SUTISOFT MASTER SERVICES AGREEMENT

This agreement ("Agreement") is entered into, to be effective as of **2/1/2018** ("Effective Date"), by and between **The Arc Oregon** ("Customer"), and **SutiSoft, Inc.** ("Service Provider")

RECITALS

WHEREAS, Customer requires hosted third-party "software as a service" (the "Services," as further described herein) with respect to certain of its information technology needs;

WHEREAS, Service Provider has agreed to provide the Services to Customer, all on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and representations set forth in this Agreement, the parties hereby agree as follows:

1. <u>The Services.</u>

   1.1   <u>Purpose; Term.</u> This Agreement sets forth the terms and conditions under which Service Provider agrees to provide certain hosted "software as a service" and provide all other services, data import / export, monitoring, support, backup and recovery, change management, technology upgrades, and training necessary for Customer's productive use of such software (the "Services").

   1.2   <u>Control of Services.</u> The method and means of providing the Services shall be under the exclusive control, management, and supervision of Service Provider, giving due consideration to the requests of Customer.

   1.3   <u>Backup and Recovery of Customer Data.</u> As a part of the Services, Service Provider is responsible for maintaining a backup of Customer Data, for an orderly and timely recovery of such data in the event that the Services may be interrupted.

   1.4   <u>Change Control Procedure.</u> Customer may, upon written notice, request increases or decreases to the scope of the Services. If Customer requests an increase in the scope, Customer shall notify Service Provider, and, not more than five (5) business days (or other mutually agreed upon period) after receiving the request, Service Provider shall notify Customer whether or not the change has an associated cost impact.

2. <u>Term and Termination.</u>

   2.1   The agreement shall automatically renew for successive one month terms (each, a "Renewal Term") until such time as Customer provides Service Provider with written notice of termination; <u>provided, however,</u> that: (a) such notice be given no fewer than Fifteen (15) calendar days prior to the last day of the then current term

   2.2   <u>Termination for Cause.</u> If either party materially breaches any of its duties or obligations hereunder and such breach is not cured within thirty (30) calendar days after written notice of the breach, then the non-breaching party may terminate this Agreement or a renewal as defined in <u>Exhibit A</u> for cause as of a date specified in such notice.

   2.3   <u>Payments Upon Termination.</u> Upon the expiration or termination of this Agreement Customer shall pay to Service Provider all amounts due and payable hereunder.

   2.4   <u>Return of Materials.</u> Upon expiration or earlier termination of this Agreement each party shall: (a) promptly return to the other party, or certify the destruction of any of the following of the other party held in connection with the performance of this Agreement or the Services: (i) all Confidential Information; and, (ii) any other data, programs and materials; In the case of Customer Data, Service Provider shall, immediately upon termination of this Agreement , provide Customer with a final export of the Customer Data and shall certify the destruction of any Customer Data within the possession of Service Provider. The parties agree to work in good faith to execute the foregoing in a timely and efficient manner.

   2.5   <u>Billing.</u> Monthly subscription billed on the first business day of month for prior month of usage, or annually for a 12 month period.

3. <u>Fees and Expenses.</u> Customer shall be responsible for and shall pay to Service Provider the fees as further described in <u>Exhibit A,</u> subject to the terms and conditions contained therein. Any sum due Service Provider for Services performed for which payment is not otherwise specified shall be due and payable thirty (30) days after receipt by Customer of an invoice from Service Provider

    3.1 <u>Billing Procedures.</u> Unless otherwise provided for under an <u>Exhibit A,</u> Service Provider shall bill to Customer the sums due pursuant to an <u>Exhibit A</u> by Service Provider's invoice, which shall contain: (a) Customer purchase order number, if any, and invoice number; (b) description of Services rendered; (c) the Services fee or portion thereof that is due; (d); taxes, if any; and, (e) total amount due. Service Provider shall forward invoices in electronic format to: accounting@thearcoregon.org

    3.2 <u>Credits.</u> Any amounts due from Service Provider may be applied by Customer against any fees due to Service Provider. Any such amounts that are not so applied shall be paid to Customer by Service Provider within thirty (30) days following Customer's request.

4. <u>Representations and Warranties.</u>

    4.1 Mutual Representations and Warranties. Each of Customer and Service Provider represent and warrant that:

        4.1.1 it is a business duly incorporated, validly existing, and in good standing under the laws of its state of incorporation;

        4.1.2 it has all requisite corporate power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement;

        4.1.3 this Agreement, when executed and delivered, shall be a valid and binding obligation of it enforceable in accordance with its terms;

5. <u>Non-Disclosure of Confidential Information.</u> The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.

    5.1 <u>Obligation of Confidentiality.</u> The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep such information confidential.

6. <u>Proprietary Rights.</u>

    6.1 <u>Pre-existing Materials.</u> Customer acknowledges that, in the course of performing the Services, Service Provider may use software and related processes, instructions, methods, and techniques that have been previously developed by Service Provider (collectively, the "Pre-existing Materials") and that same shall remain the sole and exclusive property of Service Provider.

    6.2 <u>Data of Customer.</u> Customer's information, or any derivatives thereof, contained in any Service Provider repository (the "Customer Data," which shall also be known and treated by Service Provider as Confidential Information) shall be and remain the sole and exclusive property of Customer. Customer shall be entitled to an export of Customer Data, without charge, upon the request of Customer and upon termination of this Agreement or an <u>Exhibit A.</u>

    6.3 <u>No License.</u> Except as expressly set forth herein, no license is granted by either party to the other with respect the Confidential Information, Pre-existing Materials, or Customer Data. Nothing in this Agreement shall be construed to grant to either party any ownership or other interest, in the Confidential Information, Pre-existing Materials, or Customer Data, except as may be provided under a license specifically applicable to such Confidential Information, Pre-existing Materials, or Customer Data.

6.4   Customer Logo. Service Provider reserves the right to use Customer's Logo under the following limited circumstance. On the Service providers Website that references the Customer relationship with Service Provider, provided that the area in which the Customer Logo is used includes the Corporate Logo of other Companies with which the Service Provider has a similar relationship. Customer may request logo be removed at any time.

7.   Warranty Disclaimer.

You may be entitled to warranties, conditions, and terms that may not be excluded or limited by Sutisoft under law. EXCEPT FOR THOSE NON-EXCLUDABLE WARRANTIES, CONDITIONS, AND TERMS, AND THE SOFTWARE ARE MADE AVAILABLE "AS IS". EXCEPT FOR THOSE NON-EXCLUDABLE WARRANTIES, CONDITIONS AND TERMS, SUTISOFT AND ITS SUPPLIERS MAKE NO WARRANTIES, CONDITIONS, REPRESENTATIONS, GUARANTEES, OR TERMS (EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMON LAW, CUSTOM, USAGE, OR OTHERWISE) AS TO ANY MATTER INCLUDING PERFORMANCE, RESULTS, SECURITY, NONINFRINGEMENT, MERCHANTABILITY, INTEGRATION, QUIET ENJOYMENT, SATISFACTORY QUALITY, AND FITNESS FOR ANY PARTICULAR PURPOSE. THIS DISCLAIMER OF WARRANTY MAY NOT BE VALID IN SOMES STATES. YOU MAY HAVE WARRANTY RIGHTS UNDER LAW WHICH MAY NOT BE WAIVED OR DISCLAIMED. SUTISOFT DOES NOT SEEK TO LIMIT YOUR WARRANTY RIGHTS TO ANY EXTENT NOT PERMITTED BY LAW.

These exclusions and limitations will apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose. Sutisoft reserves the right to charge for use of subsequent versions of the Software or any Sutisoft online services available through the Software.

8.   Limitation of Liability.

8.1   EXCEPT FOR ANY REMEDIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER LAW, SUTISOFT AND ITS AFFILIATES AND SUPPLIERS WILL NOT BE LIABLE TO YOU FOR ANY LOSS, DAMAGES, CLAIMS, OR COSTS INCLUDING ANY INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, ANY LOST PROFITS OR LOST SAVINGS, ANY DAMAGES RESULTING FROM BUSINESS INTERRUPTION, PERSONAL INJURY OR FAILURE TO MEET ANY DUTY OR CARE, OR CLAIMS BY A THIRD PARTY, EVEN IF A SUTISOFT REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, DAMAGES, CLAIMS, OR COSTS. IN ANY EVENT, SUTISOFT'S AGGREGATE LIABILITY AND THAT OF ITS AFFILITES AND SUPPLIERS IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT PAID FOR THE SOFTWARE, IF ANY. THIS LIMITATION WILL APPLY EVEN IN THE EVENT OF A FUNDAMENTAL MATERIAL BREACH OR A BREACH OF THE FUNDAMENTAL OR MATERIAL TERMS OF THIS AGREEMENT. Nothing contained in these agreements limits Sutisoft's liability to you in the event of death or personal injury resulting from Sutisoft's negligence or for the tort of deceit (fraud). Sutisoft is acting on behalf of its affiliates and suppliers for the purpose of disclaiming, excluding, and limiting obligations, warranties, and liability, but in no other respects and for no other purpose. For further information, contact the Sutisoft Customer Support Department.

THE FOREGOING LIMITATIONS AND EXCLUSIONS APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW IN YOUR JURISDICTION. THIS LIMITATION OF LIABILITY MAY NOT BE VALID IN SOME STATES. YOU MAY HAVE RIGHTS THAT CANNOT BE WAIVED UNDER CONSUMER PROTECTION AND OTHER LAWS. SUTISOFT DOES NOT SEEK TO LIMIT YOUR WARRANTY OR REMEDIES TO ANY EXTENT NOT PERMITTED BY LAW.

9.   General.

9.1   Governing Law. This Agreement shall be governed by and constructed in accordance with the laws of the State of California and the federal laws of the United States. Service Provider hereby consents and submits to the jurisdiction and forum of the state and federal courts in the State of California in all questions and controversies arising out of this Agreement.

9.2   Force Majeure. Neither party shall be liable for delays or any failure to perform the Services or this Agreement due to causes beyond its reasonable control. Such delays include, but are not limited to, fire, explosion, flood or other natural catastrophe, governmental legislation, acts, orders, or regulation, strikes or labor difficulties, to the extent not occasioned by the fault or negligence of the delayed party. Any such

excuse for delay shall last only as long as the event remains beyond the reasonable control of the delayed party.

9.3   <u>Notices.</u> Any notice given pursuant to this Agreement shall be in writing and shall be given by personal service or by United States certified mail, return receipt requested

Address for Notice

SutiSoft, Inc
4984 El Camino Real, Suite 200
Los Altos, CA 94022

Customer Address

The Arc Oregon
2405 Front St NE Suite 120
Salem, Oregon 97301

9.4   Executed on the dates set forth below by the undersigned authorized representatives of the parties to be effective as of the Effective Date.

SutiSoft, Inc.
("Service Provider")

By:

Name: Jameson Williams

Title: Sales Manager

Date:

The Arc Oregon
("Customer")

By:

Name: Paula Boga

Title: Interim Executive Director

Date: February 1, 2018

EXHIBIT A

SUTISOFT, INC. SERVICES ORDER

This Exhibit A - Service Provider's Services Order shall be incorporated in and governed by the terms of that certain SutiSoft Services Master Agreement by and between ("Customer") and ("Service Provider") dated **2/1/2018**, as amended (the "Agreement"). Unless expressly provided for in this Exhibit A, in the event of a conflict between the provisions contained in the Agreement and those contained in this Exhibit A, the provisions contained in the Master Agreement shall prevail.

SutiSoft Solution	SutiExpense
Solution Type	Expense Report Management
Solution Description	20 Active Users
Terms	$6.00 USD per active user. Use is measured based on the pervious calendar month. User defined as one email set up in the system and is restricted to that user's related submissions. Fees due will be invoiced electronically on the first business day of the following month net 30, based on the minimum charge of $50.00 USD or active users and total reports submitted, whichever is greater. Billable upon successful go live date completion, to be determined during set up or 30 days after initial subscription start. One-time set up fee (waived) to be charged after successful set up of system, or after 30 days after the initial agreement execution date.
Per Active User Module Fees	SutiExpense: $6.00 USD per active user
Initial Subscription Start	2/1/2018
Initial Subscription End	Month to Month
Fair Use Policy	Fair use is defined as an average of no more than 4 expense reports per month, per user averaged across the active user base for a 90 day consecutive period. In the event that the Fair Use terms are exceeded over any 90 day consecutive period, Service Provider will contact customer and renegotiate the terms of the agreement. Unlimited support for users, administrative support during set up period.
Agreement Type	Agreement billed monthly based on the greater of either the billable active users and the report total, or the minimum charge. Customer option to cancel at anytime without cause upon 30 day written notice. Upon cancellation past 30 days use will be charged. Month to month agreement.
Monthly Minimum	The monthly minimum is only due in the event that it is greater than the billable active users in any one calendar month period, and will be the only use fee due for that calendar month.
Set Up Terms	Set up cost waived. Includes initial user set up, accounting platform integration, on-line training and supplemental training material. Set up fee due upon successful completion of go live date, if and only if set up has not been waived.
Post Live One Time Fees	Post live services: change of general ledger, migration to a new accounting platform, or change of corporate card issuer supported at $75.00 HRLY USD. SutiSoft will provide an estimate for time of completion to customer.
Additional SutiSoft Requirements	Provider reserves the right to change renewal pricing after the end of the initial subscription end date with 90 days advanced written notice.

Executed on the dates set forth below by the undersigned authorized representatives of the parties to be effective as of the Start Date.

SutiSoft, Inc. ("Service Provider")	The Arc Oregon ("Customer")
By:	By:
Name: Jameson Williams	Name: Paula Boga
Title: Sales Manager	Title: Interim Executive Director
Date:	Date: February 1, 2018