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Village of Wellington

Master Service Agreement

Version 4 | December 4, 2020

## Master SERVICES Agreement

This Master SERVICES Agreement is effective on \_\_\_\_\_ between ROK Technologies, LLC ("ROK") and Village of Wellington ("Village of Wellington"). This MSA shall govern the parties' relationship as more fully described in Statements of Work (SOWs) agreed upon between the parties pursuant to the terms of this MSA. This MSA anticipates the execution of various written SOWs and the following terms shall apply to such SOWs.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **AGREEMENT** – THE TERMS OF PAYMENT AND CONDITIONS OF CREDIT IF ANY EXTENDED TO VILLAGE OF WELLINGTON ARE PROVIDED BY ROK. THE TERMS OF BUSINESS GOVERNING THE RELATIONSHIP BETWEEN ROK AND VILLAGE OF WELLINGTON SHALL BE (I) THE TERMS AND CONDITIONS OF SALE & SERVICE ON THE ROK CREDIT APPLICATION; OR (II) THESE TERMS HEREIN, AND NO TERMS OFFERED BY VILLAGE OF WELLINGTON WILL PREVAIL, EXCEPT FOR THOSE SPECIFICALLY AGREED UPON, IN WRITING, BY BOTH PARTIES. THESE TERMS AND CONDITIONS OF SALE & SERVICE SHALL GOVERN ALL MATTERS BETWEEN THE PARTIES FOR THE DURATION OF THIS CONTRACT.
2. **DEFINITIONS**
  - A. "TENANT" MEANS A VILLAGE OF WELLINGTON THAT SUBSCRIBES TO ROK'S HOSTING MANAGED SERVICES TO HOST THE VILLAGE OF WELLINGTON'S DATA AND APPLICATIONS ON A PLATFORM MANAGED BY ROK UNDER A SUPPORT AGREEMENT WITH THE VILLAGE OF WELLINGTON.
  - B. "NON-TENANT" MEANS A VILLAGE OF WELLINGTON THAT ENGAGES A THIRD-PARTY CLOUD SERVICE PROVIDER OR USES ON-PREMISES OR SIMILAR, VILLAGE OF WELLINGTON-OWNED EQUIPMENT TO HOST THE VILLAGE OF WELLINGTON'S DATA AND APPLICATIONS AND CONTRACTS WITH ROK TO MANAGE VILLAGE OF WELLINGTON'S PLATFORM UNDER A SUPPORT AGREEMENT WITH THE VILLAGE OF WELLINGTON.
3. **PROFESSIONAL SERVICES AND HOSTING SERVICES** – DESCRIPTIONS AND STATEMENTS OF WORK.
  - a. PROFESSIONAL SERVICES AND HOSTING SERVICES (COLLECTIVELY "SERVICES") WILL BE PROVIDED BY ROK PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. ROK MAY USE SUBCONTRACTORS (UNDER SEPARATE CONTRACT TO ROK) TO PERFORM THE SERVICES, OR PORTION(S) THEREOF.
  - b. ROK MAY PROVIDE PROFESSIONAL SERVICES TO VILLAGE OF WELLINGTON IN ACCORDANCE WITH THIS AGREEMENT AND ANY APPLICABLE SOW(S).
  - c. ROK MAY PROVIDE HOSTING SERVICES WHICH MAY INCLUDE HOSTING VILLAGE OF WELLINGTON'S DATA ON A PLATFORM THAT IS MANAGED BY ROK PURSUANT TO THIS AGREEMENT AND AN ASSOCIATED SUPPORT AGREEMENT.
  - d. ROK WILL NOT PROCEED WITH PERFORMING SOW-BASED PROFESSIONAL SERVICES UNTIL BOTH VILLAGE OF WELLINGTON AND ROK HAVE SIGNED THE APPLICABLE SOW. EACH SOW, ONCE SIGNED BY BOTH PARTIES, WILL BECOME A PART OF THIS AGREEMENT. EACH SOW WILL MINIMALLY INCLUDE:
    - i. A DESCRIPTION OF EACH PARTY'S OBLIGATIONS;
    - ii. AN ESTIMATED PERFORMANCE SCHEDULE, INCLUDING MILESTONES, WHEN APPLICABLE;
    - iii. COMPLETION CRITERIA THAT ROK WILL MEET TO FULFILL ITS OBLIGATIONS UNDER THE SOW; AND
    - iv. IDENTIFICATION OF PRIMARY CONTACTS FOR ROK AND VILLAGE OF WELLINGTON.
  - e. SOWS MAY ONLY BE AMENDED BY A WRITTEN DOCUMENT SIGNED BY EACH PARTY'S AUTHORIZED REPRESENTATIVE, AND PER THE CHANGE MANAGEMENT PROCEDURES SET FORTH THEREIN.
  - f. THE APPLICABLE SOW(S) AND/OR SUPPORT AGREEMENT(S) EXCLUSIVELY DEFINE THE SCOPE OF THE SERVICES THAT ROK SHALL PROVIDE TO VILLAGE OF WELLINGTON. TO THE EXTENT THERE IS A CONFLICT BETWEEN THE TERMS OF A SOW OR SUPPORT AGREEMENT DESCRIPTION AND THIS AGREEMENT, THE TERMS OF THIS AGREEMENT CONTROL, UNLESS EXPLICITLY STATED OTHERWISE IN THE SOW.
4. **SERVICES ORDERS** – IF VILLAGE OF WELLINGTON OBTAINS SERVICES FROM ROK, VILLAGE OF WELLINGTON SHALL, UPON AND SUBJECT TO APPROVAL BY ROK, PURCHASE SAID SERVICES BY ISSUING A PURCHASE ORDER. EACH PURCHASE ORDER MUST BE SIGNED/SEALED, AS APPLICABLE, IF REQUESTED BY ROK, OR (IN THE CASE OF ELECTRONIC TRANSMISSION) SENT, BY AN AUTHORIZED REPRESENTATIVE, INDICATING THE SOW PROJECT NAME, SPECIFIC ROK SERVICES, QUANTITY, TOTAL PURCHASE PRICE, BILL-TO AND SHIP-TO ADDRESSES, AND ANY OTHER SPECIAL INSTRUCTIONS. NO CONTINGENCY CONTAINED ON ANY PURCHASE ORDER SHALL BE BINDING UPON ROK. THE TERMS OF THIS AGREEMENT SHALL APPLY, REGARDLESS OF ANY ADDITIONAL OR CONFLICTING TERMS ON ANY PURCHASE ORDER OR OTHER CORRESPONDENCE OR DOCUMENTATION SUBMITTED BY VILLAGE OF WELLINGTON TO ROK, AND ANY SUCH ADDITIONAL OR CONFLICTING TERMS ARE DEEMED REJECTED BY ROK.
5. **SERVICES PRICING**
  - a. PRICES FOR SERVICES WILL BE SPECIFIED IN ONE OF THE FOLLOWING, AS APPLICABLE TO THE SERVICES TO BE PROVIDED:
    - i. THOSE SPECIFIED IN ROK'S THEN-CURRENT PRICE LIST, LESS ANY APPLICABLE DISCOUNT AT THE TIME OF ROK'S ACCEPTANCE OF VILLAGE OF WELLINGTON'S PURCHASE ORDER;
    - ii. THOSE SPECIFIED IN A WRITTEN PRICE QUOTATION SUBMITTED BY ROK; OR
    - iii. THOSE SPECIFIED IN THE SOW OR SUPPORT AGREEMENT; OR
    - iv. THOSE CONTRACTED OUTSIDE THE SCOPE OF THE CONTRACT (EX. OUTSIDE BUSINESS HOURS OR WEEKENDS).
  - b. ALL PRICES ARE EXCLUSIVE OF ANY TAXES, FEES, DUTIES OR OTHER APPLICABLE AMOUNTS. VILLAGE OF WELLINGTON IS TAX EXEMPT.
6. **SERVICES PAYMENT AND INVOICING**
  - a. PAYMENT. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL AND, SUBJECT THERETO, PAYMENT TERMS ARE NET 30 DAYS. ANY SUM NOT PAID BY VILLAGE OF WELLINGTON WITHIN SIXTY (60) DAYS FROM THE DATE OF THE INVOICE WILL BEAR INTEREST FROM THE DATE OF THE INVOICE UNTIL PAID AT A RATE OF: (I) TEN (10) PER CENT PER ANNUM OR (II) THE MAXIMUM RATE PERMITTED BY LAW, WHICHEVER IS LESS.
  - b. INVOICING. AS SET FORTH BELOW, ROK WILL INVOICE VILLAGE OF WELLINGTON DEPENDING ON THE TYPE OF SERVICES:
    - i. ROK SERVICE DESCRIPTION-BASED SERVICES INVOICING. UNLESS OTHERWISE AGREED BY THE PARTIES, ROK WILL INVOICE SERVICES PERFORMED UNDER AN SERVICE DESCRIPTION IN ADVANCE OF PERFORMANCE OF SUCH SERVICES.
    - ii. SOW-BASED PROFESSIONAL SERVICES INVOICING. ROK WILL INVOICE VILLAGE OF WELLINGTON UPON COMPLETION OF EACH MILESTONE AS DEFINED IN THE SOW, PER THE SOW'S MILESTONE SCHEDULE. INVOICES MAY CONTAIN MULTIPLE MILESTONES. THE SOW MILESTONE SCHEDULE SUPERSEDES ANY MILESTONES IDENTIFIED IN A PURCHASE ORDER; NEVERTHELESS, UNLESS OTHERWISE MUTUALLY AGREED UPON VIA A CHANGE MANAGEMENT PROCEDURE, THE TOTAL INVOICED AMOUNTS FOR SOW MILESTONES SHALL NOT EXCEED THE TOTAL AMOUNT OF VILLAGE OF WELLINGTON'S PURCHASE ORDER. IF A SOW DOES NOT CONTAIN A MILESTONE SCHEDULE, ROK WILL INVOICE PROFESSIONAL SERVICES PERFORMED UNDER SUCH SOW AS SET FORTH IN SUCH SOW.
7. **TERM AND TERMINATION.**
  - a. THE TERM OF THIS AGREEMENT WILL COMMENCE ON THE DATE UPON WHICH THIS AGREEMENT IS ACCEPTED (THE "EFFECTIVE DATE") AND WILL END 12 MONTHS AFTER THE EFFECTIVE DATE UNLESS EITHER PARTY GIVES NOTICE TO THE OTHER OF ITS INTENT TO TERMINATE THIS AGREEMENT AS PROVIDED HEREIN.
  - b. THE TERM OF EACH NON-SOW BASED PROFESSIONAL SERVICE WILL COMMENCE ON THE DATE SPECIFIED IN THE ASSOCIATED PURCHASE ORDER AND CONTINUE: (I) UNTIL COMPLETION OF THE SPECIFIED PROFESSIONAL SERVICE IN THE EVENT A MILESTONE CERTIFICATION OF COMPLETION (MCC) IS NOT REQUIRED; OR (II) UNTIL THE MCC HAS BEEN SIGNED OFF BY VILLAGE OF WELLINGTON IN THE EVENT A MCC IS REQUIRED.
  - c. THE TERM OF EACH SOW WILL COMMENCE ON LAST DATE OF SIGNATURE OF THE SOW AND CONTINUE UNTIL LAST MILESTONE COMPLETION, UNLESS OTHERWISE SPECIFIED IN THE SOW.
  - d. ROK SHALL HAVE A LEAD-TIME OF UP TO THIRTY (30) DAYS FROM ACCEPTANCE OF PURCHASE ORDER FOR SCHEDULING OF PROFESSIONAL SERVICES.
  - e. THIS AGREEMENT, AND ANY SERVICES BEING PERFORMED HEREUNDER, MAY BE TERMINATED IMMEDIATELY BY EITHER PARTY UPON WRITTEN NOTICE:
    - i. IF THE OTHER PARTY BREACHES ANY OF THE MATERIAL PROVISIONS OF THIS AGREEMENT AND THE BREACH IS NOT CAPABLE OF BEING CURED OR AFTER PROVIDING THIRTY (30) DAYS WRITTEN NOTICE TO THE BREACHING PARTY IF THE BREACHING PARTY FAILS TO CURE SUCH BREACH WITHIN SUCH PERIOD;
    - ii. IF THE OTHER PARTY: CEASES, OR THREATENS TO CEASE TO CARRY ON BUSINESS AS A GOING CONCERN; OR BECOMES OR MAY BECOME THE OBJECT OF THE INSTITUTION OF VOLUNTARY OR INVOLUNTARY PROCEEDINGS IN BANKRUPTCY OR LIQUIDATION, OR A RECEIVER OR SIMILAR OFFICER IS APPOINTED WITH RESPECT TO THE WHOLE OR A SUBSTANTIAL PART OF ITS ASSETS; OR AN

- EVENT SIMILAR TO ANY OF THE FOREGOING OCCURS UNDER APPLICABLE LAW; OR
- iii. IF, EXCEPT AS PROVIDED BELOW, EITHER PARTY ASSIGNS (BY OPERATION OF LAW OR OTHERWISE, INCLUDING MERGER) OR TRANSFERS ANY OF THE RIGHTS OR RESPONSIBILITIES GRANTED UNDER THIS AGREEMENT, ANY SUPPORT AGREEMENT, OR ANY SOW, WITHOUT THE PRIOR WRITTEN CONSENT OF THE OTHER PARTY, OR IN THE EVENT OF A SALE OF ALL OR SUBSTANTIALLY ALL OF SUCH PARTY'S ASSETS, OR TRANSFER OF A CONTROLLING INTEREST IN SUCH PARTY TO AN UNAFFILIATED THIRD PARTY, NOTWITHSTANDING THE FOREGOING, ROK RESERVES THE RIGHT TO SUBCONTRACT PROFESSIONAL SERVICES TO ANY AFFILIATE OR THIRD PARTY ORGANIZATION TO PROVIDE PROFESSIONAL SERVICES TO VILLAGE OF WELLINGTON.
  - f. IF SERVICES FEES ARE NOT PAID WHEN DUE AND PAYMENT HAS NOT BEEN RECEIVED WITHIN THIRTY (30) DAYS AFTER NOTICE FROM ROK OF SUCH PAST DUE PAYMENT, ROK MAY WITHHOLD THE PROVISION OF PROFESSIONAL SERVICES UNTIL ALL AMOUNTS PAST DUE ARE PAID IN FULL, AND/OR IMMEDIATELY TERMINATE THIS AGREEMENT OR ANY SERVICES PROVIDED HEREUNDER.
  - g. IF, FOLLOWING TERMINATION OF THIS AGREEMENT, VILLAGE OF WELLINGTON PLACES PURCHASE ORDERS AND ROK ACCEPTS SUCH PURCHASE ORDERS, THEN ANY SUCH PURCHASE ORDERS WILL BE GOVERNED BY THE TERMS AND CONDITIONS OF THIS AGREEMENT NOTWITHSTANDING THE EARLIER TERMINATION OF THIS AGREEMENT; PROVIDED, HOWEVER, THAT ACCEPTANCE BY ROK OF ANY SUCH PURCHASE ORDER WILL NOT BE CONSIDERED A RENEWAL OF THIS AGREEMENT.
  - h. EACH SERVICE PROVIDED HEREUNDER WILL TERMINATE IMMEDIATELY UPON TERMINATION OF THIS AGREEMENT, UNLESS OTHERWISE AGREED BY THE PARTIES. NOTWITHSTANDING THE FOREGOING, THE PARTIES' ONGOING OBLIGATIONS UNDER ANY NON- TERMINATED SOWS WILL CONTINUE THROUGH THE END OF THEIR DEFINED TERM, UNLESS OTHERWISE AGREED BY THE PARTIES IN WRITING. VILLAGE OF WELLINGTON WILL BE GIVEN ALL OF THEIR DATA WITHIN 30 DAYS OF TERMINATION AND CAN HAVE THEIR AWS ENVIRONMENT TRANSFERRED TO THEIR OWN AWS ACCOUNT IF REQUIRED OR REQUESTED.
  - i. UPON TERMINATION OF THIS AGREEMENT OR ANY SERVICES, VILLAGE OF WELLINGTON SHALL PAY ROK FOR ALL WORK ROK HAS PERFORMED UP TO THE EFFECTIVE DATE OF TERMINATION AT THE AGREED UPON PRICES, FEES AND EXPENSE REIMBURSEMENT RATES.
8. **DEPOSIT, PURCHASE & PAYMENT** – ROK RESERVES THE RIGHT TO CHARGE A DEPOSIT FOR PAYMENT ON ANY VILLAGE OF WELLINGTON ORDER. WHEN VILLAGE OF WELLINGTON HAS REQUESTED ROK PROCURE ITEM(S) OR PROVIDE SERVICE(S), WHETHER BY ORAL, TELEPHONIC, ELECTRONIC, WRITTEN OR OTHER MEANS, THEN VILLAGE OF WELLINGTON'S ACCEPTANCE OF (I) ANY ITEM(S) DELIVERED; OR (II) ANY SERVICE(S) PERFORMED CONSTITUTES AGREEMENT BY VILLAGE OF WELLINGTON TO MAKE FULL PAYMENT FOR ANY INVOICE(S) PRESENTED FOR ABOVE SAID ITEM(S) AND SERVICE(S). ROK RESERVES THE RIGHT TO INVOICE VILLAGE OF WELLINGTON UPON AND FOR EACH SERVICE RENDERED OR PRODUCT DELIVERED, WHERE DELIVERY IS FOB SHIPPING FROM THE DISTRIBUTOR. VILLAGE OF WELLINGTON CANNOT REFUSE TO MAKE PAYMENT FOR PARTIAL DELIVERY OF SERVICES OR PRODUCTS. VILLAGE OF WELLINGTON SHALL PAY ALL CHARGES ON TERMS ESTABLISHED BY ROK INCLUDING REASONABLE CHARGES FOR SHIPPING, HANDLING AND INSURANCE ON ANY PRODUCTS DELIVERED.
  9. **RETURNS** – NO ITEM WILL BE ACCEPTED FOR RETURN WITHOUT A VALID RETURN NUMBER. DUE TO MANUFACTURERS' RESTRICTIONS, ROK RESERVES THE RIGHT TO REFUSE A PRODUCT FOR RETURN. CERTAIN ITEMS SUCH AS SOFTWARE, SPECIAL ORDERS AND DISCONTINUED PRODUCTS ARE SOLD "AS IS" AND CANNOT BE RETURNED. FINAL ACCEPTANCE OF THE RETURN IS CONDITIONAL UPON RECEIPT OF THE PRODUCT IN "LIKE NEW" CONDITION WITH ALL PARTS, PACKING MATERIALS AND DOCUMENTATION INTACT. ROK RESERVES THE RIGHT TO REFUSE A RETURN WHICH IS NOT IN "LIKE NEW" CONDITION. COD SHIPMENTS WILL BE REFUSED.
  10. **DISPUTED CHARGES** – WRITTEN NOTICE OF ANY DISPUTED CHARGE MUST BE RECEIVED BY ROK WITHIN 30 DAYS OF THE DATE OF ISSUANCE OF THE INVOICE IN QUESTION OR VILLAGE OF WELLINGTON FORFEITS THE RIGHT TO DISPUTE THE CHARGE. THIS NOTICE MUST INCLUDE THE INVOICE NUMBER IN DISPUTE, THE ITEM(S) AND AMOUNT(S) DISPUTED AND A COMPLETE DESCRIPTION OF THE BASIS FOR VILLAGE OF WELLINGTON WITHHOLDING PAYMENT. NOTICE OF ANY DISPUTED CHARGE DOES NOT RELEASE VILLAGE OF WELLINGTON FROM THE OBLIGATION OF PAYING ANY REMAINING BALANCE OF THE INVOICE UNDER THE TERMS SPECIFIED. UPON RESOLUTION OF THE DISPUTED CHARGE, ROK WILL ISSUE A CREDIT MEMO OR VILLAGE OF WELLINGTON WILL PAY THE TOTAL AMOUNT OUTSTANDING REFERENCED BY THE DISPUTE.
  11. **LATE PAYMENT** – IF VILLAGE OF WELLINGTON FAILS TO PAY AN INVOICE WITHIN SIXTY (60) DAYS FROM THE DATE OF THE INVOICE, THE VILLAGE OF WELLINGTON WILL INCUR LATE FEES FROM THE DATE OF THE INVOICE AT A RATE OF: (I) TEN (10) PER CENT PER ANNUM OR (II) THE MAXIMUM RATE PERMITTED BY LAW, WHICHEVER IS LESS UNTIL THE PAYMENT DATE OR UNTIL THREE CONSECUTIVE MONTHS OF LATE FEES HAVE BEEN ASSESSED AGAINST THE OUTSTANDING BALANCE. IF PAYMENT HAS NOT BEEN RECEIVED WITHIN THE THREE MONTH LATE FEE PERIOD AFTER THE DUE DATE, ROK WILL HAVE NO OTHER OPTION BUT TO UNDERTAKE COLLECTION AND ENFORCEMENT EFFORTS. IF COLLECTION AND ENFORCEMENT EFFORTS ARE UNDERTAKEN BY ROK, VILLAGE OF WELLINGTON SHALL BE LIABLE FOR ALL COSTS THEREOF, INCLUDING REASONABLE FEES. IF VILLAGE OF WELLINGTON IS IN ARREARS ON ANY INVOICE, ROK MAY, ON GIVING NOTICE, APPLY ANY DEPOSIT THERETO AND WITHHOLD OR CANCEL FURTHER PERFORMANCE OF SERVICES OR DELIVERY OF PRODUCTS UNTIL ALL ARREARAGES ARE BROUGHT CURRENT.
  12. **TAXES** – VILLAGE OF WELLINGTON IS A TAX EXEMPT ORGANIZATION
  13. **SECURITY INTEREST & SELLERS OPTION**
    - a. FOR AND IN CONSIDERATION OF THE GRANTING OF TERMS TO VILLAGE OF WELLINGTON, BY ROK, VILLAGE OF WELLINGTON HEREBY GRANTS TO ROK A SECURITY INTEREST IN ANY AND ALL EQUIPMENT, PURCHASED BY VILLAGE OF WELLINGTON FROM ROK TO SECURE ALL OBLIGATIONS OF VILLAGE OF WELLINGTON TO ROK, INCLUDING BUT NOT LIMITED TO ANY OBLIGATION OF PAYMENT. THE SECURITY INTEREST GRANTED TO ROK SHALL ALSO COVER ALL PROPERTY OF THE SAME CHARACTER AS THAT COVERED BY THIS SECURITY AGREEMENT THAT THE VILLAGE OF WELLINGTON MAY LATER ACQUIRE FROM ROK AT ANY TIME UNTIL THE TERMINATION OF THIS SECURITY AGREEMENT. VILLAGE OF WELLINGTON FURTHER AGREES TO EXECUTE ANY ADDITIONAL DOCUMENTS NECESSARY TO PERFECT OR CONTINUE THE SECURITY INTEREST CREATED BY THIS AGREEMENT.
    - b. ROK MAY, AT ITS SOLE OPTION, WITHHOLD DELIVERY OF ALL OR ANY PART OF ANY ORDER OR CANCEL THE ORDER IF AT ANY TIME VILLAGE OF WELLINGTON'S ACCOUNT WITH ROK IS IN ARREARS. IF AT ANY TIME, VILLAGE OF WELLINGTON IS IN ARREARS ON ACCOUNT, ROK MAY THEN CANCEL THIS AGREEMENT AND SEEK REDRESS FOR DAMAGES, INCLUDING LOST PROFITS, OFFSETTING ANY DEPOSIT THERE AGAINST, AND FURTHER RECOVER ITS COSTS INCLUDING REASONABLE ATTORNEY FEES.
  14. **VILLAGE OF WELLINGTON RESPONSIBILITIES AND RESTRICTIONS**
    - a. **TENANT RESPONSIBILITIES** – AS A TENANT, VILLAGE OF WELLINGTON SHALL BE SOLELY RESPONSIBLE FOR:
      - i. CONFIDENTIALLY MAINTAINING AN ACCURATE AND COMPLETE LIST OF ALL INDIVIDUALS THAT ARE AUTHORIZED BY VILLAGE OF WELLINGTON TO HAVE ACCESS CREDENTIALS ("AUTHORIZED USERS");
      - ii. THE SECURITY AND USE OF ACCESS CREDENTIALS BY THE AUTHORIZED USERS;
      - iii. THE USE OF THE SERVICES BY THE AUTHORIZED USERS IN COMPLIANCE WITH VILLAGE OF WELLINGTON'S RESPONSIBILITIES AND RESTRICTIONS UNDER THIS AGREEMENT;
      - iv. EMPLOYING ALL PHYSICAL, ADMINISTRATIVE, AND TECHNICAL CONTROLS, SCREENING, SECURITY PROCEDURES, AND OTHER SAFEGUARDS NECESSARY TO SECURELY ADMINISTER THE DISTRIBUTION AND USE OF ALL ACCESS CREDENTIALS AND PROTECT AGAINST ANY UNAUTHORIZED ACCESS TO OR USE OF THE SERVICES AND CONTROL OF DATA, INCLUDING THE UPLOADING OR OTHER PROVISION OF DATA FOR PROCESSING BY THE SERVICES;
      - v. THE CONTENT OF THE DATA PROVIDED TO ROK OR OTHERWISE HOSTED BY ROK FOR THE VILLAGE OF WELLINGTON UNDER THIS AGREEMENT;
      - vi. THE SERVICE COMMITMENT AND HOURLY COMMITMENT DO NOT APPLY TO ANY UNAVAILABILITY, SUSPENSION OR TERMINATION AN INCLUDED SERVICE, OR ANY OTHER INCLUDED SERVICE PERFORMANCE ISSUES: (I) CAUSED BY FACTORS OUTSIDE OF OUR REASONABLE CONTROL, INCLUDING ANY FORCE MAJEURE EVENT OR INTERNET ACCESS OR RELATED PROBLEMS BEYOND THE DEMARCATION POINT OF THE APPLICABLE INCLUDED SERVICE; (II) THAT RESULT FROM ANY ACTIONS OR INACTIONS OF YOU OR ANY THIRD PARTY, INCLUDING FAILURE TO ACKNOWLEDGE A RECOVERY VOLUME; (III) THAT RESULT FROM YOUR EQUIPMENT, SOFTWARE OR OTHER TECHNOLOGY AND/OR THIRD PARTY EQUIPMENT, SOFTWARE OR OTHER TECHNOLOGY (OTHER THAN THIRD PARTY EQUIPMENT WITHIN OUR DIRECT CONTROL); OR (IV) ARISING FROM OUR SUSPENSION OR TERMINATION OF YOUR RIGHT TO USE THE APPLICABLE INCLUDED SERVICE IN ACCORDANCE WITH THE AGREEMENT (COLLECTIVELY, THE "AMAZON COMPUTE SLA EXCLUSIONS"). IF AVAILABILITY IS IMPACTED BY FACTORS OTHER THAN THOSE USED IN OUR MONTHLY UPTIME PERCENTAGE CALCULATION, THEN WE MAY ISSUE A SERVICE CREDIT CONSIDERING SUCH FACTORS AT OUR DISCRETION.
      - vii. COMPLIANCE WITH LAWS APPLICABLE TO VILLAGE OF WELLINGTON OR VILLAGE OF WELLINGTON'S INDUSTRY THAT ARE NOT GENERALLY APPLICABLE TO INFORMATION TECHNOLOGY SERVICE PROVIDERS;
      - viii. USE OF THE SERVICES IN A MANNER THAT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHT OR OTHER RIGHT OF ANY THIRD PARTY INCLUDING BY ANY UNAUTHORIZED ACCESS TO, MISAPPROPRIATION, USE, ALTERATION, DESTRUCTION, OR DISCLOSURE OF THE DATA OF ANY THIRD-PARTY, OR THAT VIOLATES ANY APPLICABLE LAW;
      - ix. VILLAGE OF WELLINGTON'S INFORMATION TECHNOLOGY INFRASTRUCTURE, INCLUDING COMPUTERS, SOFTWARE, DATABASES, ELECTRONIC SYSTEMS (INCLUDING DATABASE MANAGEMENT SYSTEMS), AND NETWORKS, WHETHER OPERATED DIRECTLY BY VILLAGE OF WELLINGTON OR THROUGH THE USE OF THIRD-PARTY SERVICES;
      - x. ALL ACCESS TO AND USE OF THE SERVICES DIRECTLY OR INDIRECTLY WITH OR WITHOUT VILLAGE OF WELLINGTON'S KNOWLEDGE OR CONSENT, INCLUDING ALL RESULTS OBTAINED FROM, AND ALL CONCLUSIONS, DECISIONS, AND ACTIONS BASED ON, SUCH ACCESS OR USE; AND
      - xi. PROVIDING ALL COOPERATION AND ASSISTANCE AS ROK MAY REASONABLY REQUEST TO ENABLE ROK TO EXERCISE ITS RIGHTS AND PERFORM ITS OBLIGATIONS UNDER AND IN CONNECTION WITH THIS AGREEMENT.
    - b. **TENANT RESTRICTIONS** - AS A TENANT, VILLAGE OF WELLINGTON SHALL NOT, AND SHALL NOT PERMIT OTHERS TO:
      - i. COPY, MODIFY, OR CREATE DERIVATIVE WORKS OR IMPROVEMENTS OF THE SERVICES;
      - ii. RENT, LEASE, LEND, SELL, SUBLICENSE, ASSIGN, DISTRIBUTE, PUBLISH, TRANSFER, OR OTHERWISE MAKE AVAILABLE ANY SERVICES TO ANY THIRD-PARTY WITHOUT FIRST OBTAINING APPROVAL FROM ROK, INCLUDING ON OR IN CONNECTION WITH THE INTERNET OR ANY TIME-SHARING, SERVICE BUREAU, SOFTWARE AS A SERVICE, CLOUD, OR OTHER TECHNOLOGY OR SERVICE;
      - iii. REVERSE ENGINEER, DISASSEMBLE, DECOMPILE, DECODE, ADAPT, OR OTHERWISE ATTEMPT TO DERIVE OR GAIN ACCESS TO THE SOURCE CODE OF THE SERVICES, IN WHOLE OR IN PART;
      - iv. BYPASS OR BREACH ANY SECURITY DEVICE OR PROTECTION USED BY THE SERVICES OR ACCESS OR USE THE SERVICES OTHER THAN BY AN

- AUTHORIZED USER THROUGH THE USE OF HIS OR HER OWN THEN VALID ACCESS CREDENTIALS;
- v. INPUT, UPLOAD, TRANSMIT, OR OTHERWISE PROVIDE TO OR THROUGH THE SERVICES, ANY INFORMATION OR MATERIALS THAT ARE UNLAWFUL OR INJURIOUS, OR CONTAIN, TRANSMIT, OR ACTIVATE ANY HARMFUL CODE;
- vi. DAMAGE, DESTROY, DISRUPT, DISABLE, IMPAIR, INTERFERE WITH, OR OTHERWISE IMPEDE OR HARM IN ANY MANNER THE SERVICES, ROK SYSTEMS, OR ROK'S PROVISION OF SERVICES TO ANY THIRD PARTY, IN WHOLE OR IN PART;
- vii. REMOVE, DELETE, ALTER, OR OBSCURE ANY TRADEMARKS, SPECIFICATIONS, DOCUMENTATION, WARRANTIES, OR DISCLAIMERS, OR ANY COPYRIGHT, TRADEMARK, PATENT, OR OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS NOTICES FROM ANY SERVICES, INCLUDING ANY COPY THEREOF;
- viii. ACCESS OR USE THE SERVICES IN ANY MANNER OR FOR ANY PURPOSE THAT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHT OR OTHER RIGHT OF ANY THIRD PARTY INCLUDING BY ANY UNAUTHORIZED ACCESS TO, MISAPPROPRIATION, USE, ALTERATION, DESTRUCTION, OR DISCLOSURE OF THE DATA OF ANY THIRD-PARTY, OR THAT VIOLATES ANY APPLICABLE LAW;
- ix. ACCESS OR USE THE SERVICES IN, OR IN ASSOCIATION WITH, THE DESIGN, CONSTRUCTION, MAINTENANCE, OR OPERATION OF ANY HAZARDOUS ENVIRONMENTS, SYSTEMS, OR APPLICATIONS, ANY SAFETY RESPONSE SYSTEMS OR OTHER SAFETY-CRITICAL APPLICATIONS, OR ANY OTHER USE OR APPLICATION IN WHICH THE USE OR FAILURE OF THE SERVICES COULD LEAD TO PERSONAL INJURY OR SEVERE PHYSICAL OR PROPERTY DAMAGE.
- c. **NON-TENANT RESPONSIBILITIES** – AS A NON-TENANT VILLAGE OF WELLINGTON SHALL BE SOLELY RESPONSIBLE FOR:
- i. CONFIDENTIALLY MAINTAINING AN ACCURATE AND COMPLETE LIST OF ALL INDIVIDUALS THAT ARE AUTHORIZED BY VILLAGE OF WELLINGTON TO HAVE ACCESS CREDENTIALS;
- ii. THE SECURITY AND USE OF ACCESS CREDENTIALS BY THE AUTHORIZED USERS;
- iii. THE USE OF THE SERVICES BY THE AUTHORIZED USERS IN COMPLIANCE WITH VILLAGE OF WELLINGTON'S RESPONSIBILITIES AND RESTRICTIONS UNDER THIS AGREEMENT;
- iv. EMPLOYING ALL PHYSICAL, ADMINISTRATIVE, AND TECHNICAL CONTROLS, SCREENING, AND SECURITY PROCEDURES AND OTHER SAFEGUARDS NECESSARY TO SECURELY ADMINISTER THE DISTRIBUTION AND USE OF ALL ACCESS CREDENTIALS AND PROTECT AGAINST ANY UNAUTHORIZED ACCESS TO OR USE OF THE SERVICES AND CONTROL THE CONTENT AND USE OF VILLAGE OF WELLINGTON DATA, INCLUDING THE UPLOADING OR OTHER PROVISION OF DATA FOR PROCESSING BY THE SERVICES;
- v. THE CONTENT OF DATA ASSOCIATED WITH OR EFFECTED BY SERVICES PROVIDED BY ROK;
- vi. SECURITY, PROTECTION, AND BACKUP OF DATA ASSOCIATED WITH OR EFFECTED BY SERVICES PROVIDED BY ROK; AND
- vii. COMPLIANCE WITH LAWS APPLICABLE TO THE USE OF DATA ASSOCIATED WITH OR EFFECTED BY SERVICES PROVIDED BY ROK;
- viii. USE OF SERVICES IN A MANNER THAT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHT OR OTHER RIGHT OF ANY THIRD PARTY INCLUDING BY ANY UNAUTHORIZED ACCESS TO, MISAPPROPRIATION, USE, ALTERATION, DESTRUCTION, OR DISCLOSURE OF THE DATA OF ANY THIRD-PARTY, OR THAT VIOLATES ANY APPLICABLE LAW;
- ix. SET UP, MAINTENANCE, AND OPERATION ALL VILLAGE OF WELLINGTON SYSTEMS IN GOOD REPAIR ON OR THROUGH WHICH THE SERVICES ARE ACCESSED OR USED;
- x. PROVIDING ROK WITH SUCH ACCESS TO VILLAGE OF WELLINGTON'S PREMISES AND VILLAGE OF WELLINGTON SYSTEMS AS IS NECESSARY FOR ROK TO PERFORM THE SERVICES;
- xi. VILLAGE OF WELLINGTON'S INFORMATION TECHNOLOGY INFRASTRUCTURE, INCLUDING COMPUTERS, SOFTWARE, DATABASES, ELECTRONIC SYSTEMS (INCLUDING DATABASE MANAGEMENT SYSTEMS), AND NETWORKS, WHETHER OPERATED DIRECTLY BY VILLAGE OF WELLINGTON OR THROUGH THE USE OF THIRD-PARTY SERVICES;
- xii. ALL ACCESS TO AND USE OF THE SERVICES DIRECTLY OR INDIRECTLY WITH OR WITHOUT VILLAGE OF WELLINGTON'S KNOWLEDGE OR CONSENT, INCLUDING ALL RESULTS OBTAINED FROM, AND ALL CONCLUSIONS, DECISIONS, AND ACTIONS BASED ON, SUCH ACCESS OR USE; AND
- xiii. PROVIDING ALL COOPERATION AND ASSISTANCE AS ROK MAY REASONABLY REQUEST TO ENABLE ROK TO EXERCISE ITS RIGHTS AND PERFORM ITS OBLIGATIONS UNDER AND IN CONNECTION WITH THIS AGREEMENT.
- d. **NON-TENANT RESTRICTIONS** - AS A NON-TENANT, VILLAGE OF WELLINGTON SHALL NOT, AND SHALL NOT PERMIT OTHERS TO:
- i. COPY, MODIFY, OR CREATE DERIVATIVE WORKS OR IMPROVEMENTS OF THE SERVICES;
- ii. REVERSE ENGINEER, DISASSEMBLE, DECOMPILE, DECODE, ADAPT, OR OTHERWISE ATTEMPT TO DERIVE OR GAIN ACCESS TO THE SOURCE CODE OF THE SERVICES, IN WHOLE OR IN PART;
- iii. DAMAGE, DESTROY, DISRUPT, DISABLE, IMPAIR, INTERFERE WITH, OR OTHERWISE IMPEDE OR HARM IN ANY MANNER THE SERVICES OR ROK'S PROVISION OF SERVICES;
- iv. REMOVE, DELETE, ALTER, OR OBSCURE ANY TRADEMARKS, SPECIFICATIONS, DOCUMENTATION, WARRANTIES, OR DISCLAIMERS, OR ANY COPYRIGHT, TRADEMARK, PATENT, OR OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS NOTICES FROM ANY SERVICES, INCLUDING ANY COPY THEREOF;
- v. ACCESS OR USE THE SERVICES IN ANY MANNER OR FOR ANY PURPOSE THAT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHT OR OTHER RIGHT OF ANY THIRD PARTY INCLUDING BY ANY UNAUTHORIZED ACCESS TO, MISAPPROPRIATION, USE, ALTERATION, DESTRUCTION, OR DISCLOSURE OF THE DATA OF ANY THIRD-PARTY, OR THAT VIOLATES ANY APPLICABLE LAW;
- vi. ACCESS OR USE THE SERVICES FOR PURPOSES OF COMPETITIVE ANALYSIS OF THE SERVICES, THE DEVELOPMENT, PROVISION, OR USE OF A COMPETING SERVICE OR PRODUCT OR ANY OTHER PURPOSE THAT IS TO ROK'S DETRIMENT OR COMMERCIAL DISADVANTAGE; OR
- vii. ACCESS OR USE THE SERVICES IN, OR IN ASSOCIATION WITH, THE DESIGN, CONSTRUCTION, MAINTENANCE, OR OPERATION OF ANY HAZARDOUS ENVIRONMENTS, SYSTEMS, OR APPLICATIONS, ANY SAFETY RESPONSE SYSTEMS OR OTHER SAFETY-CRITICAL APPLICATIONS, OR ANY OTHER USE OR APPLICATION IN WHICH THE USE OR FAILURE OF THE SERVICES COULD LEAD TO PERSONAL INJURY OR SEVERE PHYSICAL OR PROPERTY DAMAGE.
- e. EXCEPT TO THE EXTENT CAUSED BY ROK'S BREACH OF THIS AGREEMENT, VILLAGE OF WELLINGTON IS RESPONSIBLE FOR ALL ACTIVITIES THAT OCCUR UNDER ALL VILLAGE OF WELLINGTON ACCOUNTS, REGARDLESS OF WHETHER THE ACTIVITIES ARE AUTHORIZED BY VILLAGE OF WELLINGTON OR UNDERTAKEN BY VILLAGE OF WELLINGTON, VILLAGE OF WELLINGTON'S EMPLOYEES OR A THIRD PARTY (INCLUDING VILLAGE OF WELLINGTON'S CONTRACTORS, AGENTS OR END USERS), AND ROK IS NOT RESPONSIBLE FOR UNAUTHORIZED ACCESS TO VILLAGE OF WELLINGTON ACCOUNTS.
16. **DISCLAIMER OF WARRANTIES** – THE WARRANTY PROVIDED BY ROK IS SPECIFICALLY LIMITED TO WHAT IS DESCRIBED HEREIN. NO OTHER WARRANTY, EXPRESS OR IMPLIED (INCLUDING, BUT NOT LIMITED TO, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) IS MADE BY ROK, AND NONE SHALL BE IMPUTED OR PRESUMED.
17. **FORCE MAJEURE** – ROK MAY, WITHOUT LIABILITY, DELAY PERFORMANCE OR CANCEL THIS AGREEMENT ON ACCOUNT OF FORCE MAJEURE OR OTHER CIRCUMSTANCES BEYOND ITS CONTROL, INCLUDING, BUT NOT LIMITED TO, STRIKES, ACTS OF GOD, POLITICAL UNREST, EMBARGO, FAILURE OF SOURCE OF SUPPLY, OR CASUALTY.
18. **LIMITATION OF LIABILITY** – ROK'S LIABILITY UNDER THIS AGREEMENT, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), UNDER ANY WARRANTY, OR OTHERWISE, IS ABSOLUTELY LIMITED TO CORRECTION OF ANY NONCONFORMITIES IN ANY SERVICES, OR REFUND OF THE PURCHASE PRICE, OR REFUND OF SPECIFIC AMOUNTS PAID FOR PRODUCTS OR SERVICES WHICH FAIL TO CONFORM, AT ROK'S SOLE OPTION AND THE AGGREGATE AMOUNT THEREOF FOR ALL CLAIMS RELATING TO ANY PARTICULAR PRODUCT OR SERVICE SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE FEES PAID TO ROK UNDER THIS AGREEMENT FOR THE PARTICULAR PROJECT WHICH GIVES RISE TO THE CLAIM. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, GENERAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR OTHER DAMAGES (INCLUDING LOST PROFITS, LOST SAVINGS, LOSS OF DATA OR LOSS OF USE), EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR COULD HAVE REASONABLY FORESEEN SUCH DAMAGES, NOR FOR ANY CLAIMS ARISING FROM VILLAGE OF WELLINGTON'S USE OR TRANSFER OF ANY SERVICES SOLD HEREUNDER. NO ACTION, REGARDLESS OF THE FORM, ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY VILLAGE OF WELLINGTON MORE THAN ONE (1) YEAR AFTER THE OCCURRENCE OF THE EVENTS WHICH GAVE RISE TO THE CAUSE OF ACTION. THE PRICING OF ALL SERVICES AND THE TERMS AND CONDITIONS OF ALL SALES ARE BASED UPON THIS LIMITATION OF LIABILITY. THE VILLAGE OF WELLINGTON'S SOLE AND EXCLUSIVE REMEDY SHALL BE TERMINATION OF THIS AGREEMENT.
19. **WARRANTY**
- a. WITH RESPECT TO SERVICES PERFORMED BY ROK, IT WARRANTS TO VILLAGE OF WELLINGTON, UNLESS OTHERWISE SPECIFIED IN WRITING, THAT THE SERVICES AS AND WHEN DELIVERED OR RENDERED, WILL CONFORM TO THE STANDARD OF CARE EXHIBITED BY REASONABLY SKILLED CONTRACTORS IN THE INDUSTRY (NETWORK SYSTEMS INTEGRATION). VILLAGE OF WELLINGTON SHALL NOTIFY ROK IN WRITING WITHIN NINETY (90) DAYS AFTER COMPLETION OF THE SERVICES IN QUESTION WHEN ANY OF THE SERVICES FAIL TO CONFORM TO THE STANDARD OF CARE SET FORTH IN THIS AGREEMENT. THE PASSAGE OF THE THIRTY (30) DAY PERIOD AFTER COMPLETION OF THE SERVICES WITHOUT THE NOTIFICATION DESCRIBED HEREIN SHALL CONSTITUTE VILLAGE OF WELLINGTON'S FINAL ACCEPTANCE OF THE SERVICES.
- b. WITH RESPECT TO PARTICULAR PRODUCTS MANUFACTURED OR SUPPLIED BY THIRD PARTIES TO ROK FOR RESALE TO VILLAGE OF WELLINGTON, ROK MAKES NO WARRANTIES OF ANY KIND IN ADDITION TO OR EXCEEDING THE WARRANTY SUPPLIED OR OFFERED BY THE RESPECTIVE MANUFACTURER OR SUPPLIER, WHICH SHALL BE TRANSFERRED OR ASSIGNED TO VILLAGE OF WELLINGTON, AND VILLAGE OF WELLINGTON'S RECOVERY IS LIMITED TO RECOVERY AGAINST SUCH MANUFACTURER OR SUPPLIER FOR BREACH OF ANY APPLICABLE WARRANTIES OF MANUFACTURER OR SUPPLIER. IN THE EVENT OF A CLAIM BY VILLAGE OF WELLINGTON FOR BREACH OF PRODUCT WARRANTY, ROK MUST FOLLOW THE WARRANTY POLICY ESTABLISHED BY THE MANUFACTURER. THIS POLICY MAY REQUIRE RETURN OF THE WARRANTED ITEM TO THE MANUFACTURER FOR REPAIR. AT VILLAGE OF WELLINGTON'S REQUEST, ROK AGREES TO TAKE ALL ACTIONS REASONABLY NECESSARY OR APPROPRIATE TO SECURE VILLAGE OF WELLINGTON'S RIGHTS AND TO PROTECT ITS INTERESTS UNDER SUCH THIRD PARTY WARRANTIES. WORK PERFORMED BY ROK, NOT COVERED BY PRODUCT WARRANTY, WILL BE BILLED TO VILLAGE OF WELLINGTON AT THE APPLICABLE ROK RATE.
20. **NO HIRE** – DURING THE TERM OF THIS AGREEMENT AND FOR A PERIOD OF ONE (1) YEAR FOLLOWING THE END OF THIS AGREEMENT, NEITHER PARTY WILL (I) OFFER EMPLOYMENT TO ANY EMPLOYEE OF THE OTHER PARTY; OR (II) ATTEMPT TO DIRECTLY OR INDIRECTLY INDUCE ANY EMPLOYEE OF THE OTHER PARTY TO TERMINATE HIS OR HER EMPLOYMENT. IN THE EVENT OF A BREACH OF THIS SECTION, MONEY OR DAMAGES MAY NOT BE AN ADEQUATE REMEDY, AND, THEREFORE, IN ADDITION TO ANY OTHER LEGAL OR EQUITABLE REMEDIES, EACH PARTY SHALL BE ENTITLED TO SEEK AN INJUNCTION AGAINST SUCH BREACH. THE OBLIGATIONS SET FORTH IN THIS SECTION ARE INDEPENDENT COVENANTS AND SHALL CONTINUE AFTER THIS CONTRACT IS ENDED. NOTWITHSTANDING THE FOREGOING, EACH PARTY SHALL BE FREE TO OFFER EMPLOYMENT TO ANY EMPLOYEE OR SUBCONTRACTOR THAT DIRECTLY CONTACTS SUCH PARTY AFTER THE DATE HEREOF IN RESPONSE TO GENERAL NON-DIRECTED PUBLIC ADVERTISEMENTS OF EMPLOYMENT OPPORTUNITIES (INCLUDING THE USE OF EMPLOYMENT AGENCIES AND RECRUITERS).
21. **ENTIRE AGREEMENT** – THIS AGREEMENT (I) CONSTITUTES THE ENTIRE AGREEMENT ON THIS SUBJECT BETWEEN THE PARTIES AND SUPERSEDES AND MERGES

ANY AND ALL PRIOR DISCUSSIONS, REPRESENTATIONS, DEMONSTRATIONS, NEGOTIATIONS, CORRESPONDENCE, WRITINGS AND OTHER AGREEMENTS AND TOGETHER STATES THE ENTIRE UNDERSTANDING AND AGREEMENT UPON WHICH ROK AND VILLAGE OF WELLINGTON RELY RESPECTING THE SUBJECT MATTER OF THIS AGREEMENT AND (II) MAY BE AMENDED OR MODIFIED ONLY IN A WRITING AGREED TO AND SIGNED BY THE AUTHORIZED REPRESENTATIVES OF THE PARTIES.

22. **GENERAL PROVISIONS** – THIS AGREEMENT AND THE PERFORMANCE OF ANY OBLIGATION HEREUNDER MAY NOT BE ASSIGNED, DELEGATED OR OTHERWISE TRANSFERRED BY VILLAGE OF WELLINGTON WITHOUT THE PRIOR WRITTEN CONSENT OF ROK. IF ANY PROVISION OF THIS AGREEMENT IS FOUND BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID OR UNENFORCEABLE, THE INVALIDITY OF SUCH PROVISION SHALL NOT AFFECT THE OTHER PROVISIONS OF THIS CONTRACT, AND ALL PROVISIONS NOT AFFECTED BY SUCH INVALIDITY SHALL REMAIN IN FULL FORCE AND EFFECT. IT IS THE INTENT OF THE PARTIES TO ACKNOWLEDGE AND AGREE THAT A COURT CAN BLUE PENCIL OR STRIKE THROUGH ANY PORTIONS OF THIS AGREEMENT THAT ARE DEEMED BY A COURT TO BE UNENFORCEABLE. THE WAIVER BY EITHER PARTY OF A BREACH OR DEFAULT IN ANY OF THE PROVISIONS OF THIS AGREEMENT BY THE OTHER PARTY SHALL NOT BE CONSTRUED AS A WAIVER OF ANY SUCCEEDING BREACH OF THE SAME OR OTHER PROVISIONS; NOR SHALL ANY DELAY OR OMISSION ON THE PART OF EITHER PARTY TO EXERCISE OR AVAIL ITSELF OF ANY RIGHT, POWER OR PRIVILEGE THAT IT HAS OR MAY HAVE HEREUNDER OPERATE AS A WAIVER OF ANY BREACH OR DEFAULT BY THE OTHER PARTY. THIS AGREEMENT AND ANY DISPUTES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. THE FEDERAL AND STATE COURTS WITHIN PALM BEACH COUNTY, FL SHALL HAVE EXCLUSIVE JURISDICTION TO ADJUDICATE ANY DISPUTES ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT.
23. **CONFIDENTIALITY** - THE PARTIES MAY DISCLOSE, OR MAY HAVE DISCLOSED, TO EACH OTHER, BOTH ORALLY AND IN WRITING OR IN OTHER TANGIBLE FORM, CERTAIN CONFIDENTIAL INFORMATION WITH RESPECT TO EACH PARTY'S BUSINESS, AS WELL AS THE SERVICES PROVIDED UNDER THIS AGREEMENT. THE PARTIES HEREBY AGREE TO KEEP SUCH INFORMATION AND THE TERMS OF THIS AGREEMENT CONFIDENTIAL TO THE EXTENT PERMITTED BY LAW. THE PARTIES SHALL NOT DISCLOSE TO ANY OTHER PERSON (EXCEPT FOR LEGAL, TAX AND FINANCIAL ADVISORS) ANY INFORMATION RELATING TO THIS AGREEMENT OR ITS SUBJECT MATTER UNLESS OTHERWISE REQUIRED BY LAW AND SHALL TREAT AS CONFIDENTIAL ALL INFORMATION AND DOCUMENTS RELATING HERETO.
- a. NOTWITHSTANDING THE ABOVE, ROK SHALL BE AUTHORIZED TO DISCLOSE VILLAGE OF WELLINGTON'S CONFIDENTIAL INFORMATION TO SUBCONTRACTORS, CONTRACTORS OR EMPLOYEES OF A ROK ENTITY WHO HAVE A LEGITIMATE BUSINESS NEED TO HAVE ACCESS TO SUCH INFORMATION. ROK SHALL BE RESPONSIBLE FOR ANY BREACH OF THIS AGREEMENT CAUSED BY ANY OF ITS SUBCONTRACTORS, EMPLOYEES OR AGENTS. TO THE EXTENT PERMITTED BY LAW, THE RECEIVING PARTY SHALL IMMEDIATELY RETURN TO THE DISCLOSING PARTY ALL CONFIDENTIAL INFORMATION (INCLUDING COPIES THEREOF) IN THE RECEIVING PARTY'S POSSESSION, CUSTODY, OR CONTROL UPON TERMINATION AT ANY TIME AND FOR ANY REASON OF THIS AGREEMENT. THE OBLIGATIONS OF CONFIDENTIALITY DO NOT APPLY TO INFORMATION WHICH: (I) HAS ENTERED THE PUBLIC DOMAIN, EXCEPT WHERE SUCH ENTRY IS THE RESULT OF THE RECEIVING PARTY'S BREACH OF THIS AGREEMENT; (II) PRIOR TO DISCLOSURE HEREUNDER WAS ALREADY RIGHTFULLY IN THE RECEIVING PARTY'S POSSESSION; OR (III) SUBSEQUENT TO DISCLOSURE HEREUNDER IS OBTAINED BY THE RECEIVING PARTY ON A NON-CONFIDENTIAL BASIS FROM A THIRD PARTY WHO HAS THE RIGHT TO DISCLOSE SUCH INFORMATION TO THE RECEIVING PARTY. THE RECEIVING PARTY WILL BE AUTHORIZED TO DISCLOSE CONFIDENTIAL INFORMATION PURSUANT TO A VALID ORDER ISSUED BY A COURT, GOVERNMENT AGENCY OR RELEVANT REGULATORY AUTHORITY (INCLUDING A STOCK EXCHANGE), PROVIDED THAT THE RECEIVING PARTY PROVIDES WHERE PRACTICABLE: (I) PRIOR WRITTEN NOTICE TO THE DISCLOSING PARTY OF SUCH OBLIGATION AND (II) THE OPPORTUNITY TO OPPOSE SUCH DISCLOSURE.
- b. TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY MAY DISCLOSE, ADVERTISE, OR PUBLISH THE TERMS AND CONDITIONS OF THIS AGREEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF THE OTHER PARTY. ANY PRESS RELEASE OR PUBLICATION REGARDING THIS AGREEMENT IS SUBJECT TO PRIOR REVIEW AND WRITTEN APPROVAL OF THE PARTIES.
24. **OWNERSHIP**
- a. EACH PARTY WILL RETAIN THE EXCLUSIVE OWNERSHIP OF ALL OF ITS PRE-EXISTING INTELLECTUAL PROPERTY, CONFIDENTIAL INFORMATION AND MATERIALS, INCLUDING, WITHOUT LIMITATION, PROPRIETARY IDEAS, SKETCHES, DIAGRAMS, TEXT, KNOW-HOW, CONCEPTS, PROOFS OF CONCEPTS, ARTWORK, SOFTWARE, ALGORITHMS, METHODS, PROCESSES, IDENTIFIER CODES OR OTHER TECHNOLOGY THAT ARE OWNED BY A PARTY PRIOR TO COMMENCEMENT OF ANY SERVICES HEREUNDER, OR THAT ARE OTHERWISE DEVELOPED BY OR FOR SUCH PARTY OUTSIDE THE SCOPE OF THIS AGREEMENT ("PRE-EXISTING TECHNOLOGY").
- b. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT OR AN APPLICABLE SOW, ROK OWNS AND WILL CONTINUE TO OWN ALL RIGHT, TITLE, AND INTEREST IN AND TO THE SERVICES, PRODUCTS, DELIVERABLES, DATA COLLECTION TOOLS, REPORTS, SCRIPTS, SKETCHES, DIAGRAMS, TEXT, KNOW-HOW, CONCEPTS, PROOFS OF CONCEPTS, ARTWORK, SOFTWARE, ALGORITHMS, METHODS, PROCESSES, IDENTIFIER CODES OR OTHER TECHNOLOGY PROVIDED OR DEVELOPED BY ROK (OR A THIRD PARTY ACTING ON ROK'S BEHALF) PURSUANT TO THIS AGREEMENT, INCLUDING MODIFICATIONS, ENHANCEMENTS, IMPROVEMENTS OR DERIVATIVE WORKS OF ANY OF THE FOREGOING, REGARDLESS OF WHO FIRST CONCEIVES OR REDUCES TO PRACTICE, AND ALL INTELLECTUAL PROPERTY IN ANY OF THE FOREGOING (COLLECTIVELY "ROK INTELLECTUAL PROPERTY").
- c. AS BETWEEN VILLAGE OF WELLINGTON AND ROK, VILLAGE OF WELLINGTON AT ALL TIMES RETAINS ALL RIGHT, TITLE AND INTEREST IN AND TO ALL OF VILLAGE OF WELLINGTON'S PRE-EXISTING TECHNOLOGY AND ALL INTELLECTUAL PROPERTY THAT IS DEVELOPED BY VILLAGE OF WELLINGTON OR BY A THIRD PARTY ON VILLAGE OF WELLINGTON'S BEHALF THEREAFTER, OTHER THAN ROK INTELLECTUAL PROPERTY. THIRD PARTY PRODUCTS WILL AT ALL TIMES BE OWNED BY THE APPLICABLE THIRD PARTY, AND WILL BE SUBJECT TO ANY APPLICABLE THIRD PARTY LICENSE TERMS.
25. **INDEMNIFICATION** - SUBJECT TO THE LIMITATIONS, CONDITIONS, AND PROVISIONS SET FORTH HEREIN AND FURTHER SUBJECT TO THE LIMITATIONS OF FLORIDA STATUTE 788.28, THE VILLAGE OF WELLINGTON AGREES TO INDEMNIFY AND HOLD HARMLESS ROK FROM AND IN RESPECT OF ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DIRECT LOSSES, COSTS, EXPENSES, OBLIGATIONS, LIABILITIES, ACTUAL DAMAGES, RECOVERIES, AND DEFICIENCIES, INCLUDING, WITHOUT LIMITATION, INTEREST, PENALTIES, FINES, AND REASONABLE ATTORNEYS' FEES (COLLECTIVELY, THE "DAMAGES") IN CONNECTION WITH THIS AGREEMENT, ARISING OUT OF, OR RELATED TO THE VILLAGE OF WELLINGTON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR VIOLATION OF THIS AGREEMENT OR THE LAW
- ROK SHALL DEFEND, INDEMNIFY AND HOLD VILLAGE OF WELLINGTON, ITS AFFILIATES AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL COSTS, LIABILITIES, JUDGMENTS, ACTIONS, LOSSES AND EXPENSES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS FEES AND FEES OF EXPERTS) (COLLECTIVELY "LOSSES") ARISING OUT OF ANY THREATENED OR ACTUAL CLAIM, SUIT, ACTION, ARBITRATION OR PROCEEDING (COLLECTIVELY "CLAIMS") BY ANY THIRD PARTY ARISING OUT OF OR RELATNIG TO: (I) ROK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR (II) A CLAIM THAT THE SERVICES PROVIDED BY ROK UNDER ANY SOW INFRINGE UPON THE UNITED STATES PATENT OR COPYRIGHT OF A THIRD PARTY; PROVIDED THAT VILLAGE OF WELLINGTON GIVES ROK PROMPT NOTICE OF ANY CLAIM; VILLAGE OF WELLINGTON PERMITS ROK SOLE CONTROL OVER THE DEFENSE OF THE CLAIM; AND VILLAGE OF WELLINGTON REASONABLY COOPERATES WITH ROK IN THE DEFENSE OF THE CLAIM.
26. **GOOD FAITH** - EACH PARTY AGREES THAT, IN ITS RESPECTIVE DEALING WITH THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT, IT SHALL ACT IN GOOD FAITH AND THAT ITS AGREEMENT RELATIVE TO DECISIONS AND ACTIONS HEREUNDER WILL NOT BE UNREASONABLY WITHHELD.
27. **DEFAULT** - IF EITHER PARTY FAILS TO PERFORM ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND SUCH DEFAULT IS CAPABLE OF BEING CURED AND CONTINUES FOR A PERIOD OF FIFTEEN (15) DAYS AFTER NOTICE OF THE DEFAULT IS GIVEN TO THE PARTY IN DEFAULT, THEN THE OTHER PARTY MAY, AT ANY TIME PRIOR TO THE DEFAULT BEING CURED, TERMINATE THIS AGREEMENT BY GIVING NOTICE OF TERMINATION TO THE PARTY IN DEFAULT. THE RIGHTS UNDER THIS PARAGRAPH ARE IN ADDITION TO, AND ARE NOT A LIMITATION ON OR IN SUBSTITUTION FOR, ANY OTHER RIGHTS WHICH A PARTY HAS BY REASON OF ANY DEFAULT, INCLUDING, WITHOUT LIMITATION, A CLAIM FOR DAMAGES OR INJUNCTION.
28. **TERMINATION FOR CONVENIENCE**: EITHER PARTY MAY TERMINATE THIS AGREEMENT FOR CONVENIENCE BY PROVIDING NINETY (90) DAYS NOTICE TO THE OTHER. ALL SUMS DUE FOR SERVICES RENDERED THROUGH THE DATE OF TERMINATION SHALL BE PAID BY VOW.
29. **CONSTRUCTION AND INTERPRETATION OF AGREEMENT** - SHOULD ANY PROVISION OF THE AGREEMENT REQUIRE JUDICIAL INTERPRETATION, IT IS AGREED THAT THE ARBITER OR COURT INTERPRETING OR CONSIDERING SAME SHALL NOT APPLY THE PRESUMPTION THAT THE TERMS HEREOF SHALL BE MORE STRICTLY CONSTRUED AGAINST A PARTY BY REASON OF THE RULE OR CONCLUSION THAT A DOCUMENT SHOULD BE CONSTRUED MORE STRICTLY AGAINST THE PARTY WHO ITSELF OR THROUGH ITS AGENT PREPARED THE SAME. IT IS AGREED AND STIPULATED THAT ALL PARTIES HERETO HAVE PARTICIPATED EQUALLY IN THE PREPARATION OF THIS AGREEMENT.



Accepted By:

ROK Technologies, LLC

[VILLAGE OF WELLINGTON]

Signature

Alexandra Coleman

Signature

(Initials required at end of section 10)

Printed Name

Alex Coleman

Printed Name

Title

CEO

Title

Date

12/4/2020

Date