

**WORK ORDER NO. 001  
TO THE ARCOS LLC  
MASTER SERVICE AGREEMENT  
DATED EFFECTIVE JUNE 30, 2021**

<b>ARCOS LLC</b>	<b>OCALA UTILITY SERVICES</b>
445 Hutchinson Ave. Suite 600 Columbus, OH 43235 614.396.5500	201 SE 3rd Street Ocala, FL 34471-2172

1. **WORK ORDER.** This Work Order No. 001 ("Work Order" or "WO No. 01") is dated upon the date of the final signature affixed, below, and is entered into by the Parties under the provisions of that certain ARCOS Master Service Agreement (the "Agreement") between **ARCOS LLC** ("ARCOS") and **Ocala Utility Services** ("Customer") which Master Service Agreement is effective as of June 30, 2021. This Work Order includes:
  - Attachment 1 – ARCOS Price Schedule
  - Attachment 2 – ARCOS Service Level Agreement
2. **TERM.** The term of this Work Order will begin on **June 30, 2021** and, unless earlier terminated as provided in the Agreement, will expire on **June 29, 2024**. The term of this Work Order may be extended by mutual written agreement of the Parties. This Work Order is subject to the terms and conditions of the Agreement, becomes part of the Agreement, and may not be terminated except in accordance with the provisions of the Agreement.
3. **PRODUCTS AND SERVICES.** During the term of this Work Order, ARCOS will provide Customer the following applications, products, and services (collectively, "Services") that are checked off pursuant to the terms of the Agreement:
  - 3.1. ☒ **ARCOS System.** ARCOS will provide a base production ARCOS System, defined as the Software, third-party software, hardware, network, and the interfaces necessary to deliver resource management technology products and services by ARCOS over the internet.
    - 3.1.1. **Schedule.** The base production ARCOS System will be available to the Customer within ten (10) business days of the later of the Effective Date or ARCOS receipt of a fully executed Work Order. Additional ARCOS System configuration will be implemented under a schedule set forth in a mutually-agreed-upon Project Charter.
    - 3.1.2. **User Accounts.** Customer will be responsible for the administration of all User login names and passwords for the purpose of authenticating and authorizing by Users of the ARCOS System. Customer will maintain the confidentiality of all User Account information.
  - 3.2. **ARCOS Base Implementation; and, Consulting and Implementation Services.**
    - 3.2.1. ☒ **Base Implementation Services; Advanced Implementation and Consulting Services; Training Services.** ARCOS will provide Customer with base implementation services including, but not necessarily limited to, initial set-up and consulting services to the extent and as provided for in Attachment 1 – Price Schedule. ARCOS will provide Customer with implementation and consulting services utilizing existing base functionality as described in the ARCOS online document repository available to Customer when logged into the ARCOS System using the following URL:

<https://prod.rostermonster.com/arcos/html/Reports/OnlineDoc.jsp>. Concurrently upon providing Customer with implementation and consulting services, ARCOS will provide Customer with training services for using the ARCOS System as provided for in Attachment 1 – Price Schedule. The implementation and consulting services will be provided under an agreed-upon Project Charter and schedule. A Project Charter is a project control document, used by Customer and ARCOS Project Managers to track milestones, risks, escalation methods, roles, and responsibilities. The Project Charter is discussed, and if needed, edited for the project subject to mutual agreement of Customer and ARCOS. Customer requirements that are not within the scope of existing ARCOS System functionality will be defined and presented to Customer in a separate Work Order for approval at additional cost.


- 3.2.2. ☐ **Additional Work.** Any additional work is to be shown in a mutually agreeable Work Order to be signed by the Parties.
4. **USER TESTING.** To be undertaken by Customer and ARCOS with the objective of confirming that the delivered ARCOS System adheres to the agreed-upon specifications of this Work Order.
5. **FEES.** For the Services provided by ARCOS under this Work Order, Customer will pay ARCOS the fees and charges described in Attachment 1 – Price Schedule.
- 5.1. **Annual Service (“SaaS”) Fee.** Invoicing of annual SaaS fees will commence and be effective upon the earlier of delivery of the base production ARCOS System, or ten (10) business days from ARCOS’s receipt of a fully-executed Work Order and payable by Customer annually upon receipt of an invoice from ARCOS during the term of this Work Order.
- 5.2. **ARCOS Base Implementation Fees; Implementation and Consulting Services Fees; Training Fees.** (If Applicable) All implementation, training and consulting fees are to be invoiced upon execution of this Work Order.
- 5.3. **Travel and Expenses.** Travel and expenses, within Customer travel guidelines, for necessary project meetings including but not limited to Implementation Workshop, Configuration Walkthrough, training meetings (including Train-the-Trainer and other necessary or Customer-requested training meetings), and any other meetings at Customer’s request, will be reimbursed by Customer.
6. **PURCHASE ORDERS.** If not available at the time of Work Order execution, Customer agrees to provide any necessary purchase order numbers within five (5) business days of Work Order execution. Please note a delay in receiving the necessary purchase order may result in a delay of starting the project. ARCOS invoices are due as set forth in Section 5.2 Time of Payment for Service of the Master Service Agreement. Customer’s failure to timely provide a purchase order number for inclusion on ARCOS invoices will not delay the sending of an invoice or extend the invoice due date. Invoices unpaid by the due date will be considered past due and subject to Section 5.7 Past Due Amounts of the Master Service Agreement. In issuing a purchase order, Customer agrees that the terms of this Work Order and the Agreement supersede the terms in the purchase order, and no terms included in any such purchase order or other document shall supersede the terms of this Work Order or the Agreement.
7. **SERVICE LEVELS.** ARCOS will provide the Services and Support Services under this Work Order in accordance with the Service Level Agreement at <https://prod.rostermonster.com/arcos/html/legal/serviceLevelAgreement.jsp> (VER 2018).
8. **DISASTER RECOVERY.** A description of the services, recovery operations, and testing for disaster procedures is available to Customer upon request.


**ACKNOWLEDGEMENT.** Customer acknowledges that this Work Order is subject to and governed by all terms and conditions of the Agreement and shall constitute a Work Order to the Agreement. Any capitalized terms not defined in this Work Order shall have the meanings ascribed to them in the Agreement.

**EXECUTION.** Execution and delivery of this Work Order 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 Work Order through its authorized representative(s).

**ACCEPTED AND AGREED**

ARCOS LLC	
BY:	Ross DS Fuller
TITLE:	Chief Financial Officer
SIGNATURE:	
DATE:	06 / 25 / 2021

Ocala Utility Services	
BY:	Bill Kauffman
TITLE:	ACM / CFO
SIGNATURE:	
DATE:	06 / 24 / 2021

Approved as to form and legality:

*Patrick J. Gilligan obo Robert W. Batsel, Jr.*

Robert W. Batsel, Jr.  
City Attorney



Justin Grabelle

Council President

[SEE ATTACHMENT 1, NEXT PAGE]

**PURCHASE ORDER REQUIRED?** \_\_\_\_\_

**PO #:** \_\_\_\_\_

**ATTACHMENT 1- ARCOS PRICE SCHEDULE****SECTION A: ARCOS PRODUCTS AND SERVICES**

Pursuant to this Work Order, Customer has elected to purchase/license the following ARCOS products and features as described below. Pricing, below, is based upon Customer's servicing in total 55,557 meters (electric meters only). Should Customer's meter service, in total, exceed 125,000 customers, or should Customer elect to add any generation facility or line of business to the ARCOS System in addition to those presented serviced by ARCOS, ARCOS reserves the right to increase Customer's annual fees, and to assess implementation, training, and/or set-up fees in addition to those described in this Work Order.

The Parties have agreed as follows:

<b>ARCOS PRODUCTS</b> (Meter-based Pricing)	<b>Year 1</b> <b>6.30.2021-</b> <b>6.29.2022</b>	<b>Year 2</b> <b>6.30.2022-</b> <b>6.29.2023</b>	<b>Year 3</b> <b>6.30.2023-</b> <b>6.29.2024</b>
ARCOS Callout (includes ARCOS Mobile and Usage Fees)	\$40,165	\$40,165	\$40,165
Invoicing Date	As provided in Section 5.1	6.30.2022	6.30.2023
<b>TOTAL FEES</b>	<b>\$40,165</b>	<b>\$40,165</b>	<b>\$40,165</b>

ARCOS will deliver to Customer the Services described in Exhibit A. ARCOS's packaging of items in a monthly delivery will depend upon (i) Customer defining its requirements, (ii) Customer testing and (iii) ARCOS ability to test items. In the event the Parties agree upon a modified scope of work for this SOW, the Customer acknowledges time to completion will be subject to change.

<b>ARCOS CALLOUT SYSTEM</b>	ARCOS Callout (includes Mobile and usage) Email Alerts Batched Reporting Text to Speech (TTS) Searchable Location Comments Callout Native Report Basic API SIREN
<b>THE ARCOS SYSTEM ALSO INCLUDES</b>	Business Rule Automation Based on ARCOS Base System Capabilities Management Reporting ARCOS System Administration Tools ARCOS System Maintenance and Back-up Data Storage IVR Recordings (Up to 100 recordings). The Parties agree Customer will submit a request for IVR Recordings no greater than two (2) times during implementation of any given ARCOS product. (Pre-recorded messages from the ARCOS library are included in the ARCOS Callout System Configuration Fee).

## SECTION B: ONE-TIME FEES

Pursuant to the Agreement and this WO No. 01, Customer has elected to purchase/license the following ARCOS products and features as described below:

SECTION B: ONE-TIME FEE RECAP	
ARCOS Callout Implementation and Training Fees (Silver)	\$34,500
<b>TOTAL ONE-TIME FEES: (Invoiced upon execution of this Work Order)</b>	<b>\$34,500</b>

The configuration process represents configuration services provided by ARCOS utilizing existing ARCOS System functionality. Customer requirements that are not within the scope of existing ARCOS System functionality will be defined and presented to Customer in a separate Work Order for approval at an additional cost.

The ARCOS configuration process includes the following:

- Project Management for ARCOS team (Customer provides Project Management for Customer team)
- Configuration of ARCOS System
- API – Basic Addition (Note interface changes may require additional fees)
- Configuration Delivery and Testing Phase including Project Meetings
- Testing Services for System Configuration (Customer provides Testing Services for business process fit)
- Training (See below for training level election)
- Requirements Analysis Phase- including project meetings

TRAINING			
TRAINING	SILVER <input checked="" type="checkbox"/>	GOLD <input type="checkbox"/>	PLATINUM <input type="checkbox"/>
Training on Core Modules: Callout, Scheduler, ARCOS SIREN	X	X	X
Training on Support Modules: Reporting Employee	X	X	X
Training on Administration: System Admin, Callout List, Maintenance	X	X	X
On-site training with 2 ARCOS Certified trainers	X	X	X
Class Size up to 20 participants	X	X	X
Drill and Exercises using Live Test System	X	X	X
Train the Trainer, onsite Training: <sup>1</sup>	X	X	X
2-Day Duration Classes	X	X	X
(2) 2-Day Classes		X	X
Class Size up to 20 participants		X	X
Role-based Training		X	X
Customized training, based on Customer Needs			X
<sup>1</sup> Travel and expenses, within Customer travel guidelines for training meetings (including Train-the-Trainer and other necessary or Customer-requested training meetings) will be reimbursed by Customer.			

EXHIBIT A  
SCOPE OF WORK

## 1 Project Specification

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<b>Title of Project:</b>	ARCOS Callout Implementation
<b>Client Name:</b>	Ocala Energy
<b>ARCOS Contact:</b>	John Chapman
<b>ARCOS Phone:</b>	(614) 396-5000
<b>ARCOS Author:</b>	Dan Ballstaedt

## 2 Objective

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Ocala Energy (“Ocala”) has engaged ARCOS to provide Professional Services to lead and govern the ARCOS Callout implementation. ARCOS Professional Services will be responsible for the planning, directing, and execution of the ARCOS Callout implementation as a means to meet these goals.

The ARCOS Professional Services team will ensure project goals are defined and aligned to Ocala objectives, and are accomplished within set objectives of cost, schedule, scope, quality and benefits.

The engagement will require the project manager to work directly with Ocala project leadership to develop a cross-functional project team of Ocala operational resources that will develop and carry out both ARCOS Callout implementation and Ocala project level activity.

## 3 Scope of Work

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The ARCOS engagement model facilitates deep knowledge sharing and collaboration by working hand in hand with Ocala project and operational resources on all aspects of the project. This style of engagement will strengthen Ocala’s ability to support and operationalize any future deployments upon completion of the engagement.

At the end of the proposed engagement, Ocala Energy will receive:

- Project management to lead, govern and manage all project activities, communications, and scheduling throughout the duration of this engagement
- Callout Implementation:
  - In depth review of the Callout Solution
  - Configuration of the Callout Solution
    - Configuration of the Schedule options
    - Configuration of Location Hierarchy
    - Configuration of Roster Rules
    - Configuration of Mobile Application
    - Configuration of Callout Call Flows
  - Ocala Energy will utilize a single template for all locations using Callout
  - Training on how to setup your ARCOS Callout solution
  - Training for system administration and super-user operators
  - Review of customer created documentation

- API
  - Assistance and in-depth review of the following API solutions
    - Creation of API calls
    - Review of available endpoints
    - Assist in developing process to incorporate employee data

### 3.1 Planning Phase

The project efforts will initiate with a kickoff to align all project stakeholder expectations and roles and responsibilities. This phase will include a comprehensive workshop designed to establish the structure of the project team, discover the core business and technical requirements of the project, and distill a conceptual solution set and design that will provide the preliminary focus for the project. This phase of the project will ultimately transform the disconnected pieces of the project into a comprehensive, integrated execution plan.

High-level tasks that may be performed during this phase include:

- Project Management
  - Conduct project kickoff
  - Discuss and agree to shared vision and scope
  - Review and align the project governance and management plan
  - Define project team and structure
  - Determine roles and responsibilities (Stakeholders, Sponsors, etc.)
  - Define and facilitate project communications strategy
- Callout
  - Requirements gathering
  - Identification of desired implementation attendees “Roles and Responsibilities”
  - Conduct Implementation Workshop (including Kickoff)
  - Review and assist in completion of requirements documentation
    - ARCOS Callout Example “ACE”
    - Call Flow
    - System Implementation Guide “SIG”
- API
  - Requirements gathering and discovery
  - Development of functional requirements document
  - Development of technical specifications document

#### 3.1.1 Ocala Energy Responsibilities

##### 1. Project Team and Sponsorship

- a. Participate in the requirements gathering sessions
- b. Define and validate business and technical requirements
- c. Identification of Ocala project team and sponsorship
- d. Complete, return, review and approve ARCOS requirements documentation
  - ARCOS Callout Example “ACE”
  - Call Flow
  - System Implementation Guide “SIG”
- e. Requirements review
- f. Customer signoff

#### 3.1.2 Deliverables

This phase will be complete when ARCOS has completed all objectives and documents listed below and they have been reviewed with the OCALA Project Sponsor or Manager.

1. Project Management

- a. Kickoff presentation
- b. Initial project plan and timeline
- c. Initial Risks, Actions/Assumptions, Issues, Decisions (“RAID”) Log
- d. Initial project communications plan
- e. Initial Responsible, Accountable, Consulted, Informed (“RACI”) diagram
- f. Approved project charter document
- g. Weekly project status report
- 2. Callout
  - a. ARCOS requirements documentation
    - ARCOS Callout Example “ACE”
    - Call Flow
    - System Implementation Guide “SIG”
  - b. ARCOS Roles and Responsibilities Checklist
  - c. Kickoff and Implementation presentations
- 3. API
  - a. ARCOS Functional Requirements Document
  - b. ARCOS Technical Specifications Document

### 3.2 Developing Phase

The Developing phase primarily involves building and/or configuring the solutions and content required for user testing and go-live. During this phase, all key elements of the technical solution and deployment process must be carefully engineered, validated and managed.

The primary purpose of the Developing phase is to optimize the conceptual design into fully engineered and automated solutions, where possible, in order to create the most efficient and effective deployment methods. Leveraging a comprehensive system walkthrough, validate current state alignment and at its conclusion conduct testing guided by the ARCOS team as to perform any necessary reconfigurations ensuring that all solutions are operating to specification, and are ready to support the training and readiness activities within the Deploy phase.

High-level tasks that may be performed during this phase for this workstream include:

- Project Management
  - Review of Ocala training and change management documentation
  - Project communications (status of critical success factors)
  - Conduct daily project/track reviews
  - Facilitate continuous improvement activities
  - Stakeholder engagement (manage and resolve issues / concerns, and control decisions)
  - Project information management (action, data, requirements, scope)
  - Project change requests (scope control and changes)
  - Project status reporting (weekly and monthly)
  - Management of project RAID
  - Updated RACI
- Callout
  - ARCOS Engineering team configures system based on planning requirements
  - Conduct Configuration Walkthrough
  - Complete in scope modifications or changes based on Customer UAT
- API
  - Development effort support from ARCOS consultants
  - Approval of ARCOS Functional Requirements document



### 3.2.1 Ocala Energy Responsibilities

- **Project Team and Sponsorship**
  - Validate all functionality
  - Provide availability for knowledge transfer
  - Learn the ARCOS system functionality
  - Make available the needed resources
  - Conduct system testing and validation
  - Formal testing results review
  - Align end-user communications plan with implementation timeline
  - Send end-user communications to support upcoming awareness messaging
- Callout
  - Validate all functionality
  - Provide availability for knowledge transfer
  - Provide validation prior to Testing
  - Make available the needed resources
  - Conduct UAT
  - Formal UAT signoff

### 3.2.2 Deliverables

This phase will be complete when ARCOS has completed all objectives and documents listed below and they have been reviewed with the OCALA Project Sponsor or Manager.

1. Project Management
  - a. Updated RACI diagram
  - b. Updated RAID
  - c. Updated project plan
  - d. Weekly status report
  - e. Executive project report
2. Callout
  - a. Updated ARCOS requirements documentation
    - i. Call Flow
    - ii. System Implementation Guide “SIG”
  - b. Documentation
    - i. Comprehensive online documentation
      - Menu Driven and searchable
      - Step by step how-to's with screenshots
3. API
  - a. Approved customer User Acceptance test
  - b. Complete integration platform deployment to QA/PROD

## 4 Deploy Phase

The Deploy phase involves validating system readiness for implementing what has been developed and tested in the previous phases. The goal of the Deploy phase is to successfully migrate the solution to the production environment, conduct all training sessions, and seamlessly transition OCALA to the ARCOS support team with minimal impact to the business.

High-level tasks that may be performed during this phase for this workstream include:

- Project Management
  - Project communications (status of critical success factors)
  - Conduct daily project/track reviews

- Facilitate continuous improvement activities
- Stakeholder engagement (manage and resolve issues / concerns, and control decisions)
- Project information management (action, data, requirements, scope)
- Project change requests (scope control and changes)
- Project status reporting (weekly and monthly)
- Updated project RAID
- Updated project RACI
- Schedule and manage execution of Train the Trainer sessions
- Schedule and facilitate Transition to Support
- Facilitate a Project Close-out meeting
  - Review lessons learned
  - Close-out project records
  - Review final deliverables with Ocala Project Sponsor or Manager

#### 4.1 Ocala Energy Responsibilities

- **Project Team and Sponsorship**
  - Provide knowledge transfer to defined internal resources
  - Participate in training sessions
  - Participate in project close-out meeting
  - Participate in transition to ARCOS Support team
  - Send end-user communications to support awareness messaging

#### 4.2 Deliverables

- Project Management
  - a. Final RACI diagram for the project
  - b. Final RAID log for the project
  - c. Final Project Plan for the project
  - d. Weekly project status reports
  - e. Executive project report
  - f. Lessons learned session
  - g. Project Close-out Presentation
- ARCOS Systems Readiness
  - a. Train the Trainer training
  - b. Overall systems readiness

### 5 Project Responsibilities and Assumptions

#### 5.1 Responsibilities of ARCOS

- Provide experienced Project Management and Solution Consultants for the engagement
- Mentor and cross-train Ocala staff, where appropriate
- Provide weekly status reports on the progress of the engagement
- Return all documentation, and other materials to Ocala at the completion of project

#### 5.2 Responsibilities of Ocala Energy

- Participate in workshops and meetings to define strategy and design
- Provide institutional knowledge and expertise for the existing Callout and processes
- Provide access to workspace required to complete the above stated tasks

- Provide the necessary resources required to support the project effort
- Communication of project plan and all timelines and goals to Ocala business units as appropriate and directed by Ocala sponsorship
- Communication of project changes and adoption plan management
- Change impact analyses and organizational change risk assessments

### 5.3 Assumptions

The project timeline, resource plan, and pricing are based on a continuous work effort from project kickoff to completion. Unexpected project delays that may be caused by availability of Ocala resources, missing of agreed deadlines by Ocala resources, documented assumptions found to be incorrect, or changes to an approved design may result in changes to timeline, resource plan, or project pricing.

Assumptions include, but are not limited to, the following statements for this project:

1. Ocala will supply physical workspace or allow for sufficient remote access technology for all resources working on this project.
2. Knowledgeable Ocala resources will be made available to this project and will help meet the timelines as identified in the project plan.
3. In order to help minimize resource requirements on the part of Ocala, more detailed requirements for access, and workspace will be made available prior to starting the project.
4. ARCOS will use generally accepted project management techniques and processes throughout this project.
5. ARCOS project phase timelines are predicated on Ocala Energy' validation of solution requirement documentation.

### 5.4 Out of Scope

All work that is considered to be “out of scope” will be addressed by ARCOS and the Ocala Project Sponsor to clarify the issue and negotiate feasibility, impact and cost. Should “out of scope” work be identified, formal written approval from Ocala is required prior to commencing any such work.

Quick win action items will be identified, if possible.

This project will focus on the ARCOS Callout Implementation. All other areas are not within the scope of this project. These include, but are not limited to:

- Ongoing deployments of any technology beyond the final week of the engagement
- Remediation or roadmaps of existing technology for subsequent strategic initiatives
- Organizational Change Management (“OCM”) planning, communications, and assessments

*If further services are necessary outside of the boundaries of this scope, a Project Change Request (PCR) or an additional Work Order (WO), each with additional fees, will be provided.*

## 6 Management Processes and Procedures

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### 6.1 Issue Management Procedure

During the course of the project there may be issues that arise that need to be resolved. Issue resolution will be handled using the following process:

1. Identify the Issue – Detail in writing the current issue and update to the issue log
2. Communicate the Issue – Communicate the issue to the project team and include the issue in the current status report
3. Assign Responsibility for the Issue – Assign the issue to an individual(s) with a due date

4. Monitor the Issue – Monitor the issue in the status report and weekly status meetings
5. Communicate the Issue Resolution – Formally communicate the resolution of the issue to the project management team and record the resolution in the issue log

## 6.2 Change Management Procedure

The following process will be used to manage changes to this project:

1. A formal change request is submitted to ARCOS
2. ARCOS will review the change request and perform a high-level assessment. The high-level assessment includes business, technical, and engagement impacts to the schedule, budget, and resources
3. The results of the assessment are presented to the Ocala Project Sponsor
4. The Ocala Project Sponsor approves, rejects, or defers the change
5. ARCOS will modify the Work Order based on the approved change request and submits the modified Work Order for acceptance by Ocala

## 6.3 Deliverable Acceptance Process

Engagement deliverables will be submitted to the Ocala Project Sponsor and other officials that Ocala requests.

1. Submission of deliverables
2. Assessment of deliverables
3. Acceptance / rejection
4. Correction of deliverables, if applicable
5. Monitoring and reporting

### 6.3.1 Submission of Deliverables

ARCOS will prepare written deliverables for submission to the Ocala designated Project Sponsor. ARCOS will be responsible for managing customer acceptance of the deliverables, which will include notification via email. Deliverables will be deemed accepted upon receipt of email confirmation from the Ocala Project Sponsor or after ten (10) business days from request.

### 6.3.2 Assessment of Deliverables

The Ocala Project Sponsor will determine whether the deliverable meets the requirements as defined in this Work Order and that the deliverable is complete. Additional out of scope work on, or changes to, an accepted deliverable requested by Ocala will be considered out of the scope of the project and will be managed through the agreed upon change control process (*please see **Error! Reference source not found. Error! Reference source not found.***).

### 6.3.3 Acceptance / Rejection

After reviewing the deliverable, Ocala will either accept the deliverable or provide a written reason for rejecting it. Notification can be submitted via email communication.

### 6.3.4 Correction of Deliverables

ARCOS will correct in-scope problems found with the deliverable and will address the correction of out-of-scope changes according to the agreed upon change control procedures (please see 6.2 above). ARCOS will submit a schedule for making changes to the deliverable within two (2) business days of receiving rejection of deliverable via email. ARCOS will correct issues and in scope problems at the expense of ARCOS.

### 6.3.5 Monitoring and Reporting

The ARCOS project manager will track deliverable acceptance. Updates on deliverable acceptance will be a part of the weekly status report and discussed in the weekly status meeting. Deliverable acceptance

issues that cannot be resolved will be elevated to the Ocala project sponsor or management committee (please see **Error! Reference source not found. Error! Reference source not found.**).

6.3.6 Project Completion

ARCOS will have fulfilled its obligations for the Services described in this WO when any one of the following first occurs:

- ARCOS completes the objectives described in this WO, including provision of the Deliverables sections in each phase
- Services are terminated in accordance with the provisions of the Master Agreement

7 Project Timeline

7.1 Timelines Summary

This project is estimated to require a structured twenty-six (26) weeks of effort, divided into phases as detailed below.

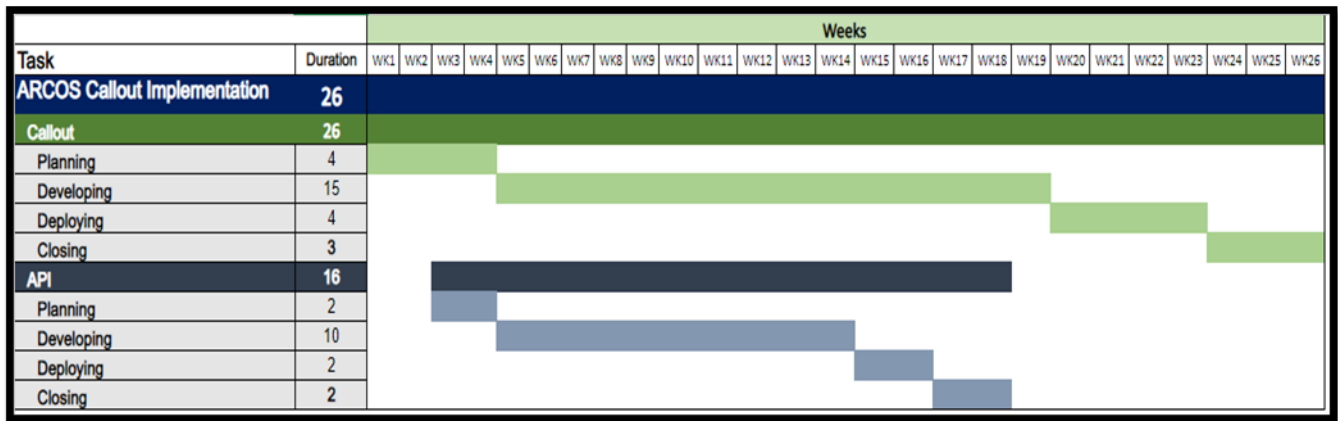


Table 1 – Timelines Summary

## **ARCOS MASTER SERVICE AGREEMENT**

This Master Service Agreement ("**Agreement**" or "**Master Service Agreement**"), between **ARCOS LLC** ("**ARCOS**"), 445 Hutchinson Ave., Suite 600, Columbus, Ohio 43235, and **Ocala Utility Services** ("**Customer**"), having a principal address at 201 SE 3<sup>rd</sup> Street, Ocala, Florida 34471-2172, is effective as of **June 30, 2021** ("**Effective Date**") and Section 6, Confidential Information, is effective upon such date stated therein. 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 (and exhibits or attachments to the Master Service Agreement, if any) and all Work Orders executed by the Parties subsequent to the Effective Date of this Agreement. This Agreement is effective only upon full execution by both Parties. By signing below, each Party agrees to the terms of this Agreement.

### **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.

**"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 Customer 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 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 by Customer, signed by ARCOS, or a written amendment to this

Master Service Agreement, 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. Unless otherwise mutually agreed in writing, in the event of a conflict between the provisions of this Agreement and any Work Order, the provisions of the Work Order shall prevail. In the event of a conflict between the provisions of any Work Order, the provisions of the most recent Work Order shall prevail. ARCOS may utilize third party service providers to perform certain of the Services, such as internet service providers and data hosting providers.

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 use reasonable efforts to ensure that while its staff is on the Customer's premises, they conform to the Customer's normal codes of staff and security practices as Customer will notify to ARCOS in writing. 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.** As between Customer and ARCOS, the terms of the ARCOS Terms of Service shall have no effect and shall in no way change the terms of this Agreement or



any Work Order. Customer shall require that its employee users, vendor invitees (or any other end users) of the ARCOS System abide by the ARCOS online Terms of Service. The preceding sentence is not applicable to Customers that have access to RosterApps' Products only. Upon signing a mutually agreeable Work Order, the ARCOS Terms of Service shall be applicable to Customer. The ARCOS Terms of Service can be accessed by Customer at <https://prod.rostermonster.com/arcos/html/legal/legal.jsp> and such terms shall be viewed by Customer as a condition of accessing or using the ARCOS System. The Terms of Service for ARCOS Resource Assist may have different terms than the standard ARCOS System Terms of Service due to the different functionality. Each person first attempting to use the ARCOS System shall be required to agree to those ARCOS Terms of Service by clicking "I Agree" when prompted by the ARCOS System. However, the ARCOS Terms of Service shall not apply to Customer; they shall only apply to Customer's employees or other end users in such end user's individual capacity.

**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 sSMART Location Tracking Solutions.** With respect to ARCOS Workbench and/or ARCOS sSMART, Customer is solely responsible for acquiring and maintaining all computer hardware, software, telephones, mobile devices, and other equipment, and all communications and other services needed to install and use the ARCOS Workbench, and/or sSMART location tracking solutions, which requirements are further set forth at: [https://qa.rostermonster.com/arcos/help/doc/ARCOS\\_Core.htm](https://qa.rostermonster.com/arcos/help/doc/ARCOS_Core.htm) \l "t=General%2FSystem\_Requirements.htm. Customer's license to use the ARCOS Workbench, and/or sSMART location tracking solutions shall include the functionality for the various ARCOS Workbench, and/or sSMART location tracking solutions modules that are listed in the applicable Work Order. Certain parts of the ARCOS Workbench, and/or sSMART location tracking solutions may be provided to Customer over the Internet, and other parts of the ARCOS Workbench, and/or sSMART location tracking solutions may be installed and operated by Customer on its own technology systems and networks.

**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 under terms mutually agreed upon by the Parties.

**1.4.5 Support Services; Service Level Agreement.** ARCOS will provide Support Services under the terms of a Service Level Agreement a link to which would appear in the applicable Work Order or amendment to this Master Service Agreement.

**1.5 Changes or Additions to the Services.** Except as otherwise provided in Section 1.6, the Services mutually agreed to in an applicable Work Order shall not be amended, modified, or otherwise changed, unless mutually agreed to by both Parties in writing. 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 mutually agree upon the terms of a 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. With respect to the ARCOS Workbench, and/or sSMART location tracking solutions portions that are installed and operated by Customer (i.e., not hosted by ARCOS), ARCOS grants to Customer a limited, nontransferable, non-exclusive license to install and host the Software solely for Customer's internal business purposes, which license is limited to the ARCOS Workbench, and/or sSMART location tracking solutions functionality listed on the applicable Work Order and is pursuant to the other terms and restrictions set forth in this Agreement, and such license shall last until the end of the term set forth in the applicable Work Order or, if earlier, the termination of this Agreement. 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.

5.2 **Time of Payment**. 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 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 and Per Call Usage Fees**. Invoicing of annual SaaS fees for the ARCOS System and Services will commence and be effective upon the earlier of delivery of the base production ARCOS System or ten (10) business days from ARCOS receipt of a fully-executed Work Order and payable by Customer annually upon receipt of an invoice from ARCOS during the term of the applicable Work Order. Per call usage fees and any other variable fees are billed monthly in arrears and as otherwise provided for in an applicable Work Order.

5.3.2 **Annual License Fees**. Invoicing of annual license or SaaS fees for the ARCOS Workbench, and/or SMART location tracking solutions, will commence and be effective upon ARCOS delivery to the Customer quality assurance (QA) environment and payable by Customer annually thereafter upon receipt of an invoice from ARCOS during the term of the applicable Work Order.

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. If ARCOS is required to pay any such taxes directly, 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.

5.5 **Reimbursement of Expenses**. Customer agrees to reimburse ARCOS for actual, customary, and reasonable out-of-pocket expenses for travel, food, and lodging; provided that such expenses are for travel made at Customer's request. Reimbursable expenses shall not exceed those allowed by Customer's standard travel policy as provided by Customer to ARCOS in writing. Customer shall

pay all approved expenses owing to ARCOS hereunder within thirty (30) days after ARCOS has submitted to Customer an itemized invoice for such expenses, with substantiating receipts if requested by Customer.

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 will 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 five (5) days of receiving the ARCOS invoice.

5.7 **Past Due Amounts.** Any past due amounts will bear interest until paid at a rate of interest equal to the lesser of (i) the prime rate established from time to time by Citibank of New York plus two percent, or (ii) the maximum rate of interest allowed by applicable law.

6. **CONFIDENTIAL INFORMATION.** Notwithstanding anything to the contrary in this Master Service Agreement, this Section 6 shall be effective March 1, 2020.

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 the terms and conditions (but not the existence) of this Agreement, including without limitation all Work Orders, fees and charges, all trade secrets, software, source code, object code, specifications, documentation, business plans, customer lists and customer-related information, financial information, proposals, 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 Customer Data.

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 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; (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 **Compelled Disclosure**. The receiving Party may disclose Confidential Information of the disclosing Party if it is compelled by law to do so, provided the receiving Party gives the disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the disclosing Party's cost, if the disclosing Party wishes to contest the disclosure.

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.

## **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**. ARCOS will make available via the ARCOS System all Customer Data residing thereon for printing or downloading therefrom. Within thirty (30) days following termination or expiration of the applicable Work Order ("Work Order Termination"), all Customer Data on the ARCOS System will be destroyed by ARCOS. The preceding process is sometimes referred to herein as the Work Order Termination Protocol. With respect to any Work Order that has not terminated, during the term of this Agreement, including extensions of the original term, if any, ARCOS agrees to retain Customer Data that is on the ARCOS System for at least three (3) years or for such period greater than three (3) years if mutually agreed upon by the Parties in writing pursuant to a Work Order or comparable contract. Such measuring period will begin upon the date ARCOS first had possession of the Customer Data and will end three (3) years thereafter. During the term of this Agreement, subsequent to expiration of the aforementioned Customer Data retention period, ARCOS may destroy such Customer Data without providing notice to the Customer. In the event of Work Order Termination (as such term is defined, above), the Work Order Termination Protocol, above, will be controlling with respect to the terminated Work Order.

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 II 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 and shall obtain appropriate consents to so use such personal information, including providing notices to or obtaining permission from third parties to allow sharing of their personal information with ARCOS and to allow ARCOS to communicate with such persons; (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) any Customer Data or other data, documents, graphics or other material used with or downloaded to the ARCOS Products and RosterApps Products by Customer shall not (i) infringe the Intellectual Property Rights of any third party, (ii) violate any applicable law, statute, ordinance, regulation or treaty, (iii) be defamatory, libelous, unlawfully threatening or harassing, (iv) be obscene or indecent, or (v) contain any 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.

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, and (e) ARCOS will use commercially reasonable efforts to prevent viruses from being introduced into the ARCOS System, the hosted portions of the ARCOS Workbench, and/or SMART location tracking solutions, or into the Software that is provided to 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 GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT BY ARCOS.

8.4. **Disclaimer.** EXCEPT AS SET FORTH IN SECTION 8.2 ABOVE, 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 TELECOMMUNICATIONS 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 TWELVE (12) MONTH PERIOD OF THIS AGREEMENT UP TO THE DATE SUCH LIABILITY AROSE.

10. **TIME TO BRING CLAIM.** NEITHER CUSTOMER NOR ARCOS SHALL BRING ANY CLAIM AGAINST THE OTHER PARTY ARISING OUT OF THIS AGREEMENT, A WORK ORDER OR OTHERWISE BETWEEN THE PARTIES, REGARDLESS OF THE FORM OF SUCH CLAIM, GREATER THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

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: (i) Customer Data or other information uploaded to the ARCOS Products and RosterApps Products by

Customer; (ii) any dispute with a Customer contractor or other end user of the ARCOS Resource Assist functionality; (iii) Customer's use of the ARCOS Products, RosterApps Products, or Software in violation of this Agreement; or (iv) 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. Notwithstanding the foregoing, Customer's liability resulting from its obligation to indemnify ARCOS under this Agreement shall not exceed the greater of \$200,000 per person or \$300,000 per incident or occurrence, as set forth in Section 768.28, Florida Statutes.

**11.4 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.

**11.5 Limitation of Remedy.** This Section 11 states the entire obligations of the Parties regarding indemnity or infringement of Intellectual Property Rights.

**11.6 ARCOS Insurance.** ARCOS maintains the following insurance coverages with carriers rated no less than A (Excellent) by A.M. Best:

**General Liability**

\$2,000,000 per occurrence  
 \$4,000,000 general aggregate  
 \$4,000,000 products / completed operations aggregate  
 \$2,000,000 personal injury liability  
 \$2,000,000 advertising injury

**Automobile Liability**

\$2,000,000 per occurrence (any auto, owned, hired or non-owned)

**Employers' Liability**

\$1,000,000 Bodily Injury by Accident - Each Accident  
 \$1,000,000 Bodily Injury by Disease - Per Person  
 \$1,000,000 Bodily Injury by Disease - Policy Limit

**Umbrella Liability**

\$3,000,000 per occurrence  
 \$3,000,000 general aggregate  
 \$3,000,000 products / completed operations aggregate  
 \$3,000,000 personal & advertising injury liability

**Professional Liability** ("Technology E&O / Cyber Liability")

\$5,000,000 per claim  
 \$5,000,000 aggregate

**Workers' Compensation**

Coverage as required by statute

**12. TERM AND TERMINATION.**

**12.1 Term.** The term of this Agreement will begin on the Effective Date; and, unless earlier terminated as provided in this Agreement, will continue for as long as any Work Order continues to be in force. Upon the end of any initial term in a Work Order, such Work Order and accordingly this Agreement may be extended upon mutual agreement of the Parties.

**12.2 Termination for Cause.** 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 12.3), which default is not substantially cured within thirty (30) days after written 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, by giving written notice thereof to the defaulting Party, 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 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.

**12.3 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 ten (10) 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.

**12.4 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. Upon termination of this Agreement, and upon receipt of payment for all outstanding charges, ARCOS shall destroy all Customer Data provided by Customer under this Agreement or belonging or relating to Customer then in the possession of ARCOS. Upon termination of this Agreement, ARCOS will destroy copies of any Confidential Information provided by Customer under this Agreement or belonging or relating to Customer then in the possession of ARCOS. Notwithstanding anything to the contrary, provided Customer requests, in writing, return of Customer Data or its Confidential Information then in possession of ARCOS, at least sixty (60) days prior to termination of this Agreement, ARCOS will return to Customer such Customer Data or Customer's Confidential Information.

**12.5 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:

**12.5.1 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.

**12.5.2 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.

**12.5.3 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.

12.5.4 **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 accrued fees and expenses, in addition to prepaying ARCOS a good-faith estimate of all transition services fees.

12.6 **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.** 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 Florida without regard to conflict of laws principles. The Parties hereby agree that any suit or proceeding arising out of or relating to this Agreement will be brought in the following federal and/or state courts, as applicable: in the State of Florida, in the event ARCOS is the defendant in such suit or proceeding; and in the State of Florida in the event Customer is the defendant in such suit or proceeding and each Party irrevocably submits to the jurisdiction and venue of such courts. 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, 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.

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:**

**Ocala Utility Services**

Tiffany Kimball, Contracting Officer  
110 SE Watula Avenue, 3<sup>rd</sup> Floor  
Ocala, Florida 34471  
E-Mail: [tkimball@ocalafl.org](mailto:tkimball@ocalafl.org)

Robert W. Batsel, Jr., Esq.  
Gilligan, Gooding, Batsel & Anderson, P.A.  
1531 SE 36<sup>th</sup> Avenue  
Ocala, Florida 34471  
E-Mail: [rbatsel@ocalalaw.com](mailto:rbatsel@ocalalaw.com)

**IF TO ARCOS, then to:**

ARCOS LLC  
Bruce A. Duff, CEO  
445 Hutchinson Ave., Suite 600  
Columbus, OH 43235

17.6 **Assignability.** 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 **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).

17.8 **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.

17.9 **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.

17.10 **Non-Solicitation.** Unless otherwise mutually agreed to by the Parties in writing, each Party agrees it will not attempt to hire or 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.

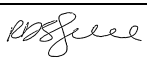
17.11 **Entire Agreement.** This Agreement and the exhibits, appendices and Work Orders set forth the entire understanding between the Parties concerning the subject matter of this Agreement and supersede all contemporaneous and prior negotiations, understandings, and agreements with respect to the subject 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.

**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**

BY:	<u>Ross DS Fuller</u>
TITLE:	<u>Chief Financial Officer</u>
SIGNATURE:	<u></u>
DATE:	<u>06 / 25 / 2021</u>

**OCALA UTILITY SERVICES**

BY:	<u>Bill Kauffman</u>
TITLE:	<u>ACM</u>
SIGNATURE:	<u></u>
DATE:	<u>06 / 24 / 2021</u>

**Approved as to form and legality:**

*Patrick J. Silligan obo Robert W. Batsel, Jr.*

Robert W. Batsel, Jr. – City Attorney

## Service Level Agreement ("SLA")

This Service Level Agreement ("SLA") is applicable to those ARCOS-Customer contracts (Work Orders, amendments to Master Service Agreement, or similar contracts) in which the following link appears: [ ]. (In the event ARCOS and a particular ARCOS Customer, in the past, agreed to utilize a copy of a particular Service Level Agreement that did not include the link shown, above, then this SLA would not be applicable to that particular ARCOS customer.)

## ARCOS SERVICE LEVEL AGREEMENT

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.
- 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 Contact(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
<b>SEVERITY 1</b> 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.
<b>SEVERITY 2</b> 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. Customer has not responded to ARCOS after information was provided. 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. The Issue can be later reopened if the Issue has not been resolved.
<b>SEVERITY 3</b> 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. Customer has not responded to ARCOS after information was provided. 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. 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.

**AVAILABILITY; UPDATES / UPGRADES**

- 4.6. From time-to-time, ARCOS may schedule support outages in order to perform maintenance of the ARCOS Cloud-Based Solutions.
- 4.7. 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.
- 4.8. Other Scheduled Outages. ARCOS may schedule other outages ("Supplemental Outages") with forty-eight (48) hours' notice to Customer – CLOUD-BASED SOLUTIONS ONLY.
- 4.9. 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.
- 4.10. 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:
- 4.10.1. Beginning date and time of outage.
  - 4.10.2. Ending date and time of outage.
  - 4.10.3. Reason for outage
  - 4.10.4. Impact, included system components affected.
  - 4.10.5. 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 x (Total Monthly Hours - SMT).
- 5.2. Credit. ARCOS shall pay to Customer liquidated damages in the form of a credit against monthly 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 monthly 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 monthly 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.

[Note: this SLA may be revised by ARCOS from time-to-time. Provided such revisions are non-material, ARCOS will not provide notice to its customers of revisions made to this SLA (non-material revisions would include administrative changes that would not affect Support Services, Severity Levels, Monthly Performance Levels and other provisions of substance in this SLA).]

[END OF SERVICE LEVEL AGREEMENT]

Version 7 (November 2018)

<b>TITLE</b>	FOR SIGNATURE - Master Services Agreement, Work Order, and...
<b>FILE NAME</b>	FOR SIGNATURES - ... (ELE-210571.pdf
<b>DOCUMENT ID</b>	5aaa160fa3853231b5e619ab6c7ab4de26f0d668
<b>AUDIT TRAIL DATE FORMAT</b>	MM / DD / YYYY
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## Document History



**06 / 24 / 2021**  
14:41:31 UTC-4

Sent for signature to Patrick Gilligan, Esq. (pgilligan@ocalalaw.com), Bill Kauffman (wkauffman@ocalafl.org) and ARCOS, LLC (rfuller@arcos-inc.com) from drobinson@ocalafl.org  
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**06 / 24 / 2021**  
15:51:13 UTC-4

Viewed by Patrick Gilligan, Esq. (pgilligan@ocalalaw.com)  
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**06 / 24 / 2021**  
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**06 / 24 / 2021**  
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<b>FILE NAME</b>	FOR SIGNATURES - ... (ELE-210571.pdf
<b>DOCUMENT ID</b>	5aaa160fa3853231b5e619ab6c7ab4de26f0d668
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**06 / 25 / 2021**  
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**06 / 27 / 2021**  
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**07 / 09 / 2021**  
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