(s), obtain licenses to use the specific ARCOS Products, RosterApps Products, and Services listed on an applicable Work Order. ARCOS and Customer may be referred to individually as a “**Party**” and collectively as “**Parties**” in this Agreement.

This Agreement shall consist of this Master Service Agreement including the following Exhibits which are listed at Section 17.17: Exhibit A (ARCOS Service Level Agreement), Exhibit B (ARCOS Privacy Policy), Exhibit C (City of Santa Clara Insurance Requirements), and Exhibit D (ARCOS Terms of Use) which are attached and incorporated by reference and shall include all Work Orders executed by the Parties under this Agreement. This Agreement is binding upon the Parties only upon full execution by both Parties. In the event of any conflict between the provisions of any Work Orders, the Master Service Agreement, and Exhibits of the Master Services Agreement, the following order of precedence shall be controlling as to the rights, duties, application, definition, and interpretation: Master Service Agreement, Work Order, and Exhibits of the Master Services Agreement. For avoidance of doubt, no “click to accept” agreement that may be required (i) for Customer or its employees to have access to the ARCOS Products and RosterApps Products or (ii) to access ARCOS’ website and no “terms of use” or “privacy policy” referenced therein or conditioned for use of ARCOS Products and RosterApps Products or ARCOS’ website shall modify the terms of this Agreement or have any binding effect. Subject to the preceding sentence, Customer understands and agrees that its employees may be required to click-through in order to access the ARCOS System.

GENERAL TERMS AND CONDITIONS **DEFINITIONS**

“**Add-on Features/Modules**” means enhancements of the ARCOS Products and RosterApps Products that are released by ARCOS subsequent to the date of the applicable Work Order that contains new product functionality and features of the ARCOS Products and RosterApps Products.

“**Affiliate**” means an individual, partnership, joint venture, corporation, limited liability company, trust, unincorporated association, or any other entity (each an “**Entity**”) that directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, another Entity. An Entity “controls” any Entity in which it has the power to vote, directly or indirectly, 50% or more of the voting interests in such Entity or, in the case of a partnership, if it is a general partner.

“**Annual CPI**” means the Consumer Price Index for all Urban Consumers (as such term is defined at the link provided herein) in the United States, on a rolling twelve-month basis, not seasonally adjusted, as published by the U.S. Bureau of Labor Statistics at: <https://www.bls.gov/cpi> or successor site. The CPI is published by the Bureau of Labor Statistics of the U.S. Department of Labor.

“ARCOS Products” means the ARCOS System, ARCOS Workbench, and/or sSMART location tracking solutions, ARCOS Resource Assist, Software, RosterApps Products, third party software, hardware, network, and the interfaces necessary to deliver ARCOS technology products and services by ARCOS, which may be installed on Customer hardware or delivered over the Internet, in each case as more fully described in the applicable Work Order. The ARCOS Workbench, and/or sSMART location tracking solutions may be licensed by ARCOS to Customer for Customer’s use over the Internet or for Customer to install and operate on its technology systems and networks.

“ARCOS Resource Assist” means the platform for automating the exchange of resources between contractors and utilities along with the management and release of those contracted resources if licensed pursuant to Work Order 0001. If licensed by Customer, ARCOS Resource Assist shall be considered a part of the ARCOS System.

“ARCOS System” means the Software, third party software, hardware, network, and the interfaces necessary to deliver ARCOS technology products and services by ARCOS, including ARCOS Products and RosterApps Products, over the Internet as more fully described in an applicable Work Order.

“ARCOS Workbench” means the ARCOS products for mobile workforce damage assessment, mobile inspection, or other workflows, allowing automation of field work, geographic tracking and updating of assets, and completion and transmission of work ticket information to other Customer systems. If licensed by Customer, ARCOS Workbench shall be considered a part of the ARCOS System.

“Confidential Information” shall have the meaning set forth in Section 6.

“Consulting and Implementation Services” shall mean the services provided by ARCOS to Customer as part of the configuration, implementation, and training for ARCOS Products and RosterApps Products as may be set forth in the Work Order(s) as applicable.

“Customer Data” means all data that Customer enters into or supplies for process on the ARCOS Products and RosterApps Products. Customer Data shall not include any information regarding contractors, vendors or other third parties that is entered by any party into ARCOS Resource Assist.

“De-Identified Data” shall have the meaning as defined in Section 6.3.

“Documentation” shall mean such manuals and other standard end user materials, whether in written, printed, electronic or other format, that ARCOS generally makes available to its customers related to the functionality, operation and use of ARCOS Products and RosterApps Products, including without limitation, all user, technical support and training materials related to the Services and/or ARCOS Products and RosterApps Products but specifically excluding any material deemed Confidential Information by ARCOS.

“Intellectual Property Rights” means all US and foreign patents, patent applications, copyrights, trademarks, trade names, trade secrets, inventions, business models, know how, industrial processes, computer program code, designs, product designs, research, brand development, message positioning and other industrial or intangible property rights of a similar nature, and other Confidential Information.

“RosterApps Products” means the ARCOS System, Software (including interface software), third party software, hardware, network, and the interfaces necessary to deliver RosterApps’ technology products and services by ARCOS, which is delivered over the Internet, in each case as more fully described in the applicable Work Order. RosterApps Products include products for shift bidding, minimum staffing, shift leveling, dependability and other functions around the automation of workforce scheduling processes. If licensed by Customer, RosterApps Products shall be considered a part of the ARCOS System.

“Services” means the services ordered by Customer, on behalf of a particular Customer business unit, and accepted by ARCOS pursuant to a Work Order. Depending on the Work Order, such Services may

include providing access and use of the ARCOS System, including access and use of ARCOS Products and RosterApps Products, and the hosted portions of the ARCOS Workbench, and/or sSMART location tracking solutions to authorized User Accounts, Consulting and Implementation Services and Support Services.

“Software” means ARCOS’s proprietary computer programs in object code form or firmware that is either provided to Customer or hosted by ARCOS and provided to Customer over the Internet, in each case which is owned or licensed by ARCOS and licensed to Customer under the terms of this Agreement.

“Support Services” shall mean the maintenance and support services provided by ARCOS to Customer under an applicable Work Order.

“Transition Plan” shall have the meaning as defined in Section 12.5.2.

“Updates” means bug fixes, error corrections, workarounds, modifications, and certain enhancements, including any related Documentation, released during the term of the applicable Work Order that ARCOS determines in its reasonable discretion to make generally available to its customers who receive basic support and maintenance services for the ARCOS Products and RosterApps Products and specifically excludes Add-on Features/Modules.

“User Accounts” mean persons authorized by Customer who use or access the ARCOS Products and RosterApps Products.

“Work Order” shall mean a written order executed by ARCOS and Customer for any Services accepted by ARCOS and executed by both Parties, which shall be subject to the terms and conditions of this Agreement and which, at a minimum, contains a description of the work, the obligations and responsibilities of each Party, the charges and fees for any Services, the commencement date and term of such Work Order.

1. **SERVICES.**

1.1 **Services.** ARCOS will provide to Customer the Services described in an applicable Work Order. Each Work Order will be consecutively numbered, become a part of this Agreement, and will be independent of and have no impact upon the provisions of any other Work Order. ARCOS may utilize third party service providers to perform certain of the Services, such as internet service providers and data hosting providers. Any Services requiring payment of additional fees shall be authorized through a Work Order or amended Work Order executed between the Parties.

1.2 **Delivery of Services.** ARCOS will provide the Services on a non-exclusive basis, in accordance with the ARCOS online Service Level Agreement a link to which is provided in an applicable Work Order or amendment to this Master Service Agreement, in accordance with the time schedule set forth in the applicable Work Order, and upon the terms and conditions of this Agreement.

1.3 **Consulting and Implementation Services.** ARCOS will ensure that while its staff is on the Customer’s premises, they conform to the Customer’s normal codes of staff and security practices. Customer reserves the right to request that ARCOS remove immediately from Customer’s premises any ARCOS personnel or any subcontractor retained by ARCOS in connection with the Services or any of such subcontractor’s personnel who, in Customer’s reasonable discretion, pose any threat to security, health or safety of Customer, its property, its customers or the public, or whose conduct adversely affects the performance of the Services or reflects unfavorably upon Customer. Upon such removal, ARCOS will use commercially reasonable efforts to find a replacement reasonably acceptable to Customer.

1.4 **ARCOS Products and RosterApps Products.** The following terms apply regarding Customer’s subscription for access to and use of the ARCOS Products and RosterApps Products, and regarding Customer’s license to use the ARCOS Workbench, and/or sSMART location tracking solutions:

1.4.1 **User Accounts; Customer use of ARCOS Products and RosterApps Products.**

1.4.1.1 **Passwords/Single Sign On.** ARCOS will provide Customer with a single sign on functionality for its User Accounts for which Customer has paid the applicable fees. Customer will be responsible for the administration of all end user login names and passwords for the purpose of authenticating and authorizing access by end users to the ARCOS Products and to RosterApps Products. Customer will maintain the confidentiality of all User Account information. For ARCOS Resource Assist, end users may be contractors or other vendors who are invited to interact with Customer via the ARCOS Resource Assist platform.

1.4.1.2 **Content.** Customer is solely responsible for the content of its transmissions involving the ARCOS Products and RosterApps Products. Customer agrees not to use any of the ARCOS Products and RosterApps Products (a) for illegal purposes or in any illegal manner or (b) to interfere with or disrupt other ARCOS network users, network services or network equipment. Interference or disruptions include, but are not limited to, distribution of unsolicited advertising or chain letters, propagation of computer worms and viruses, and use of the network to make unauthorized entry to any other machine accessible via the network.

1.4.1.3 **Terms of Service.** The Customer shall require that its employee users, vendor invitees (or any other end users) of the ARCOS System comply with ARCOS Terms of Service (Exhibit "D") when accessing an ARCOS product.

1.4.2 **Equipment for ARCOS System.** Customer is solely responsible for acquiring and maintaining all computer hardware and software, telephones, mobile devices, and other equipment, and all communications and other services needed for access to and use of the ARCOS System.

1.4.3 **Equipment, Operations and Functionality for ARCOS Workbench, and/or sMART Location Tracking Solutions.** [Intentionally Omitted.]

1.4.4 **Updates; Add-on Features/Modules.** ARCOS will provide Updates as are required to keep the ARCOS Products and RosterApps Products in conformance with the functional requirements set forth in an applicable Work Order. Unless otherwise agreed in a Work Order, ARCOS will, in its sole discretion, determine the nature, content, timing, and release of any Updates. Any order for an Add-on Feature/Module made by Customer and accepted by ARCOS will be subject to a separate Work Order executed by the Parties.

1.4.5 **Support Services; Service Level Agreement.** ARCOS will provide Support Services pursuant to the terms of the ARCOS Service Level Agreement (Exhibit A).

1.5 **Changes or Additions to the Services.** Except as otherwise provided in Section 1.6, the Services documented in an executed Work Order shall not be amended, modified, or otherwise changed, except in a Work Order or amended Work Order executed between the Parties. Customer may order additional Services or modify existing Services by contacting ARCOS. ARCOS will send Customer a Work Order, based on ARCOS's formal requirements analysis and/or proposal for the additional Services and the payment(s) due for each ordered item. Customer may either (i) accept the terms by signing that Work Order and returning it to ARCOS, or (ii) negotiate and execute a Work Order, or (iii) decline to proceed with such additional services (and not sign a new Work Order). All executed Work Orders will become part of this Agreement.

1.6 **Products and Features End of Life.** ARCOS will generally provide 60 days to six months lead-time notification for discontinued products and features at the end of life (EOL): (i) the 60 day lead time can be expected for technology based features and functions when ARCOS determines there is

a sufficiently similar product replacement available; (ii) up to six months lead time can be expected for products where ARCOS determines Customer may need a longer period of time to test and implement an alternate solution; (iii) if marketplace or industry drivers force technology or functional changes, ARCOS will notify the Customer within a reasonable timeframe whenever possible as information is available to ARCOS which may be beyond six months.

1.7 **Project Managers.** During the term of this Agreement when Services are provided under any Work Order, each of ARCOS and Customer will designate and maintain a project manager (the “**ARCOS Project Manager**” and “**Customer Project Manager**,” respectively) for each Work Order, to be responsible for the performance of his or her company's obligations under such Work Order and this Agreement. Each Project Manager: (a) will be the primary point of contact for his or her company in dealing with the other company under the Work Order; (b) will be a full-time employee of his or her company; (c) will be reasonably acceptable to the other Party; and (d) will have the authority and power to make decisions with respect to actions to be taken by his or her company under the Work Order.

2. **LICENSE.**

2.1 **License.** Subject to and conditioned upon Customer's compliance with its obligations under this Agreement, ARCOS grants to Customer a limited, nontransferable, non-exclusive license for the term of the applicable Work Order to use the Software and ARCOS Products and RosterApps Products and as necessary to use or receive the Services included in any executed Work Order for the sole purpose of supporting the operations of Customer's business, all as further described herein and in the applicable Work Order. The license terms may be restricted on a per user or per meter (or other metric) basis, as set forth in the applicable Work Order. Notwithstanding anything to the contrary, Customer may not (i) resell any Software or Services or (ii) process and/or analyze the data of a third party as a service bureau or for any Affiliate that has not executed a Work Order pursuant to the terms of this Agreement.

2.2 **Ownership of ARCOS Products, RosterApps Products, and Software.** All materials provided by ARCOS to Customer with respect to the Services or ARCOS Products and RosterApps Products, including but not limited to the Software, proprietary data, proprietary documentation associated with the ARCOS Products and RosterApps Products or the Software, or other proprietary information developed or provided by ARCOS or its licensor, such as text, graphics (including the underlying web-presentation code of the ARCOS System or the hosted portions of the ARCOS Workbench, and/or sSMART location tracking solutions), logos, button icons, images and any non-public know-how, methodologies, equipment, or processes used by ARCOS to provide the ARCOS Products and RosterApps Products, and Services, to Customer, including, without limitation, all of ARCOS's copyrights, trademarks, patents, trade secrets, and any other Intellectual Property Rights inherent in and appurtenant to the ARCOS Products and RosterApps Products, or Services, shall remain the sole and exclusive property of ARCOS. Except for any preexisting Customer Intellectual Property Rights, Customer Data and Confidential Information provided by Customer under this Agreement, and subject to any third-party rights or restrictions, ARCOS will own all Intellectual Property Rights in or related to all deliverables that are developed or delivered by ARCOS hereunder or pursuant to a Work Order. ARCOS and Customer will execute such other and further instruments reasonably requested by the other Party which are necessary to give effect to the provision of this Section or to perfect an interest allocated herein. Customer shall not: (i) alter or modify any part of the ARCOS Products, RosterApps Products, or Software, (ii) copy or duplicate or permit a third party to duplicate any aspect of the ARCOS Products, RosterApps Products, or Software, (iii) decipher, reverse engineer, decompile, disassemble or otherwise reduce or attempt to derive source code, algorithms, tags, specifications, architecture or other elements of the ARCOS Products, RosterApps Products, or Software, or (iv) sublicense, sell, transfer, lease or disclose the ARCOS Products, RosterApps Products, or Software to any third party. The provisions of this Section will survive the expiration or termination of this Agreement and each Work Order.

3. **[Intentionally Omitted].**

4. **AFFILIATES.** Customer enters into this Agreement for its own benefit and, if an appropriate Work Order is executed, for the benefit of its Affiliates. Any Customer Affiliate may utilize this Agreement by executing and delivering to ARCOS a Work Order, provided that the Customer Affiliate must agree as part of the Work Order, among other things, to comply with and be bound by the terms and conditions of this Agreement to the same extent as if Affiliate were a party to this Agreement, and, unless the context otherwise expressly indicates, all references to Customer herein will be deemed to be references to Customer Affiliate as well. In addition, Customer will remain responsible for compliance by each of its Affiliates with the terms and conditions of this Agreement and the applicable Work Order(s).

5. **FEES.**

5.1 **Payment.** Customer agrees to pay the amount(s) specified in each executed Work Order. Any fee specified in a Work Order will only remain in effect until the date specified in the Work Order. The amount of any fees, including annual SaaS fees for the ARCOS System and Services, shall be set forth in a Work Order.

5.2 **Time of Payment; Net Thirty (30) Payment Terms.** Unless otherwise specified in the Work Order, payments not subject to a good faith billing dispute are due and payable to ARCOS within thirty (30) days of the date of Customer's receipt of the applicable ARCOS invoice. Such invoices will be generated in accordance with the terms set forth below, unless otherwise specified in the applicable Work Order. Customer's failure to provide ARCOS with purchase order information to include on an invoice does not constitute a billing dispute and shall not extend the payment due date. ARCOS reserves the right, in its absolute discretion, to perform a credit check on Customer.

5.3 **Invoice Procedure; ARCOS Invoicing Cadence.** ARCOS standard invoicing procedure is as follows (unique treatment for a particular ARCOS or RosterApps Product, Customer or Affiliate will be addressed in the applicable Work Order):

5.3.1 **Annual SaaS Fees.** Invoicing of annual SaaS fees for the ARCOS System and Services for Work Order No. 0001 shall occur no earlier than (i) the delivery of the base production ARCOS System by ARCOS or (ii) upon commencement of implementation activities by ARCOS for an applicable Work Order whichever occurs last ("Project Initiation Date"). The Parties agree ARCOS will provide written notice to Customer upon occurrence of item (i) or item (ii), above (email notice is acceptable to svpcontracts@santaclaraca.gov) and ARCOS will submit an invoice for Annual SaaS Fees. Thereafter, ARCOS may invoice Customer such fees annually up to sixty days before the anniversary date of the Project Initiation Date. Such fees shall be payable by Customer pursuant to Section 5.2. Invoicing of annual SaaS fees associated with Work Orders other than for Work Order No. 0001, if any, will occur as mutually agreed upon by the Parties in writing for a particular Work Order.

5.3.2 **Annual License Fees; On-Premises Solutions.** [Intentionally Omitted]

5.3.3 **Professional Services.** Invoices for billable professional services will be delivered pursuant to the agreed upon method of delivery upon execution of the Work Order(s).

5.4 **Taxes.** Customer shall be responsible for the payment of all applicable taxes associated with this Agreement or its use of the Services (other than taxes based on ARCOS's income or the income of ARCOS employees), including, but not limited to, personal property taxes, import taxes, taxes on telecommunication services, information services, data processing services or similar governmental charges that may be assessed by any jurisdiction, whether based on gross revenue or delivery of products or services. ARCOS shall pay any required sales or use taxes directly and Customer shall, upon receipt of an ARCOS invoice, reimburse ARCOS for any amount that ARCOS has paid. Notwithstanding the above, Customer shall not be required to pay those taxes from which Customer is legally exempt. ARCOS shall include any and all applicable sales and use taxes on each invoice.

5.5 **Reimbursement of Expenses.**

5.5.1 Customer shall not be obligated to pay reimbursable expenses to ARCOS unless authorized in an approved Work Order. Subject to the foregoing, reimbursable expenses shall be reimbursable to ARCOS only to the extent that ARCOS submits an invoice, sufficient documentation of reimbursable expenses, and sufficient information to the Customer to determine that the expenses were directly incurred in providing the required services and that such expenses aren't included in fixed or hourly rates

5.5.2 **Travel:**

5.5.2.1 Unless approved in writing (e-mail is acceptable) in advance, meals, lodging, and related per diem shall not exceed the rates outlined by United States General Services Administration (GSA). <https://www.gsa.gov/travel-resources>

5.5.2.2 Airfare or rental car, where applicable, shall be at economy rates.

5.5.2.3 ARCOS will invoice the current IRS mileage rate for all mileage.

5.5.2.4 Remote implementation services shall be provided whenever possible by ARCOS.

5.5.3 **Documentation of Reimbursable Costs:** ARCOS shall provide invoices or receipts depicting actual costs with each invoice that includes reimbursable expenses.

5.5.4 Customer will reimburse these expenses to ARCOS at actual cost pursuant to Section 5.2.

5.6 **Disputed Amounts.** If any portion of an amount due to ARCOS under this Agreement or a Work Order is subject to a good faith dispute between the Parties, Customer, promptly and with explanation of the amount not in dispute, shall pay to ARCOS on the due date any of the amount due that is not being disputed in good faith by Customer. ARCOS may re-invoice Customer for such aforementioned amounts not in dispute. Within thirty (30) days of Customer's receipt of the invoice on which a disputed amount appears, Customer will notify ARCOS in writing of the specific items in dispute and will describe in reasonable detail Customer's reason for disputing each such item. Within ten (10) days of ARCOS receiving such notice, the Parties will negotiate in good faith to reach settlement on any items that are the subject of such dispute. Upon resolution of the disputed portion of an invoice, ARCOS shall re-invoice Customer for the amount due, and Customer shall pay to ARCOS the amount due within thirty (30) days after receipt of that invoice.

5.7 **Maximum Compensation.** For the term of this Master Service Agreement specified in Section 12, the maximum compensation (fees to be invoiced to Customer by ARCOS) for services provided under this Agreement shall not exceed one million dollars (\$1,000,000), subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services including taxes. The preceding limitation may be increased in an executed amendment to this Master Service Agreement. All work performed or materials provided in excess of the maximum compensation shall be at ARCOS' expense. ARCOS shall not be entitled to any payment above the maximum compensation under any circumstance, except by amendment of this Agreement as provided for in this Section.

5.8 **Past Due Amounts.** [Intentionally Omitted.]

6. **CONFIDENTIAL INFORMATION.**

6.1 **Defined.** By virtue of this Agreement, the Parties may be exposed to or be provided with certain confidential and proprietary information of the other Party or third parties, including but not limited to information designated as confidential in writing or information which ought to be in good faith considered confidential and proprietary to the disclosing Party ("**Confidential Information**"). Confidential Information of ARCOS and/or its licensors includes but is not limited to, all trade secrets, software, source code, object code, specifications, documentation, business plans, customer lists and customer-related information, financial information, budgets as well as results of testing and benchmarking of the Software, ARCOS Products, or RosterApps Products, product roadmap, data and other information of ARCOS and its licensors relating to or embodied in the ARCOS Products, RosterApps Products, Software, or Documentation. ARCOS's placement of a copyright notice on any portion of any Software, ARCOS

Products, or RosterApps Products will not be construed to mean that such portion has been published and will not derogate from any claim that such portion contains proprietary and confidential information of ARCOS. Confidential Information of Customer includes but is not necessarily limited to, Customer Data, Customer's customer usage data for individual customers, financial data, and personally identifiable customer information. This Agreement and ARCOS pricing shall not be deemed Confidential Information.

6.2 **Non-Disclosure.** Each Party will protect the other Party's Confidential Information from unauthorized dissemination and use the same degree of care that each such Party uses to protect its own confidential information, but in no event less than a reasonable amount of care. Neither Party will use Confidential Information of the other Party for purposes other than those necessary to directly further the purposes of this Agreement. Neither Party will disclose to third parties Confidential Information of the other Party without prior written consent of such other Party. Notwithstanding the foregoing, ARCOS may share Customer Confidential Information with third party service providers to the extent necessary for such third-party service providers to perform Services under this Agreement. Each such third-party service provider shall be required to protect Customer Confidential Information to the same extent as ARCOS is required under this Agreement.

6.3 **Exceptions.** Information shall not be considered Confidential Information to the extent that the Receiving Party (Party receiving Confidential Information from the other Party) can establish that such information (i) is or becomes generally known or available to the public through no fault of the Receiving Party; (ii) was in the Receiving Party's possession before receipt from the Disclosing Party (Party disclosing Confidential Information to the Other Party); (iii) is lawfully obtained from a third party who has the right to make such disclosure; or (iv) has been independently developed by the Receiving Party without reference to any Confidential Information of the Disclosing Party. For the avoidance of doubt, de-identified and aggregated data that ARCOS derives or creates from Customer Data ("**De-Identified Data**") shall not be deemed to be Customer Data, and instead such De-Identified Data shall be considered Confidential Information belonging to ARCOS.

6.4 **Public Records or Governmental Request.** Should a recipient of Confidential Information receive a public records request or otherwise be directed by any governmental authority to disclose any or all of such Confidential Information, such recipient of Confidential Information shall promptly provide notice in writing to the discloser of such Confidential Information of such request to allow the discloser an opportunity to prevent such disclosure.

If the either Party or any of its representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by law, that Party shall, no greater than seven (7) business days after receiving a written request for such information and documents, promptly, and prior to such disclosure, notify the other Party in writing of such requirement so that it can seek a protective order or other remedy or waive its rights under Section 6. Thereafter, at its sole cost and expense, the Disclosing Party may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. If the disclosing Party (i) waives compliance, (ii) fails to respond to the Receiving Party within five (5) business days, or (iii) after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.

6.5 **Remedy/Injunctive Relief.** The Parties acknowledge that disclosure of any Confidential Information may give rise to irreparable injury to the Party whose information is disclosed, which injury may be inadequately compensated in damages. Therefore, either Party may seek injunctive relief against the other Party's breach or threatened breach of this Section 6 as well as any other legal remedies that are available.

6.6 ARCOS shall implement and maintain technical and organizational measures to protect Customer's Confidential Information against accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access as described in accordance with the prevailing industry standard and

applicable law, including, but not limited to, the California Consumer Privacy Act. Subject to ARCOS's compliance with applicable law, ARCOS shall employ its customary and standard security measures to encrypt Customer Data and other Confidential Information of Customer; to utilize ARCOS's existing policies, practices and procedures, consistently applied, in order to help ensure ongoing confidentiality, integrity, availability and resilience of the Services; to help restore timely access to Customer Data following an incident as provided for in the ARCOS Service Level Agreement (Exhibit A); and for regular testing of the effectiveness of its security in accordance with ARCOS's policies, practices and procedures consistently applied on behalf of Customer. ARCOS may update or modify its data security measures from time to time provided that such updates and modifications do not result in the degradation of the overall security of the Services provided. Without limiting Customer's remedies and notwithstanding anything to the contrary in this Agreement, ARCOS shall diligently investigate and remediate any accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access of Customer's Confidential Information, following ARCOS's discovery of such event, in accordance with applicable law.

7. **CUSTOMER DATA.**

7.1 **Ownership of Customer Data.** Customer shall retain title to and ownership of Customer Data but grants ARCOS (and its service providers) the limited right to access, store, process, and use Customer Data solely for the purpose of complying with the obligations of ARCOS under this Agreement and any applicable Work Order. ARCOS will not disclose, sell, assign, lease or otherwise dispose of or commercially exploit Customer Data in any manner other than as set forth herein without prior written consent of Customer, except to the extent such disclosure or use is required by law, rule, regulation or government or court order. The foregoing restrictions on Customer Data shall not apply to De-Identified Data, which will be used by ARCOS and its other customers for its business purposes. For example, De-Identified Data is used to provide the ARCOS Resource Assist functionality by allowing Customer (and Customer's service providers as well as ARCOS's other customers) to obtain better information and understanding of necessary and available resources during an emergency.

7.2 **Customer Access to Customer Data on ARCOS Products and RosterApps Products.**

7.2.1 During the contract term of an applicable Work Order, ARCOS will make available, solely to Customer, as provided for herein, via the ARCOS System all Customer Data residing thereon for printing or downloading therefrom. ARCOS agrees to retain this Customer Data throughout the Term of this Agreement. Unless otherwise requested by Customer in writing (e-mail is acceptable), within thirty (30) days following termination or expiration of the Agreement, all Customer Data on the ARCOS System will be destroyed by ARCOS.

7.2.2 RESERVED

7.3 **Security.** In addition to the requirements set forth in any applicable Work Order, ARCOS will establish and maintain commercially reasonable safeguards against the unintended destruction, loss, or alteration of Customer Data in the possession of ARCOS. ARCOS will use reasonable diligent efforts, but no less than used to maintain its own security, to maintain the security of Customer Data in ARCOS's possession and in the ARCOS System and in the hosted portions of the ARCOS Workbench, and/or SMART location tracking solutions and, accordingly, will supply Customer, upon request, with information concerning ARCOS's security procedures. In connection with its safeguarding of such information, ARCOS will provide and maintain backup files of Customer Data files in ARCOS's possession. Upon request from Customer, but not more frequently than once in any given five (5) year period, ARCOS will provide responses to Customer to Customer's standard, data-security questionnaire. Upon written notice from ARCOS, the Parties agree Customer shall accept a copy of ARCOS's SOC 2 audit report, to be provided by ARCOS no more frequently than once per year, in lieu of (and in replacement of) any such data-security questionnaire. The Parties agree ARCOS will provide any such data-security documents to the Customer only if customary, non-disclosure contracts then are in effect between the Parties.

8. **WARRANTIES.**

8.1 **Customer Warranties.** Customer warrants to ARCOS that (a) before providing personal contact information to ARCOS or its agents, or instructing ARCOS to communicate with such persons via such personal information, Customer will comply with any laws applicable to the disclosure of personal information; (b) if Customer requests that ARCOS record any phone calls or other communications while performing the Services, such recording is legal under applicable laws, rules and regulations; (c) Customer has the power and authority to enter into and perform its obligations under this Agreement; and (d) for any Customer Data or other data, documents, graphics or other material used with or downloaded to the ARCOS Products and RosterApps Products by Customer (i) Customer will utilize commercially reasonable efforts to prevent infringement of the Intellectual Property Rights of any third party, (ii) Customer will use diligent efforts, so as to avoid material violation of any applicable law, statute, ordinance, regulation or treaty, (iii) Customer shall be diligent in performing, so that no viruses or other computer programming routines that could damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information of any person or Entity are introduced into the ARCOS System.

8.2 **ARCOS Warranties.** ARCOS warrants to Customer that (a) ARCOS has the power and authority to enter into and perform its obligations under this Agreement and provide the Services; (b) the Services will be performed by qualified personnel in a professional, workmanlike manner, consistent with the prevailing standards of the industry (c) ARCOS has the right to use and license the ARCOS Products, RosterApps Products, and Software, (d) the ARCOS Products, RosterApps Products, and Software do not infringe the Intellectual Property Rights of any third party, (e) ARCOS will use commercially reasonable efforts to prevent viruses from being introduced into the ARCOS System, or into the Software, if any, that is provided to Customer, and (f) ARCOS will comply with applicable laws related to performance of any services for Customer. Both Parties acknowledge and agree that the limits of its remedies for breach of this warranty are set forth in Section 9 of this Agreement.

8.3 **Limitation.** NEITHER ARCOS NOR ANY OF ITS SERVICE PROVIDERS, LICENSORS, EMPLOYEES, OR AGENTS WARRANT THAT THE FUNCTIONS CONTAINED IN THE ARCOS PRODUCTS AND ROSTERAPPS PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE OR THAT IT WILL HAVE THE CAPACITY TO MEET THE DEMAND DURING SPECIFIC HOURS. ARCOS WILL NOT BE LIABLE FOR ANY DAMAGES THAT CUSTOMER MAY SUFFER ARISING OUT OF USE, OR INABILITY TO USE, THE SERVICES OR ARCOS PRODUCTS OR ROSTERAPPS PRODUCTS PROVIDED HEREUNDER. ARCOS WILL NOT BE LIABLE FOR UNAUTHORIZED ACCESS TO OR ALTERATION, THEFT OR DESTRUCTION OF CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES, CUSTOMER DATA OR OTHER INFORMATION THROUGH CRIMINAL OR FRAUDULENT MEANS OR DEVICES, OR ANY OTHER METHOD, UNLESS AND TO THE EXTENT SUCH ACCESS, ALTERATION, THEFT, OR DESTRUCTION IS CAUSED AS A RESULT OF NEGLIGENCE OR INTENTIONAL MISCONDUCT BY ARCOS.

8.4. **Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR AN EXECUTED WORK ORDER, ARCOS MAKES NO OTHER WARRANTIES, AND ARCOS HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, CONDITIONS, AND REPRESENTATIONS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR ARISING BY USAGE OF TRADE OR COURSE OF DEALING, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, AND ACCURACY. WITHOUT LIMITATION, ARCOS MAKES NO WARRANTY, AND HEREBY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO THE NETWORK TRANSMISSION CAPACITY OF TELECOMMUNICATIONS CARRIERS, DROPPED OR GARBLED CALLS OR OTHER FAILURES OF TELECOMMUNICATION DEVICES, OR DELAYS IN DELIVERY OR SENDING OF CUSTOMER DATA AND INFORMATION.

ARCOS EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES THAT CUSTOMER'S USE OF ANY ARCOS PRODUCT OR ROSTERAPPS PRODUCT WILL SATISFY ANY STATUTORY OR REGULATORY OBLIGATIONS, OR WILL ASSIST WITH, GUARANTEE OR OTHERWISE ENSURE COMPLIANCE WITH ANY APPLICABLE LAWS OR REGULATIONS, INCLUDING WITHOUT LIMITATION HIPAA OR THE GRAMM-LEACH-BLILEY ACT OF 1999. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE ARCOS PRODUCTS OR ROSTERAPPS PRODUCTS OR THE INFORMATION GENERATED THEREBY IS ACCURATE OR SUFFICIENT FOR CUSTOMER'S PURPOSES.

CUSTOMER ACKNOWLEDGES THAT ACCESS TO OR USE OF THE ARCOS PRODUCTS AND ROSTERAPPS PRODUCTS MAY NOT BE UNINTERRUPTED OR ERROR FREE. THE REMEDIES SET FORTH IN SECTIONS 9 AND 11 BELOW WILL BE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO A BREACH BY ARCOS OF WARRANTY UNDER THIS AGREEMENT.

9. **LIMITATION OF LIABILITY.** NEITHER PARTY SHALL, UNDER ANY CIRCUMSTANCES, BE LIABLE FOR (A) INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, WHETHER CLAIMED UNDER CONTRACT, TORT, FAILURE OF WARRANTY OR ANY OTHER LEGAL THEORY OR (B) LOSS OF OR DAMAGE TO CUSTOMER'S HARDWARE OR SOFTWARE COMPUTER SYSTEMS, DATA, OR PROGRAMMING. EXCEPT FOR ARCOS'S INDEMNITY OBLIGATIONS SET FORTH IN SECTION 11, ARCOS'S MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS UNDER THIS AGREEMENT WILL BE AN AMOUNT EQUAL TO THE FEES PAID TO ARCOS BY CUSTOMER HEREUNDER FOR THE MOST RECENT TWENTY-FOUR (24) MONTH PERIOD OF THIS AGREEMENT UP TO THE DATE SUCH LIABILITY AROSE. NOTWITHSTANDING THE FOREGOING, THERE SHALL BE NO LIMITATION OF LIABILITY FOR ARCOS'S INFRINGEMENT OF CUSTOMER'S INTELLECTUAL PROPERTY AND FOR ARCOS'S INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, AS PROVIDED FOR IN SECTION 11.1, TO THE EXTENT CAUSED BY ARCOS'S NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. NOTWITHSTANDING ANYTHING TO THE CONTRARY, [1] THERE SHALL BE NO LIMITATION OF LIABILITY FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE ARISING OUT OF THE SERVICES IF CAUSED BY ARCOS'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND [2] WITH RESPECT TO PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE ARISING OUT OF THE SERVICES IF CAUSED BY ARCOS, OTHER THAN BY ARCOS'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, ARCOS'S MAXIMUM LIABILITY SHALL NOT EXCEED INSURANCE LIMITS IN EXHIBIT C PLUS \$5,000,000 PER OCCURRENCE.

10. **INTENTIONALLY DELETED.**

11. **INDEMNIFICATION AND INSURANCE.**

11.1 **Intellectual Property Indemnification by ARCOS.** ARCOS will indemnify, defend, and hold Customer harmless against any claim by a third party that the ARCOS Products, RosterApps Products, or Software delivered by ARCOS infringes the Intellectual Property Rights of a third party, and ARCOS shall pay costs, damages, settlements, and reasonable attorneys' fees that result from such claims. In addition to defending Customer as stated above, if such a claim occurs, or in the opinion of ARCOS is likely to occur, ARCOS will, at its sole option and expense: (i) procure Customer's right to continue using the ARCOS Products, RosterApps Products, or Software; (ii) replace or modify the infringing element(s) of the ARCOS Products, RosterApps Products, or Software so that it becomes non-infringing; or if it is commercially impractical to accomplish (i) or (ii) above, then (iii) ARCOS shall terminate the applicable license and shall refund to Customer any prepaid and unused fees for the use of the applicable ARCOS Products, RosterApps Products, or Software.

11.2 **Exclusions.** ARCOS shall have no obligation under Section 11.1 to the extent any infringement claim is based on (i) the combination, operation or use of the ARCOS Products, RosterApps

Products, or Software with hardware, data or software not supplied by ARCOS if the claim would have been avoided by use of other hardware, data or software; (ii) modifications to the ARCOS Products, RosterApps Products, or Software if the modifications were not made or approved by ARCOS; or (iii) any Customer Data or other information uploaded to the ARCOS Products, RosterApps Products, or Software.

11.3 **Indemnification by Customer.** Customer will indemnify, defend and hold ARCOS harmless against any claim by a third party (including a Customer employee) that arises from Customer's use of the ARCOS Products, RosterApps Products, or Software in violation of this Agreement or any breach by Customer of its warranties set forth in Section 8.1; and Customer shall pay costs, damages, settlements and reasonable attorneys' fees that result from such claims.

11.4 **Personal Injury, Death and Property Damage** ARCOS agrees to indemnify, defend and hold harmless Customer and its officers, directors, employees, Affiliates and representatives from any and all losses arising from or in connection with the damage, loss (including theft) or destruction of any real property or tangible personal property of the Customer or personal injury caused by ARCOS's negligence or willful misconduct by ARCOS in the course of ARCOS's performance of its obligations under this Agreement except for those claims that arise out of the negligence or willful misconduct of the Customer.

11.5 **Conditions.** The indemnification obligations set forth above in Sections 11.1 and 11.3 are contingent upon compliance with the following conditions by the Party seeking indemnification: (a) providing prompt written notice of the claim to the indemnifying Party; (b) providing all information and evidence within its control which is necessary for the indemnifying Party to conduct a defense, and (c) providing the Indemnifying Party with sole control of the defense and all related settlement negotiations. However, the Party seeking indemnification may participate in the defense or settlement of the claim at its own expense.

11.6 **Limitation of Remedy.** This Section 11 states the entire obligations of the Parties regarding indemnity or infringement of Intellectual Property Rights, personal injury, death, and property damage.

11.7 **ARCOS Insurance.** During the term of this Agreement, and for any time period set forth in Exhibit C, if any, ARCOS shall provide and maintain in full force and effect, at no cost to Customer, insurance policies as set forth in Exhibit C.

12. **TERM AND TERMINATION.**

12.1 **Term.** The term of this Agreement shall begin on the Effective Date, and will continue, unless earlier terminated as provided for herein through July 31, 2027.

12.2 **Termination for Cause.**

12.2.1 **Default:** If either Party materially defaults in the performance of any of its duties or obligations under this Agreement or any Work Order (except for a default in payments to ARCOS which will be governed by Section 12.4), which default is not substantially cured within thirty (30) days after written notice ("Initial Notice") is given to the defaulting Party specifying such default or, with respect to those defaults that cannot reasonably be cured within thirty (30) days, should the defaulting Party fail to proceed within thirty (30) days to commence curing the default and thereafter to proceed with reasonable diligence to substantially cure the default, the Party not in default may, no less than 30 days after the Initial Notice, give written termination notice thereof to the defaulting Party, and the Party not in default may then terminate either (a) the Work Order(s) under which the uncured default has occurred or (b) this Agreement and all outstanding Work Orders (including the one(s) under which the uncured default has occurred), in either case effective as of the date of receipt by the defaulting Party of such notice or as of a future date specified in such notice of termination.

12.2.2 **Performance.** ARCOS agrees that the ARCOS System will go live within 270 days of the Project Initiation Date. Customer agrees to be diligent in making available the staffing resources identified in Work Order 01. In the event ARCOS has failed to meet the foregoing obligation, ARCOS will be deemed to be in material breach of this Agreement. In such case, notwithstanding Section 12.2.1, provided Customer is not in material breach of this Agreement or of Work Order 01, beyond applicable notice and cure time periods, Customer shall have the right to terminate this Agreement with twenty (20) days written notice to ARCOS. In the event that Customer terminates Work Order 01, the Parties expressly acknowledge and agree that, at the time of contract termination, all fees for which Customer is obligated to pay Customer to ARCOS under Work Order 01 in advance of such termination are non-refundable.

12.3 **Required Budget Appropriation.** ARCOS acknowledges that Customer, a municipal corporation, is precluded by the California State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of this Agreement. Notwithstanding anything to the contrary, the City will act in good faith and will exercise best efforts in order to obtain annual appropriations in order to perform under an applicable Work Order. This Agreement will terminate immediately if funds necessary to continue the Agreement are not appropriated and such termination shall be without any fault or requirement to pay termination damages.

12.4 **Suspension or Termination for Nonpayment.** If Customer defaults in the payment when due of any amount due to ARCOS pursuant to this Agreement or any Work Order (which amount is not subject to a bona fide billing dispute), and does not cure such default within thirty (30) days after being given written notice of such default, ARCOS may, by giving written notice thereof to Customer: (a) suspend its performance under this Agreement and/or Work Order(s); (b) require full payment before any additional performance is rendered by ARCOS; (c) terminate the Work Order(s) under which the uncured default has occurred; and/or (d) terminate this Agreement and all outstanding Work Orders (including the one(s) under which the uncured default has occurred), in either case as of the date of receipt by Customer of such notice or as of a future date specified in such notice of suspension or termination.

12.5 **Effect of Termination.** Termination of this Agreement will not limit either Party from pursuing any other remedies available to it, including injunctive relief, nor will termination relieve Customer of its obligation to pay all charges that accrued prior to termination. If Customer makes a written request (e-mail is acceptable) to ARCOS at least thirty (30) days prior to termination to retain Customer Data, ARCOS will not destroy the Customer Data in its possession. If Customer does not request that ARCOS retain Customer Data within the foregoing time period, such data will be deleted pursuant to the provisions of Section 7.2. In the event of a conflict between this Section 12.5 and Section 7.2, Section 7.2 shall be controlling upon the Parties.

12.6 **Transition.** In connection with the expiration or termination of a Work Order or this Agreement, ARCOS and Customer shall cooperate in good faith in order to provide for the orderly transition to Customer of the Services and any other related services as then being performed by ARCOS for Customer. Without limiting the foregoing:

12.6.1 **Transition Phase.** In the event of any termination of a Work Order or this Agreement which occurs due to expiration or non-renewal of its term or due to termination for ARCOS's breach, and provided all undisputed charges are fully paid, Customer may request and ARCOS will provide a transition period of up to ninety (90) days following the termination date during which time Services will continue to be provided pursuant to the terms of this Agreement and any applicable Work Order at the rates set forth in the applicable Work Order. All such transition services must be prepaid by Customer.

12.6.2 **Transition Plan.** If Customer provides a written request to ARCOS no later than thirty (30) days before the expiration or termination of the applicable Work Order or this Agreement, ARCOS will develop and submit to Customer a proposed plan for transition services, setting forth the

tasks to be completed by both Parties, and a good faith best estimate of the time and cost required to complete such tasks (the "**Transition Plan**"). The Parties shall have a period of ten (10) days to negotiate and agree on a final Transition Plan starting on the date ARCOS submits to Customer the proposed Transition Plan. If the Parties are unable to agree, then ARCOS shall provide only such services as are set forth in Section 12.5.1.

12.6.3 **Transition Fees.** The charge for preparation of the Transition Plan and any ARCOS services under such plan or under Section 12.5.1 shall not exceed the then-current ARCOS time and materials rates for performance of the services, plus expenses if incurred. ARCOS will provide Customer with one copy of all Customer Data in optical media format. ARCOS shall provide the Customer Data within thirty (30) days after a written request by Customer, but in any event prior to the expiration of the transition period.

12.6.4 **Final Payment.** Within seven (7) days after any expiration or termination of this Agreement or an individual Work Order, ARCOS shall submit to Customer an itemized invoice for any fees accrued or expenses incurred in connection with Services performed prior to such expiration or termination under this Agreement or an individual Work Order. If Customer wishes to receive any transition services, Customer must pay for all such Customer-authorized fees and expenses pursuant to the payment provisions of Section 5 in addition to prepaying ARCOS a good-faith estimate of all transition services fees provided that these transition services are covered by a separate agreement between the Parties.

12.7 **Renewal.** If Parties fail to renew a Work Order prior to its expiration, and Customer wishes to extend the services provided in such Work Order during a renewal negotiation, ARCOS shall have the right to grant or deny such extension in its sole discretion. The effective date of such renewed Work Order will be retroactive to the applicable Work Order's original expiration date, which may not be the date that Parties execute such renewal. If, after the extension period ends, Customer fails to renew the Work Order, such Work Order will be viewed as having been terminated as of the end of such extension period.

13. **RIGHT TO ENGAGE IN OTHER ACTIVITIES.** Nothing in this Agreement shall prevent or restrict ARCOS from providing information technology services for third parties, including the usage of De-Identified Data; provided, however, ARCOS shall abide by the restrictions regarding protection of Customer's Confidential Information set forth in Section 6.

14. **EXPORT REGULATIONS.** Customer shall comply fully with all relevant export laws and regulations of the United States to ensure that the ARCOS Products, RosterApps Products, and Software are not exported, directly or indirectly, in violation of United States law.

15. **INDEPENDENT CONTRACTORS.** As to the Customer, in performing its obligations under this Agreement and under an applicable Work Order, ARCOS and all person(s) employed by or contracted with ARCOS to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of Customer. ARCOS has full rights to manage its employees in their performance of Services under this Agreement. The Parties to this Agreement are independent contractors. Neither Party is an agent, representative or partner of the other Party. Neither Party shall have any right, power, or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

16. **MARKETING PROGRAM.** [Intentionally Omitted.]

17. **MISCELLANEOUS.**

17.1 **Governing Law and Jurisdiction.** This Agreement and any Work Order shall be governed by, and construed and enforced in accordance with, the laws of the State of California without regard to conflict of laws principles. Laws applicable to the Parties hereto include, without limitation, "The

Code of the City of Santa Clara, California” (“SCCC”). In particular, ARCOS attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be applicable to ARCOS and as such laws, ordinances and regulations may be amended from time to time or renumbered. Additionally, ARCOS has read and agrees to comply with City’s Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>). The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California. The Parties agree that this contract is not a contract for the sale of goods; therefore, this Agreement shall not be governed by any codification of Articles 2 or 2A of the Uniform Commercial Code, or any references to the United Nations Convention on Contracts for the International Sale of Goods.

17.2 **No Waiver.** The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party’s right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.

17.3 **Amendment.** No change, amendment, or modification of any provision of this Agreement shall be valid unless set forth in a written instrument signed by the Parties.

17.4 **Force Majeure.** Neither Party will be deemed to be in default hereunder, or will be liable to the other, for failure to perform any of its non-monetary obligations under this Agreement or any Work Order for any period to the extent that such failure results from any event or circumstance beyond that Party’s reasonable control, which were not the result of the negligence or lack of due diligence of the affected Party, including acts or omissions of the other Party or third parties, natural disasters, riots, war, civil disorder, pandemic, court orders, extreme and prevalent illness, acts or regulations of governmental bodies or labor disputes, and which it could not have prevented by reasonable precautions or could not have remedied by the exercise of reasonable efforts. Telecommunications failures, such as dropped calls, garbled voices, or sounds, and missed or misread touch tones, shall be considered force majeure issues outside the control of either Party. Notwithstanding the foregoing, each Party shall not make a claim of force majeure under this Agreement unless it notifies the other Party within five (5) days after its occurrence.

17.5 **Notices.** All notices required or permitted under this Agreement shall be in writing addressed to the respective Parties as set forth below, unless another address shall have been designated, and shall be deemed to be given on the date when delivered by hand, by certified mail, or by national overnight delivery service, with written verification of receipt. A Party may change its contact address upon ten (10) days written notice to the other Party.

IF TO CUSTOMER:

City of Santa Clara
Attention: Silicon Valley Power
1500 Warburton Avenue
Santa Clara, CA 95050
and by email at svpcontracts@santaclaraca.gov and
manager@santaclaraca.gov

IF TO ARCOS, then to:

ARCOS LLC
Attn: Chief Financial Officer
8800 Lyra Dr, Suite 200
Columbus, OH 43240

And by email to clairsey@arcos-inc.com
ATTN: Courtney Lairsey, Contracts Manager

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m., Pacific Time, on a Friday shall be deemed to have been transmitted on the following business day.

17.6 **Assignment**. Neither Party may assign its rights and obligations under this Agreement or any Work Order without the prior written permission of the other Party. Notwithstanding the above, either Party may assign this Agreement (along with all Work Orders) in conjunction with a merger, consolidation, or sale of all or substantially all its assets. This Agreement shall be binding on each Party's successors and permitted assigns.

17.7 **Subcontracting**. ARCOS shall be as fully responsible to Customer for a breach of this Master Service Agreement and for a breach of any Work Order, caused by the acts and omissions of ARCOS's subcontractors, and of persons either directly or indirectly employed by them, as ARCOS is for the acts and omissions of persons directly employed by it.

17.8 **Binding Agreement**. This Agreement and each Work Order will be binding upon Customer and ARCOS and will inure to the benefit of each Party and each Party's respective successors and authorized assigns (it being understood and agreed that nothing contained in this Agreement or any Work Order is intended to confer upon any party other than ARCOS and Customer any rights, benefits or remedies of any kind or character whatsoever under or by reason of this Agreement or any Work Order).

17.9 **Duplicate Originals**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, taken together, shall be deemed to constitute a single instrument.

17.10 **Partial Invalidity**. If any term or provision of this Agreement or the application thereof to any person, Entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement shall be unaffected thereby and each remaining term or provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

17.11 **Non-Solicitation**. Unless otherwise mutually agreed to by the Parties in writing, each Party agrees it will actively solicit the employment of any of the other Party's personnel during the term of this Agreement and for a period of one (1) year thereafter.

17.12 **No Third Party Beneficiary**. This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

17.13 **Right of Customer to Inspect Records of ARCOS**. Customer, at its sole cost and expense through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years thereafter to audit the books and records of ARCOS for the purpose of verifying any and all charges made by ARCOS in connection with ARCOS compensation. ARCOS shall submit to Customer any and all reports concerning its performance under this Agreement that may be requested by Customer in writing (e-mail is acceptable). ARCOS agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to Customer under an applicable Work Order. Any charges which an audit finds unsubstantiated shall be reimbursed by ARCOS within thirty (30) days of City's request for payment. To the extent the audit reveals non-payment deficiency, ARCOS will have thirty (30) days to cure any such deficiencies. If the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the Customer, ARCOS shall bear the cost of the audit. ARCOS will reimburse and refund any unsubstantiated, verified charges as well as the cost of the audit with thirty (30) days of City's request for payment. In no event shall an auditor retained by Customer invoice Customer on a contingency-fee basis.

ARCOS agrees to assist Customer, at Customer's sole cost and expense, in meeting Customer's reporting requirements to the State and other agencies with respect to ARCOS' Services hereunder.

17.14 **Conflict of Interest.** ARCOS certifies that, having conducted reasonable diligence into the matter, no Customer officer, employee or authorized representative has any ownership interest in the business of ARCOS and that no person associated with ARCOS has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. ARCOS is familiar with the provisions of California Government Code section 87100 and following and certifies that it does not know of any facts which would violate these code provisions. ARCOS will notify Customer, in writing (email is acceptable to the contacts in Section 17.5), within a reasonable time period after ARCOS discovers a conflict of interest.

17.15 **Fair Employment.** ARCOS shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

17.16 **No Use of City Name or Emblem.** ARCOS shall not use Customer's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of Customer.

17.17 **Entire Agreement.** This Agreement and the exhibits, appendices and Work Orders set forth the entire understanding between the Parties concerning the subject matter of this Agreement and supersede all contemporaneous and prior negotiations, understandings, and agreements with respect to the subject matter of this Agreement. No representation or warranty has been made by or on behalf of any Party to this Agreement (or any officer, director, employee, or agent thereof) to induce any other Party to enter into this Agreement or to abide or consummate any transactions contemplated by any terms of this Agreement, except representations and warranties, if any, expressly set forth in this Agreement. Under no circumstances will the terms, conditions or provisions of any purchase order, invoice or other administrative document issued by Customer or any Affiliate in connection to this Agreement be deemed to modify, alter, or expand the rights, duties, or obligations of the Parties under, or otherwise modify, this Agreement, regardless of any failure of ARCOS to object to such terms, provisions, or conditions. The expiration or termination of this Agreement or any Work Order for any reason will not release either Party from any liabilities or obligations set forth herein or therein which (a) the Parties have expressly agreed will survive any such expiration or termination or (b) remain to be performed or by their nature would be intended to be applicable following any such expiration or termination.

17.18 **Exhibits.** The following Exhibits are attached hereto and incorporated by reference herein:

17.18.1 Exhibit A: ARCOS Service Level Agreement. During the term of this Master Service Agreement, the Parties agree ARCOS will not amend the Service Level Agreement, in a manner that will materially reduce support levels on behalf of Customer below levels shown in the attached ARCOS Service Level Agreement. In the event of violation of this Section, ARCOS will be deemed to be in default as provided for in Section 12.2.1 and such additional terms shall not apply to this Agreement.

17.18.2 Exhibit B: ARCOS Privacy Policy. During the term of this Master Service Agreement, the Parties agree ARCOS will amend the ARCOS Privacy Policy in a manner that will reduce privacy protection below levels shown in the attached ARCOS Privacy Policy, unless required by applicable law. In the event of violation of this Section, ARCOS will be deemed to be in default as provided for in Section 12.2.1 and such additional terms shall not apply to this Agreement.

17.18.3 Exhibit C: City of Santa Clara Insurance Requirements.

17.18.4 Exhibit D: ARCOS's Terms of Use During the term of this Master Service Agreement, the Parties agree ARCOS will not amend the ARCOS Terms of Service, to the material detriment of Customer. In the event of violation of this Section, ARCOS will be deemed to be in default as provided for in Section 12.2.1 and such additional terms shall not apply to this Agreement.


EXECUTION. EXECUTION AND DELIVERY OF THIS AGREEMENT SHALL BE LEGALLY VALID AND EFFECTIVE THROUGH: (I) HAND-DELIVERY; (II) FACSIMILE TRANSMISSION, ELECTRONIC MAIL IN PORTABLE DOCUMENT FORMAT (".PDF") OR OTHER ELECTRONICALLY SCANNED FORMAT; OR (III) USE OF AN ELECTRONIC DOCUMENT EXECUTION AND DELIVERY PROCESS, E.G., DOCUSIGN®, ADOBE DOCUMENT CLOUD.

AUTHORIZED REPRESENTATIVES. ARCOS and Customer each affirm that it has signed this Agreement through its authorized representative.

ACCEPTED AND AGREED

ARCOS LLC an Ohio Limited Liability Company, d/b/a Automated Roster Callout System Company LLC,

City of Santa Clara, California, a chartered California municipal corporation

BY: Jason Woods
TITLE: Chief Financial Officer
SIGNATURE: 
DATE: 08/23/24

BY: JÖVAN D. GROGAN
TITLE: City Manager
SIGNATURE: _____
DATE: _____

Approved as to Form

BY: GLEN R. GOOGINS
TITLE: City Attorney
SIGNATURE: _____
DATE: _____

EXHIBIT A

ARCOS SERVICE LEVEL AGREEMENT

This SLA is subject to the ARCOS Master Service Agreement (sometimes referred to herein as “Agreement”) entered into between ARCOS LLC and City of Santa Clara.

1. **ARCOS SYSTEM SECURITY.** The ARCOS System infrastructure is supported by fire protection (detection and suppression), environmental control, electrical power including UPS, backup generator power, redundant network elements, physical security (building, rack), network security (managed firewall, denial of service protection, packet filtering, VPN, network monitoring), 24x7x365 hosting facility monitoring and access, digital voice services, storage and backup and recovery services and disaster recovery including standby backup servers.
2. **DEFINITIONS.** The following definitions and hours of operation apply to this Service Level Agreement. Capitalized terms not defined in this Service Level Agreement will have such meaning as is ascribed to those terms in the Customer’s master service agreement with ARCOS (sometimes referred to herein as the “Agreement”).
 - 2.1. **“ARCOS System”** means the ARCOS proprietary system as defined in the Customer’s master service agreement with ARCOS and in an applicable work order.
 - 2.2. **“ARCOS On-Premises Solution”** means the ARCOS proprietary software solution as defined in Section 2.10 of this Service Level Agreement.
 - 2.3. **“Authorized Contacts”** is identified in Section 3.1.6 below.
 - 2.4. **“Cloud-Based Solutions”** means the hosted portions of the ARCOS System.
 - 2.5. **“End User(s)”** means any person with a valid User Account who is authorized by Customer to access and use the ARCOS System or ARCOS On- Premises Solution.
 - 2.6. [Intentionally Omitted.]
 - 2.7. The **Hours of Operation** for the United States and Canada are as follows:
 - 2.7.1. **ARCOS Office – Normal Business Hours**
Monday through Friday, 8:00 a.m. to 5:00 p.m., Eastern Time, Excluding ARCOS (U.S.) Holidays:
 - New Year’s Day,
 - Memorial Day,
 - Labor Day,
 - Independence Day (July 4)
 - Thanksgiving Day,
 - The Friday after Thanksgiving Day, and
 - Christmas Day
 - 2.7.2. Hours for ARCOS Support Services (Cloud-Based Solutions) Normal Hours are Monday through Sunday, 7:00 a.m. to 10:00 p.m. Eastern Time “ARCOS Support Services” are as defined in this SLA.

- 2.7.3. ARCOS Support Services (Cloud-Based Solutions) 24x7x365 Support are maintained with a combination of electronic mail and telephone voice mail systems.
- 2.7.4. Hours for ARCOS Support Services (On-Premises Solutions) Normal Hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. Eastern Time. (Please note that there are no 24x7x365 ARCOS Support Services for On-premises Solutions).

2.8. **“Incident”** means a single support question and the efforts of ARCOS to address it. The Customer and an ARCOS Support technician will jointly confirm/validate the Incident and define the parameters for a mutually acceptable solution. An Incident could result from:

- An ARCOS System or ARCOS On-Premises Solution “Issue” (defined below);
- Procedural “how to” questions;
- “Why did this happen like this” questions;
- Problems logging in to the ARCOS System or ARCOS On-Premises Solution;
- A new Request from a Customer.

2.9. **“Issue”** means an Incident resulting from a reproducible defect or a behavior that deviates from the ARCOS System or ARCOS On-Premises Solution specifications and documentation. An Issue may be identified via an Incident; however, Incidents are not limited to Issues (see Section 2.8, above).

2.10. **“On-Premises Solutions”** means those portions of the ARCOS Products that are on premises with a Customer, and that are not hosted by ARCOS or its service providers.

2.11. **“Permanent Correction”** means inclusion of an Issue correction in a generally available ARCOS System release.

2.12. **“Requests”** means a request by Customer for a tool or feature that is not included in the current set of ARCOS System or ARCOS On-Premises Solution features.

2.13. **“ARCOS Support Services”** means the services as set forth in this Attachment provided to assist Customer in the resolution of Incidents.

2.14. **“Support Outage”** means the time during which the Cloud-Based Solutions are unavailable for Customer use due to maintenance, upgrades and/or other corrective actions, whether emergency or routine.

3. ARCOS SUPPORT SERVICES.

3.1. **Scope of Services:** ARCOS will provide Customer with the following ARCOS Support Services:

3.1.1. **Support Team.** ARCOS will provide qualified personnel with sufficient technical expertise, training and/or experience to perform ARCOS Support Services for Customer.

3.1.2. **Installation and Configuration Support.** ARCOS will provide support to Customer in the configuration of the ARCOS System or ARCOS On- Premises Solution.

3.1.3. **Incidents.** ARCOS will provide support to Customer for any Incident that may arise from Customer's or an End User's use of the ARCOS System or ARCOS On-

Premises Solution. This support will include commercially reasonable efforts by ARCOS to identify whether an Issue caused the Incident and, a Permanent Correction of the Issue may be addressed in a future ARCOS System or ARCOS On-Premises Solution release.

- 3.1.4. Consulting.** ARCOS reserves the right to refer Customer to the ARCOS consulting group (ARCOS professional services group) for additional assistance in resolving problems that: (i) are not Issues; and / or (ii) fall outside the scope of ARCOS Support Services. Such consulting services by ARCOS's professional services' group would be subject to fixed price quoted fees for such consulting and implementation services, based on requirements. Such services shall only be performed if authorized pursuant to Section 1.5.
- 3.1.5. Third-Party Products.** The ARCOS System or ARCOS On-Premises Solution may from time-to-time, or in certain configurations or custom functionality requested by Customer, contain certain third-party technology embedded into or included with the system. The ARCOS Support Services apply only to ARCOS-developed software and not to third-party technology. With respect to major Incidents in the third-party technology, ARCOS will use commercially reasonable efforts to work with the appropriate third party to resolve such problems.
- 3.1.6. Authorized Contacts.** The Customer will identify three (3) contacts to act as the primary technical liaisons responsible for all communications with ARCOS (hereafter, "Authorized Contact(s)"). Authorized Contacts will have sufficient technical expertise, training and/or experience to perform Customer obligations under the Agreement. Customer will designate, in writing and/or electronic mail to ARCOS, its Authorized Contact(s) within one (1) week after execution of the Agreement, and may substitute Authorized Contact(s) at any time by providing one (1) week prior written and/or electronic notice to ARCOS. An Authorized Contact may include a Customer's help desk affiliate and/or a Customer's technical support affiliate.
- 3.1.7. Remote Support.** ARCOS will provide Customer with 24 x 7 x 365 remote ARCOS Support Services (Cloud-Based Solutions only) via an ARCOS Support Services line and electronic mail. Remote support is provided by ARCOS support technicians. It is the responsibility of the ARCOS support technician to coordinate the resolution of Incidents, to communicate with Customer for additional information, provide telephone or electronic mail resolution or acceptable workaround, as applicable, and to supply the Incident correction and/or update as necessary.

3.2. Exclusions from ARCOS Support Services. The ARCOS Support Services do not apply to problems related to non-ARCOS software or services, to Customer's computer systems, networks and infrastructure, including without limitation, to non-ARCOS software operating on Customer's computer systems, to Customer's network connectivity and communications systems, problems caused by Customer's or End User's negligence, or problems related to third party networks or the internet.

3.3. Issue Reporting:

3.3.1. Customer's Authorized Contacts: All inquiries to ARCOS about ARCOS Support Services must be made by Authorized Contact(s), and documented in electronic format specified and provided by ARCOS

3.3.2. Required information: All inquiries made to ARCOS shall include the following information ("Required Information"):

3.3.2.1. Customer company name, contact name, contact organization and phone number.

3.3.2.2. Exact wording of all related error messages.

3.3.2.3. A full description of the Issue and expected results.

3.3.2.4. Any special circumstances surrounding the discovery of the Issue.

3.4. ARCOS' Obligations:

3.4.1. Issues. For each Issue reported by Customer, ARCOS will perform the following:

3.4.1.1. Maintain a telephone number for Customer to call to report an Issue and to receive assistance from ARCOS.

3.4.1.2. Confirm receipt of the reported Issue. The confirmation shall contain an identifying case number that will be used in all subsequent communications with ARCOS.

3.4.1.3. Work with Customer to set a priority for the Issue based on the priority criteria outlined in Section 4 below.

3.4.1.4. Analyze the Issue and verify the existence of the problems resulting in the Issue.

3.4.1.5. Give Customer direction and assistance in resolving the Issue.

3.4.2. Requests. ARCOS will review Requests during its normal product revision cycles. ARCOS is under no obligation to incorporate any modifications or new features requested by Customer into any ARCOS System or into any ARCOS On-Premises Solution product release.

3.5. General Questions. ARCOS will review general questions about use of the ARCOS System or ARCOS On-Premises Solution that do not result in the registration of an Issue or Request.

3.6. Customer Obligations. Before reporting an Issue to ARCOS, Customer shall:

3.6.1. Appoint a maximum of three (3) Authorized Contacts(s) for all matters relating to ARCOS Support Services.

3.6.2. Obtain all Required Information as outlined above in Section 3.3.2.

3.6.3. Include the identifying case number in any subsequent communications with ARCOS on an existing Issue.

4. ISSUE SEVERITY LEVELS AND ARCOS CORRECTION GOALS.

4.1. General. Issues reported to ARCOS will be escalated to the ARCOS engineering department. Each Issue will be assigned a severity level ("Severity Level") (Level 1 through 3) as needed.

- 4.2. Correction.** ARCOS will take corrective actions in accordance with the time parameters defined below, to correct Issues in the ARCOS System or in the ARCOS On-Premises Solution that Customer identifies, classifies and reports to ARCOS, that ARCOS substantiates, and that ARCOS determines require correction. ARCOS may reclassify Issues if it reasonably believes that Customer classification is incorrect. ARCOS will not be required to correct any Issue caused by (a) problems with Customer’s computer system, as set forth in Section 3.2 above, (b) any nonconforming use by Customer or by an End User; (c) use of the ARCOS System or ARCOS On-Premises Solution for other than the specific purpose for which the ARCOS System or ARCOS On-Premises Solution are designed; or (d) Customer’s failure to incorporate any upgrades or other releases previously provided by ARCOS which correct such Issues.
- 4.3. Communication.** ARCOS will use commercially reasonable efforts to continue communication with Customer about reported Issues via telephone or electronic mail, so long as the Issue remains open.
- 4.4. Resolution Process.** ARCOS will use commercially reasonable efforts to resolve each Severity Level 1 Issue by providing a specific action plan as to how the issue will be addressed and an estimate of how long it will take before the Issue can be rectified in a future release. Severity Level 2 and Severity Level 3 Issues will be considered in the planning of future releases, but no action plans will be provided with regard to these failures.
- 4.5. Severity Levels.** Severity levels (“Severity Levels”) defined below are assigned to reproducible Issue conditions as a result of a Customer reported Issue, and are used to schedule the appropriate engineering response, if needed, by ARCOS for purposes of workaround and Permanent Correction timeframes. Each Severity Level has an associated “Permanent Correction” response time goal. The Severity Levels for Issues are as follows:

ISSUE / SEVERITY LEVEL	CONDITION/ IMPACT	PERMANENT CORRECTION	RESOLUTION/ CLOSURE CONDITIONS
SEVERITY 1 Customer calls ARCOS Support Services line; response will be within ten (10) minutes	Critical business impact. End User has complete loss of service or loss of critical, key functionality without a reasonable mutually agreeable workaround and work cannot reasonably continue. Complete loss of service includes consistent crashes or hangs, incorrect data or data corruption. Inability to perform critical, key functionality due to extreme slow performance of ARCOS System or ARCOS On-Premises Solution is included.	An attempt will be made to make the system functional (Severity 2) within four (4) hours. A Correction will be provided to Customer as a patch to the current version of the ARCOS System or ARCOS On-Premises Solution, and will be included in the next product release. A written root-cause and solution response will be provided by ARCOS within five (5) business days from problem resolution.	The Issue will be considered resolved and closed when Customer receives information that resolves the Issue or a mutually agreed upon workaround that is affirmatively accepted by the Customer in writing (e-mail acceptable).

ISSUE / SEVERITY LEVEL	CONDITION/ IMPACT	PERMANENT CORRECTION	RESOLUTION/ CLOSURE CONDITIONS
SEVERITY 2 Customer calls ARCOS Support Services line; response will be within ten (10) minutes.	End User experiences some limitation in the product feature set that is not cosmetic in nature and does not directly impact bargaining unit rules or business rules and does not occur during a storm or emergency situation.	A mutually agreeable workaround will be provided to Customer contact. Correction will be provided to Customer as a patch to the current version of the ARCOS System or ARCOS On-Premises Solution and will be included in the next product release.	The Issue will be considered closed under one of the following conditions: Customer receives information that resolves the Issue or a mutually agreed upon workaround. The Issue will be considered resolved after 10 business days, after a final message has been left on Customer’s voice mail or sent via e- mail and no Customer response has been received. The Issue can be later reopened if the Issue has not been resolved.
SEVERITY 3 Customer uses ARCOS Support Services email address; response will be within one (1) business day	A failure that has little or no impact on an End User’s time. This may include, but is not restricted to, “cosmetic” defects such as spelling errors.	In next feasible product release.	The Issue will be considered closed under one of the following conditions: Customer receives information that resolves the Issue or a mutually agreed upon workaround. The Issue will be considered resolved after ten (10) business days, after a final message has been left on Customer’s voice mail or sent via e-mail and no Customer response has been received. The Issue can be later reopened if the Issue has not been resolved.

NOTE: New Customer Requests or request for documentation enhancement are reviewed by an ARCOS product manager before each product release; these may or may not be included in a future release.

- 4.6. **Outages.** From time-to-time, ARCOS may schedule support outages in order to perform maintenance of the ARCOS Cloud-Based Solutions.
 - 4.6.1. **Periodic, Scheduled Outages.** ARCOS retains the discretionary right to schedule outages every other Thursday (even week numbers) between the hours of 11:00 a.m. – 1:00 p.m. Eastern Time (ARCOS will not, necessarily, schedule outages during such periods). Any scheduled outage is to perform maintenance on the PRODUCTION environment. The Quality Assurance environment will be available to the Customer from 7:00 a.m. – 6:00 p.m., MONDAY – THURSDAY Eastern Time, and 7:00 a.m. – 1:00 p.m. on FRIDAY — CLOUD-BASED SOLUTIONS ONLY.
 - 4.6.2. **Other Scheduled Outages.** ARCOS may schedule other outages (“Supplemental Outages”) with forty-eight (48) hours’ notice to Customer — CLOUD-BASED SOLUTIONS ONLY.
 - 4.6.3. **Emergency Outages.** In the event of an emergency outage (an “Emergency Outage”), ARCOS will provide Customer with immediate notification of the outage. ARCOS will notify Customer when ARCOS has taken corrective action and

restored service.

4.6.4. Notification. Support Outage notification will be made via email forty-eight (48) hours prior to Supplemental Outages outside of the schedule defined in Section 5.1. Support Outage notification will be made electronically prior to Emergency Outages. The notification will include the following information:

- 4.6.4.1. Beginning date and time of outage.
- 4.6.4.2. Ending date and time of outage.
- 4.6.4.3. Reason for outage
- 4.6.4.4. Impact, included system components affected.
- 4.6.4.5. Who to contact with questions.

5. MONTHLY PERFORMANCE LEVEL CALCULATION — CLOUD-BASED SOLUTIONS ONLY.

5.1. Definitions. The following definitions will apply to this Section 5 (all times are for the eastern (New York) time zone).

5.1.1. “Scheduled Maintenance Time” (or “SMT”). is defined to be the period of time during which ARCOS retains the discretionary right to cause the Cloud-Based Solutions to be unavailable due to maintenance, upgrades and patches. The Scheduled Maintenance Time schedule is as follows: every other Thursday (even week numbers) from 11:00 a.m. through 1:00 p.m. Eastern Time (ARCOS will not, necessarily, schedule outages during such periods).

5.1.2. “Monthly Performance Level” (or “MPL”). ARCOS will provide service levels for the Cloud-Based Solutions that meet or exceed the Monthly Performance Level calculated for a calendar month. The MPL is calculated as follows: $MPL = .98 \times (\text{Total Monthly Hours} - \text{SMT})$.

5.2. Credit. ARCOS shall pay to Customer liquidated damages in the form of a credit against annual charges for a Monthly Performance Level that fails to meet or exceed 98%. Liquidated damages for excessive downtime shall be in the form of a credit due Customer against the fixed annual fees, actually paid by the Customer, and such credit shall be calculated as the difference between the Monthly Performance Level ratio attained during a calendar month and 100%, provided the performance level is less than 98%. (Examples: if the performance level is 92%, the credit to the Customer would be 8% of the fixed annual fees; if the performance level is 98% or more, there is no credit due to the Customer.) The Monthly Performance Level calculation shall be determined in accordance with Section 5.1.2. The remedies set out in this Section 5.2 are not cumulative and will be Customer’s sole and exclusive remedy for non-performance under this Service Level Agreement.

5.3. Exclusions from Credit. For the purpose of calculating the MPL, the following shall be disregarded from any calculation for MPL:

5.3.1. Periods where outages are due to Customer equipment;

5.3.1.1. Outages caused by Customer’s acts or omissions (or acts or omissions of other engaged or authorized by Customer), including,

- without limitation, custom scripting or coding (e.g., CGI, Perl, HTML, ASP, etc.);
- 5.3.1.2.** Outages elsewhere on the internet that prevent access to an account;
 - 5.3.1.3.** Outages reported by Customer but no outage is found or confirmed by ARCOS;
 - 5.3.1.4.** Periods where Customer's staff are inaccessible in order to confirm service operation after clearance of any outage;
 - 5.3.1.5.** Periods taken by Customer to confirm access to the Cloud-Based Solutions after an outage has been cleared by ARCOS; or
 - 5.3.1.6.** Periods where interruptions are caused by events beyond the reasonable control of ARCOS, including, without limitation, acts of any governmental body, war, insurrection, sabotage, armed conflict, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third-party services, or virus attacks or hackers.

EXHIBIT B

ARCOS PRIVACY POLICY

ARCOS LLC ("ARCOS", "Company", "we", "us", or "our") respects your privacy and is committed to protecting it through our compliance with this privacy notice. This privacy notice describes how and why we collect, store, use, and/or share ("process") your information when you use our services in which this privacy notice is directly linked ("Services"), such as when you:

- Visit our website at <https://www.arcos-inc.com>, or any website of ours that links to this privacy notice.
- Download and use certain of our mobile applications such as ARCOS Mobile Plus, or any other application of ours that links to this privacy notice.

This privacy notice applies only to the personal information that we collect while enabling or providing the Services in which this privacy notice is directly linked. This privacy notice does not apply to any other services, data or information collected by us online or offline. Other services offered by ARCOS may have their own applicable privacy notice.

This Privacy Policy is subject to the ARCOS Master Service Agreement (sometimes referred to herein as "Agreement") entered into between ARCOS LLC and the City of Santa Clara.

1. Special Note Regarding ARCOS's Role as a Service Provider

- 1.1. IF YOU ARE AN EMPLOYEE, PROSPECTIVE EMPLOYEE, CONTRACTOR, OR OTHER AUTHORIZED PERSON ("AUTHORIZED USER") OF A COMPANY OR ORGANIZATION THAT SUBSCRIBES TO OR LICENSES THE ARCOS SERVICES (AN ARCOS "CUSTOMER"), THEN THE PRIVACY NOTICE AND OTHER POLICIES AND PROCEDURES OF THE CUSTOMER GOVERNS AND CONTROLS THE COLLECTION, USE, PROCESSING AND RETENTION OF YOUR PERSONAL INFORMATION.**
- 1.2. UNDER APPLICABLE PRIVACY LAWS, WE ARE A "SERVICE PROVIDER" (ALSO KNOWN AS A "DATA PROCESSOR" IN SOME JURISDICTIONS).**
- 1.3. ARCOS'S CUSTOMER REMAINS THE "BUSINESS" (ALSO KNOWN AS THE "DATA CONTROLLER" IN SOME JURISDICTIONS) THAT COLLECTS YOUR PERSONAL INFORMATION, OR ON THE BEHALF OF WHICH SUCH INFORMATION IS COLLECTED, INCLUDING THROUGH THE USE OF ARCOS SERVICES.**
- 1.4. THE CUSTOMER DETERMINES THE PURPOSES AND MEANS OF THE PROCESSING OF YOUR PERSONAL INFORMATION. INDIVIDUAL AUTHORIZED USERS OF OUR CUSTOMERS WHO SEEK ACCESS TO THEIR PERSONAL INFORMATION, OR WHO SEEK TO CORRECT, AMEND, OR DELETE INACCURATE PERSONAL INFORMATION SHOULD DIRECT THEIR REQUESTS TO THE ADMINISTRATOR AT THE ARCOS CUSTOMER WHO AUTHORIZED THEIR USE.**

1.5. ARCOS CUSTOMERS CAN DIRECT ARCOS TO TAKE ACTIONS WITH RESPECT TO THE PERSONAL INFORMATION OF AUTHORIZED USERS AND, IN SOME CASES, CUSTOMERS AND AUTHORIZED USERS MAY BE EMPOWERED TO TAKE SUCH ACTIONS DIRECTLY USING THE FUNCTIONALITY OF THE SERVICES.

2. Children Under the Age of 18

The Services are not intended for children under 18 years of age, and ARCOS does not knowingly collect personal information from children under 18. If we learn we have collected or received personal information from a child under 18 without verification of parental consent, we will delete that information. If you believe we might have any information from or about a child under 18, please contact us using any of the methods provided at the bottom of this notice.

3. Information We Collect and How We Collect It

We collect information from and about users of our Services in the following ways:

- Our Customers provide us information with respect to their Authorized Users in order to set up accounts and to enable access to and use of the Services
- We receive information directly from you when you provide it to us Our systems receive some information automatically

4. Information Provided by Our Customers

When our Customers contract with ARCOS to make Services available to their Authorized Users, the Customer may provide ARCOS personal information necessary for ARCOS to enable and provide the Services, which may include:

- Names
- Phone Numbers
- Email addresses
- Physical mailing addresses
- Job title

5. Information You Provide to Us

5.1. When you download, register with, or use these Services, we may ask you to provide information, which may include some of the above types of information, and which may also include your:

- Username
- Password
- Contact preferences

5.2. Likewise, we may collect other information you provide under certain circumstances such as:

- Records of your communications with us, including your email address, phone number, and the content of your communications to us
 - Your responses to surveys that we might ask you to complete for research or marketing purposes
- 5.3.** You may also provide information for publication or display (“Posted ”) on public areas of the Services (collectively, “User Contributions ”). For example, some of our Services, including our mobile applications, may include functionality for users to share their information with other users, including the Authorized Users of one or multiple different Customers, where the Customers have agreed to share this information. In such cases, your User Contributions and those of other Authorized Users enable functionality such as coordinating available resources, scheduling, and communications.
- 5.4.** Your User Contributions are Posted and transmitted to others at your own risk. Additionally, we cannot control the actions of third parties with whom you may choose to share your User Contributions. Therefore, we cannot and do not guarantee that your User Contributions will not be viewed by unauthorized persons.

6. Automatic Information Collection

When you download, access, and use the Services, ARCOS may use technology to automatically collect:

- **Device Information.** ARCOS may collect information about your mobile device and internet connection, including the device information (such as your mobile device ID, model, and manufacturer), operating system, version information and system configuration information, device and application identification numbers, browser type and version, hardware model, Internet service provider and/or mobile carrier, and Internet Protocol (IP) address (or proxy server). If you are using ARCOS’s application(s), we may also collect information about the phone network associated with your mobile device, your mobile device’s operating system or platform, the type of mobile device you use, your mobile device’s unique device ID, and information about the features of our application(s) you accessed.
- **Push Notifications.** ARCOS may request to send you push notifications regarding your account or certain features of the application(s). If you wish to opt out from receiving these types of communications, you may turn them off in your device’s settings; however, doing so may limit our ability to provide you the Services.
- **Location Information.** ARCOS may request access or permission to track location-based information from your mobile device, either continuously or while you are using our mobile application(s), to provide certain location-based services. If you wish to change our access or permissions, you may do so in your device’s settings; however, doing so may limit our ability to provide you the Services.

If you do not want us to collect this information do not download the Services or delete it from your device. For more information, see Choices About How We Use and Disclose Your Information, below.

7. Information Collection Technologies

The technology ARCOS uses for automatic information collection may include:

- Cookies (or mobile cookies). A cookie is a small file placed on your smartphone. It may be possible to refuse to accept mobile cookies by activating the appropriate setting on your smartphone. However, if you select this setting, you may be unable to access certain parts of our Services.
- Web Beacons. Screens of the Services and ARCOS emails may contain small electronic files known as web beacons (also referred to as clear gifs, pixel tags, and single-pixel gifs) that permit ARCOS, for example, to count users who have visited certain screens or opened an email and for other related statistics (for example, recording the popularity of certain content and verifying system and server integrity).

8. Sensitive Personal Information

8.1. ARCOS does not collect or process most types of sensitive personal information such as the following:

- social security, driver's license, state identification card, passport number
- financial information such as financial accounts, debit cards, or credit card number in combination with any required security or access code, password, or credentials allowing access to such accounts
- racial or ethnic origin, religious or philosophical beliefs, or union membership
- the contents of your mail, email, and text messages unless ARCOS or its Customer is the intended recipient of the communication genetic data
- Information concerning your health, sex life, or sexual orientation

8.2. Depending on how you use the Services, ARCOS may collect and process the following information in order to provide the Services:

- your geolocation information as necessary for certain functionality of the Services your gender, including for purposes of scheduling hotel accommodations
- biometric information such as your fingerprint or facial recognition for the purpose of security verification

9. How We Use Your Information

9.1. We use information that we collect about you or that you provide to us, including any personal information, to:

- Provide you with the Services and its contents, and any other information, products or services that you request from us.
- Fulfill any other purpose for which you provide it.
- Give you notices about your account, including expiration and renewal notices.
- Carry out our obligations and enforce our rights arising from any contracts

entered into between you and us, including for billing and collection.

- Notify you when Services updates are available, and of changes to any products or services we offer or provide through it.

9.2. The usage information we collect helps us to improve our Services and to deliver a better and more personalized experience by enabling us to:

- Estimate our audience size and usage patterns.
- Store information about your preferences, allowing us to customize our Services according to your individual interests. Improve the functionality or performance of the Services.
- Recognize you when you use the Services.

9.3. As noted above, we also use location information to provide essential functionality, which may include callout and scheduling, crew management, and other functionality in which the location of available resources is needed.

10. Disclosure of Your Information

10.1. We may disclose de-identified, aggregated information about our users, and information that does not identify and is not linked to or reasonably capable of being linked to any individual or device.

10.2. In addition, we may disclose personal information that we collect or that you provide:

- To the Customer who authorized your use
- To contractors, service providers, and other third parties we use to support the Services under the Agreement and who are bound by contractual obligations to keep personal information confidential and use it only for the purposes for which we disclose it to them.
- To a buyer or other successor (including potential buyers or successors during due diligence prior to the completion of a business transaction) in the event of a sale of our Company or a product or service line of the Company, or in the event of merger, divestiture, restructuring, reorganization, dissolution, or other sale or transfer of some or all of the Company's assets, whether as a going concern or as part of bankruptcy, liquidation, or similar proceeding, in which personal information held by the Company about our Services users is among the assets transferred.
- To fulfill the purpose for which you provide it.
- To comply with any court order, law, or legal process, including to respond to any government or regulatory request.
- To enforce our rights arising from any contracts entered into between you and us, and for billing and collection, as applicable.
- For the purposes of fraud protection and credit risk reduction.

11. How Long Do We Keep Your Information?

- We retain personal information of Authorized Users of our Customers pursuant to the Agreement. For other users, we will keep your personal information only as long as it is necessary for the purposes set out in this privacy notice, unless a longer retention period is required or permitted by law (such as tax, accounting, or other legal requirements).
- Upon expiration or termination of Agreement, we will either delete or anonymize such information; or, if that is not possible (for example, because your personal information has been stored in backup archives), then we will securely store your personal information and isolate it from any further processing until deletion is possible.

12. Your Choices About Our Collection, Use, and Disclosure of Your Information

We strive to provide you with choices regarding the personal information that you provide to us. This section describes mechanisms we provide for you to control certain uses and disclosures of your information.

- **Tracking Technologies.** You can set your browser to refuse all or some browser cookies, or to alert you when cookies are being sent. If you disable or refuse cookies or block the use of other tracking technologies, some parts of the Services then may be inaccessible or may not function properly.
- **Location Information.** You can choose whether or not to allow the Services to collect and use real-time information about your device's location through the device's privacy settings or browser settings as applicable. If you block the use of location information, some parts of the Services may become inaccessible or not function properly.
- **Opting Out of Marketing and Promotional Communications:** You can unsubscribe from our marketing and promotional communications at any time by clicking on the unsubscribe link in the emails that we send, or by contacting us using the details provided at the bottom of this notice. You will then be removed from the marketing lists. However, we may still communicate with you – for example, to send you service-related messages that are necessary for the administration and use of your account, to respond to service requests, or for other non-marketing purposes.

13. Accessing and Correcting Your Personal Information

INDIVIDUAL AUTHORIZED USERS OF OUR CUSTOMERS WHO SEEK ACCESS TO THEIR PERSONAL INFORMATION, OR WHO SEEK TO CORRECT, AMEND, OR DELETE INACCURATE PERSONAL INFORMATION SHOULD DIRECT THEIR REQUESTS TO THE ADMINISTRATOR AT THE ARCOS CUSTOMER WHO AUTHORIZED THEIR USE. ARCOS CUSTOMERS CAN DIRECT ARCOS TO TAKE ACTIONS WITH RESPECT TO THE PERSONAL INFORMATION OF AUTHORIZED USERS AND, IN SOME CASES, CUSTOMERS AND AUTHORIZED USERS MAY BE EMPOWERED TO TAKE SUCH ACTIONS DIRECTLY USING THE FUNCTIONALITY OF THE SERVICES.

Other users may contact us using the methods provided at the bottom of this privacy notice.

14. Controls For Do-Not-Track Features

Most web browsers and some mobile operating systems and mobile applications include a Do-Not-Track ("DNT") feature or setting you can activate to signal your privacy preference not to have data about your online browsing activities monitored and collected. At this stage no uniform technology standard for recognizing and implementing DNT signals has been finalized. As such, we do not currently respond to DNT browser signals or any other mechanism that automatically communicates your choice not to be tracked online. If a standard for online tracking is adopted that we must follow in the future, we will inform you about that practice in a revised version of this privacy notice.

15. Data Security

We have implemented appropriate and reasonable technical and organizational security measures designed to protect the security of any personal information we process. However, despite our safeguards and efforts to secure your information, no electronic transmission over the Internet or information storage technology can be guaranteed to be 100% secure, so we cannot promise or guarantee that hackers, cybercriminals, or other unauthorized third parties will not be able to defeat our security and improperly collect, access, steal, or modify your information. Although we will do our best to protect your personal information, any transmission of personal information to and from our Services is at your own risk. You should access the Services only within a secure environment.

15.1. The safety and security of your information also depends on you. Where we have given you (or where you have chosen) a password for access to certain parts of our Services, you are responsible for keeping this password confidential. We ask you not to share your password with anyone. We urge you to be careful about giving out information in public areas of the Services. The information you share in public areas may be viewed by any user of the Services.

15.2. Unfortunately, the transmission of information via the internet and mobile platforms is not completely secure. Although we do our best to protect your personal information, we cannot guarantee the security of your personal information transmitted through our Services (transmission of personal information is at your own risk). We are not responsible for circumvention of any privacy settings or security measures we provide.

16. Your State Privacy Rights

State consumer privacy laws may provide their residents with additional rights regarding our use of their personal information. If you are a resident of a state that has an applicable privacy law, then the disclosures below may apply to you depending on your relationship with respect to the Services. In other cases, the disclosures of this notice are informational only and may not apply to you and/or may be subject to the privacy notices, policies, and procedures of another party. Please see the Special Note Regarding ARCOS's Role as a Service Provider above.

17. California Shine the Light User Rights

California Civil Code Section 1798.83, also known as the "Shine The Light" law, permits our users who are California residents to request and to obtain from us, once a year and free of charge, information about categories of personal information (if any) we disclosed to third

parties for direct marketing purposes and the names and addresses of all third parties with which we shared personal information in the immediately preceding calendar year.

If you are an Authorized User of an ARCOS Customer, and would like to make such a request, please contact the ARCOS Customer who authorized your use of ARCOS products and services. For all other users who are California residents, please contact ARCOS using the contact information provided below and include the email address associated with your account and a statement that you reside in California.

18. California Consumer Privacy Act (CCPA) Privacy Notice

The California Consumer Privacy Act (CCPA) is a law that protects persons who the law defines as “consumers.” A consumer is a natural person who is a California resident, as defined under California law, and includes:

- (1) every individual who is in the State of California for other than a temporary or transitory purpose and
- (2) every individual who is domiciled in the State of California who is outside the State of California for a temporary or transitory purpose.

All other individuals are defined as “non-residents” and are not “consumers” under the CCPA.

As noted above, however, in many cases, ARCOS’s role is to provide services to a business or other organization (ARCOS’s “Customers”) by enabling the Customer’s employees, contractors, and other authorized persons (“Authorized Users”) to use ARCOS-provided online software and mobile applications. This includes mobile applications such as ARCOS Mobile Plus. In these situations, ARCOS is a “service provider” per the definition in the California Consumer Privacy Act (CCPA). This means that ARCOS processes information on behalf of its Customers and such Customers disclose (or ARCOS collects on behalf of the Customers) personal information of the Authorized Users for a business purpose pursuant to a written contract. The Agreement prohibits ARCOS from retaining, using, or disclosing the personal information for any purpose other than for the specific purpose of performing the services specified in the contract for the business, or as otherwise permitted by law, including retaining, using, or disclosing the personal information for a commercial purpose other than providing the services specified in the Agreement.

If ARCOS is acting in the capacity of a service provider with respect to your use of ARCOS Services, then the privacy policy of the ARCOS Customer that authorized your use will control. In other situations, if you qualify as a California consumer, and no CCPA exception applies, then the following provisions may apply to you.

19. What categories of personal information do we collect?

We have collected the following categories of personal information in the past twelve (12) months:

Category	Examples	Collected
A. Identifiers	Contact details, such as real name, alias, postal address, telephone or mobile contact number, unique personal identifier, online identifier, Internet Protocol address, email address, and account name	Yes
B. Personal information categories listed in the California Customer Records statute	Name, contact information, education, employment, employment history, and financial information	Yes
C. Protected classification characteristics under California or federal law	Gender and date of birth	Yes
D. Commercial information	Transaction information, purchase history, financial details, and payment information	No
E. Biometric information	Fingerprints and voiceprints	Yes
F. Internet or other similar network activity	Browsing history, search history, online behavior, interest data, and interactions with our and other websites, applications, systems, and advertisements	Yes
G. Geolocation data Device	Device location	Yes
H. Audio, electronic, visual, thermal, olfactory, or similar information	Images and audio, video or call recordings created in connection with our business activities	Yes
I. Professional or employment-related information	Business contact details in order to provide you our services at a business level or job title, work history, and professional qualifications if you apply for a job with us	Yes
J. Education Information	Student records and directory information	No
K. Inferences drawn from other personal information	Inferences drawn from any of the collected personal information listed above to create a profile or summary about, for example, an individual's preferences and characteristics	No

We may also collect other personal information outside of these categories in instances where you interact with us in person, online, or by phone or mail in the context of:

- Receiving help through our customer support channels

- Participation in customer surveys or contests
- Facilitation in the delivery of our Services and to respond to your inquiries

20. How do we use and share your personal information?

More information about our data collection and use practices can be found in this privacy notice.

21. Will your information be shared with anyone else?

If you are an Authorized User of an ARCOS Customer, then we may share any of the information we collect with the Customer pursuant to the Agreement.

We may also disclose your personal information with our service providers pursuant to the Agreement and each service provider that processes the information on our behalf. Without limitation, this may include service providers who assist ARCOS in understanding how its Services are used, including the number of page or screen views or clicks.

We may also disclose your personal information to provide the Services that you or a Customer requests, such as:

- Providing personal information such as name and contact information and gender to hotels to facilitate your or a Customer's request to arrange accommodations for you
- Enabling your or a Customer's sharing of your personal identifiers, contact information, employer, job title, and geolocation information with other Authorized Users or Customers to facilitate the delivery of Services, including allowing Authorized Users and Customers to coordinate and communicate work schedules
- Any of the other Services and functionality described in this Notice or for which you are notified.

ARCOS LLC has not sold any personal information to third parties for a business or commercial purpose in the preceding twelve (12) months. ARCOS LLC will not sell personal information in the future.

22. Your rights with respect to your personal data

22.1. Right to request deletion of the data – Request to delete

You can ask for the deletion of your personal information.

If you are an Authorized User of an ARCOS Customer, then you should contact the Customer to request deletion of your personal information.

Other users may ask us to delete their personal information and we will honor such requests, subject to certain exceptions provided by law, such as (but not limited to) the exercise by another consumer of his or her right to free speech, our compliance requirements resulting from a legal obligation, or any processing that may be required to protect against illegal activities.

22.2. Right to be informed – Request to know

Depending on the circumstances, you may have a right to know:

- whether we collect and use your personal information
- the categories of personal information that we collect
- the purposes for which the collected personal information is used
- whether we sell your personal information to third parties
- the categories of personal information that we sold or disclosed for a business purpose
- the categories of third parties to whom the personal information was sold or disclosed for a business purpose
- the business or commercial purpose for collecting or selling personal information
- If you are an Authorized User of an ARCOS Customer, then you should contact the Customer to request disclosures related to your personal information

In accordance with applicable law, we are not obligated to provide or delete consumer information that is de-identified in response to a consumer request or to re-identify individual data to verify a consumer request.

22.3. Right to Non-Discrimination for the Exercise of a Consumer's Privacy Rights

We will not discriminate against you if you exercise your privacy rights. As noted in this privacy notice, some requests may disable functionality of the Services.

23. Verification process

If you are an Authorized User of an ARCOS Customer, then you should contact the Customer to request actions related to your personal information and the Customer's policies and procedures will determine how your request is verified.

For other users, the following describes our approach to verifying consumer requests:

Upon receiving your request, we will need to verify your identity in order to determine you are the same person about whom we have the information in our system. These verification efforts require us to ask you to provide information so that we can match it with information you have previously provided to us. For instance, depending on the type of request you submit, we may ask you to provide certain information so that we can match the information you provide with the information we already have on file, or we may contact you through a communication method (e.g., phone or email) that you have previously provided to us. We may also use other verification methods as the circumstances dictate.

We will use only personal information provided in your request to verify your identity or authority to make the request. To the extent possible, we will avoid requesting additional information from you for the purposes of verification. However, if we cannot verify your identity from the information already maintained by us, we may request that you provide additional information for the purposes of verifying your identity and for security or fraud-prevention purposes. We will delete such additionally provided information as soon as we finish verifying you.

24. Other privacy rights

- You may object to the processing of your personal information.
- You may request correction of your personal data if it is incorrect or is no longer relevant, or you may ask to restrict the processing of the information. You may designate an authorized agent to make a request under the CCPA on your behalf. We may deny a request from an authorized agent that does not submit proof that they have been validly authorized to act on your behalf in accordance with the CCPA.
- You may request to opt out from future selling of your personal information to third parties. Upon receiving an opt-out request, we will act upon the request as soon as feasibly possible, but no later than fifteen (15) days from the date of the request submission to us.
- If you are an Authorized User of an ARCOS Customer, then you should contact the Customer to exercise these rights. Other users may contact us by referring to the contact details at the bottom of this document.

25. Contact Information

If you are an Authorized User of an ARCOS Customer, then you should contact the account administrator at the Customer who authorized your access to the Services.

Other users of ARCOS Services may contact us in the following ways:

To ask questions or to comment about this privacy notice and our privacy practices, contact by:

ARCOS LLC

Attn: Privacy Policy

445 Hutchinson Avenue, Suite 600

Columbus, OH 43235

Web-Submission: <https://www.arcos-inc.com/contact-us> Email: info@arcos-inc.com

Toll Free Phone Number: 1-888-634-8507

EXHIBIT C

City of Santa Clara, CA Minimum Insurance Requirements

Without limiting ARCOS indemnification of the City, and prior to commencing any of the Services required under this Agreement, ARCOS shall provide and maintain in full force and effect during the period of performance of the Agreement, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies shall be primary insurance as to the City of Santa Clara so that any other coverage held by the City shall not contribute to any loss under ARCOS insurance. The minimum coverages, provisions and endorsements are as follows:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

\$2,000,000 Each Occurrence

\$4,000,000 General Aggregate

\$2,000,000 Products/Completed Operations Aggregate

\$2,000,000 Personal Injury

Umbrella Insurance

\$3,000,000 Each Occurrence

\$3,000,000 General Aggregate

2. Exact structure and layering of the coverage shall be left to the discretion of ARCOS; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by ARCOS to comply with the insurance requirements of this Agreement:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and

- c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of ARCOS included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for ARCOS or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. PROFESSIONAL /CYBER LIABILITY

Professional Liability or Errors and Omissions and Cyber Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of ARCOS. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby included as additional insureds in respect to liability arising out of ARCOS's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by ARCOS shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have except for Professional Liability and Umbrella Liability. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with ARCOS's insurance.
3. Cancellation.
 - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to ARCOS, who will then inform the City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
 - b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to ARCOS at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

ARCOS and City agree as follows:

1. ARCOS agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by ARCOS, provide the same minimum insurance coverage required of ARCOS, except as with respect to limits. ARCOS agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. ARCOS agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. ARCOS agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or ARCOS for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
3. The City reserves the right to withhold payments from ARCOS in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, ARCOS, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. ARCOS shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

H. EVIDENCE OF COMPLIANCE

ARCOS or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, ARCOS shall submit to City copies of the renewal or replacement certificate of insurance. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EXHIBIT D

ARCOS TERMS OF SERVICE (TOS)

IMPORTANT — READ THIS ENTIRE DOCUMENT CAREFULLY: You are being permitted to use the Service because the ARCOS LLC (“ARCOS”) customer (“Customer”), who is likely your employer, has executed a Master Service Agreement (“Master Agreement”) regarding the use of the Service.

These TOS are subject to the ARCOS Master Service Agreement (sometimes referred to herein as “Agreement”) entered into between ARCOS, LLC and City of Santa Clara.

1. Your Content; Access

You shall be solely responsible for all information, data, and anything else you upload to or communicate from the Service, as well as the content of any comments, information, questions, notices, communications, or other information you submit or have delivered through the Website. You are prohibited from posting or transmitting to or from this Website any unlawful, threatening, libelous, defamatory, obscene, pornographic, or other materials that would violate any law or the rights of others, or otherwise violating the terms of the Acceptable Use Policy set forth in Section 3 below.

2. Collection of Personal Information

ARCOS will not sell or rent your personal information to any third parties. ARCOS will not send your personal information to other companies or people unless:

- We need to share your information to provide the product or service requested by the Customer;
- We respond to subpoenas, court orders or legal process; or
- We are enforcing the terms of the TOS.

3. Acceptable Use Policy

You agree that you shall not use the Service or the Website to:

- Upload post or otherwise transmit any data or content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable.
- Impersonate any person or entity, including, or falsely state or otherwise misrepresent your affiliation with a person or entity.
- Upload post or otherwise transmit any content that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as insider information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements).

- Upload, post or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party.
- Upload post or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, “junk mail,” “spam,” “chain letters,” “pyramid schemes,” or any other form of solicitation.
- Upload, post or otherwise transmit any material that you know or should know or suspect contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment.
- Interfere with or disrupt ARCOS or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service.