

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN AGREEMENT WITH  
TRANSLOC, INC., AND AUTHORIZING THE MAYOR TO  
EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS  
NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE  
OF THE AGREEMENT

WHEREAS, the Kingsport Area Transit Service (KATS) has used TransLoc, Inc. software as the real-time bus tracker, automatic passenger counters, on-time performance metrics, and other services, and the contract has expired; and

WHEREAS, staff recommends entering into a new agreement with TransLoc, Inc for the continued use of the software at the annual estimated cost of \$23,934.06; and

WHEREAS, funding is available in FTA 038 (Federal: 50%, State: 25%, Local: 25%).

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the agreement with TransLoc, Inc., is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the Agreement with TransLoc, Inc., to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution as set out below:

TECHNOLOGY LICENSE AND SERVICE AGREEMENT

This Technology License and Service Agreement (this "**Agreement**") is dated as of the last signature to this Agreement (the "**Effective Date**") and is entered into by and between TransLoc Inc., a Delaware corporation, with its principal place of business located at 5000 Centregreen Way, Suite 500, Cary, NC 27513 ("**Company**"), and City of Kingsport, Tennessee, located at 900 East Main Street, Kingsport, Tennessee 37664 ("**Customer**").

**RECITALS:**

- A. Customer wishes to access Company's Service in accordance with the terms of this Agreement, and
- B. Company wishes to make the Service and Equipment available to Customer on the terms and conditions described in this Agreement.
- C. Customer operates the transportation and shuttle bus management services at Kingsport Area Transit Service, located at 900 East Main Street, Kingsport, Tennessee 37664 pursuant to an underlying agreement (the "**Underlying Agreement**") with Kingsport Area Transit (the "**Authority**").
- D. Upon the execution of this Agreement, the Agreement between Company and the Authority, executed on April 19, 2021, is terminated.

**NOW THEREFORE:**

In consideration of the premises and mutual covenants and agreements herein contained, as well as additional consideration, the sufficiency of which is acknowledged, Company and Customer agree as follows:

1. Definitions.

- 1.1. "**Affiliates**" means an entity that owns, is owned by, or is under common ownership with a party, in each case where ownership is direct and is greater than 50%.
- 1.2. "**Confidential Information**" means any non-public information or data whether in written, electronic, or other tangible form, or provided orally or visually, that is disclosed by or on behalf of one party (a "**Disclosing Party**") to the other party (a "**Receiving Party**"), whether owned by the

Disclosing Party or a third party, pursuant to this Agreement. Confidential Information of Customer includes, but is not limited to, Customer's financial and business information. Confidential Information of Company includes, but is not limited to, the terms of this Agreement; the structure, organization, design, algorithms, methods, templates, data models, data structures, flow charts, logic flow, and screen displays associated with the Software and the Service; the Documentation; and Company's pricing, sales, proposals, implementation, and training materials, and procedures. Confidential Information does not include information that: (a) is or becomes publicly known or available without breach of this Agreement; (b) is received by a Receiving Party from a third party without breach of any obligation of confidentiality; or (c) was previously known by the Receiving Party as shown by its written records.

1.3. "**Day(s)**" means calendar day(s), unless otherwise specified.

1.4. "**De-Identified Data**" means data that has been modified to remove or obscure personal identifiers such that the data cannot reasonably be used to identify an individual User or Customer.

1.5. "**Documentation**" means any instructional and user manuals relating to the Service, which may be amended from time to time by Company.

1.6. "**Equipment**" means tracking hardware, antennas, cabling, wiring and other electronic components provided by Company and installed by authorized Company personnel on Customer's Vehicle Fleet, to allow the functioning, delivery, or maintenance of the Software.

1.7. "**Fees**" means the Subscription Fee, the cost of any Equipment, and any additional fees charged to Customer for professional services or pursuant to the terms of this Agreement.

1.8. "**Initial Term**" means a period of one (1) year from the Effective Date.

1.9. "**Project Manager**" means an employee of Customer, designated to be responsible for and aware of Customer's (and if applicable, any third party brought in by Customer's) business and systems information and needs. Project Manager will be the lead point of contact for all matters involving Customer and Company.

1.10. "**Service**" means Company's Software and any services and deliverables identified in Exhibits A and B, or a Work Order, as applicable.

1.11. "**Service Data**" means any data, information, content, documents, or electronic files provided to or collected by Company from either Customer or its Users during the course of their use of any component of the Service.

1.12. "**Software**" means (1) Company's proprietary vehicle tracking and passenger information Service provided through proprietary software made available in combination with Equipment for use in the management, location, and inventory of Customer's transportation resource; (2) any of Company's proprietary software, solutions, or technologies identified in Exhibits A and B of the Agreement, including but not limited to white label applications; and (3) Third Party Software identified in Exhibits A or B of the Agreement or otherwise provided as part of the Software or Service.

1.13. "**Subscription Fee**" means those fees charged by Company in connection with Software licenses, renewals, and maintenance.

1.14. "**Term**" means the Initial Term plus any Renewal.

1.15. "**Third Party Software**" any licensed software products, as further outlined in Exhibit A or B, that are provided by Company under this Agreement but, which are the property of another business that is not directly a party to this Agreement, and subject to separate terms and conditions.

1.16. "**Users**" means the actual and prospective passengers on Customer's transit system.

1.17. "**Vehicle Fleet**" means the multi-passenger vehicles comprising Customer's transit system, on which the Equipment is installed in accordance with this Agreement.

1.18. "**Work Order**" means that document by which the parties may agree to the purchase and delivery of certain Equipment and/or professional services (e.g. hardware purchase, delivery, and install, training, etc.).

2. Software, Service, and Equipment.

2.1. Subscription. Subject to payment of the Fees and the remaining terms and conditions of this Agreement (including, without limitation, the use requirements, restrictions, and limitations described in Section 6.1), Company hereby grants to Customer a limited, revocable, non-exclusive, and non-transferable right to access and use the Software and the Documentation during the Term at the physical location of Customer as stated herein. Company will make the Documentation available to Customer in electronic form.

2.2. Implementation and Training.

2.2.1. System Information Sheet. Customer will complete the System Information Sheet no later than thirty (30) calendar days following receipt of the System Information Sheet from Company, which includes stops, routes, blocks, vehicle information, and other relevant information needed to create Customer's Service.

2.2.2. Pre-Installation Requirement Form. Customer will complete, if applicable, the Pre-Installation Requirement Form no later than fourteen (14) calendar days following receipt of the Pre-Installation Requirement Form from Company.

2.2.3. Project Management. Within five (5) calendar days of the Effective Date of the Agreement, Customer shall provide a Project Manager that Company will work with through to project completion. Company will also provide a project manager who will coordinate resources internally.

2.2.4. Additional Materials and Documents. Company and Customer will cooperate to ensure that all applicable forms and documents necessary for implementation of the Service are completed within a reasonable timeframe.

2.2.5. Definition of Service Area. Customer shall provide Company with the physical bounds of their intended Service area upon request from Company. This information can be provided either in a series of latitude and longitudes that correspond to the vertices of a contiguous shape, a radius (in miles or kilometers) from a single latitude and longitude, or a list of all the roadways and intersections that form the outer-edges of the service area.

2.2.6. Customer Delays. In the event Company incurs delays, additional costs, or labor as a result of any act or omission of Customer, including but not limited to Customer's failure to provide information, data, or access to Customer's facilities or personnel, Customer agrees that Company may, upon prior written notice to Customer, add reasonable charges to the amounts invoiced to Customer and adjust any implementation schedule provided to Customer.

2.2.7. Vehicle Fleet administrators will receive standard instructional materials and training to use the Service as set out by Company.

2.3. Software, Support and Maintenance.

2.3.1. Base Level Support. Company will provide email and telephone support for the Software to assist Customer personnel in using the Service and in reporting suspected deviations from the Service and the associated Documentation ("**Errors**"). Support will be provided from 7:00 a.m. to 7:00 p.m. Eastern Time, Monday through Friday, excluding regular business holidays. Only in the event of an emergency, Company will provide twenty-four (24) hours a day, seven (7) days a week telephone assistance.

2.3.2. Maintenance. Company will use reasonable efforts to correct suspected Errors when such Errors are reported to Company. Company does not warrant that all Service Errors will be corrected.

2.3.3. TransLoc Architect. Notwithstanding the foregoing, Base Level Support for TransLoc Architect ("**Architect**") that is not obtained in conjunction with TransLoc's Fixed Route Service, will consist of up to four (4) support tickets per year beginning as of the Effective Date. Every support ticket submitted for Architect in excess of the Base Level Support noted in this Section 2.3.3. will be charged to Customer at a fee of one hundred fifty dollars (\$150) per ticket.

2.4. Equipment. Company will make available for Customer to purchase certain hardware Equipment as part of the solution for integration with Company's Software. In the event that Customer elects to return any Equipment for any reason other than the Equipment being defective, Company may charge Customer an additional restocking fee to be invoiced upon receipt of the Equipment. Returned Equipment must be in good working condition and include all original components and packaging and failure to do so may result in additional charges or refusal of return.

2.5. Software Upgrades. Company will provide upgrades to Software ("**Upgrades**") that Company generally makes available to its other licensees for no additional charge. Customer acknowledges that Upgrades include only point releases that improve or maintain the stability of the Service and do not include major releases that add new functionality, which may be available for an additional fee. In the case where Company provides new features to Customer at no charge, the continued availability, performance, or usefulness of such features are not guaranteed or warranted by Company and such new features may be revoked at any time. Customer acknowledges that some newly integrated features in future releases of the Company Software may require the purchase of the appropriate hardware upon which the features depend.

If Company is no longer providing one or more Services, or in the event that a Service goes end-of-life, Company may replace the Service with a functional equivalent in accordance with the terms of this Agreement; provided, that any such functional equivalent shall have substantially similar features and functions as the Service it is replacing and shall reasonably meet or exceed the specifications and other requirements prescribed by this Agreement for the Service, and upon such replacement in accordance with this Section, such replacement Service shall be considered a Service for the purposes of this Agreement. To the extent necessary, Company and Customer shall amend any applicable statement of work to reflect such replacement of Service.

2.6. Route & Map Updates. Company will add the existing stops, schedules, or routes during the initial implementation with information provided by Customer. After the initial Implementation, to ensure that updates are implemented within the requested effective date, Company request that updates be submitted two (2) weeks in advance of the desired effective date.

2.7. Modification of Customer's Physical Location. If Customer expands or modifies its physical location, Customer may be required to purchase additional hardware and/or Software licenses and/or services to enable the Service to function properly in the expanded, additional, or modified physical location. Such purchases shall be agreed to in writing by executing additional amendments.

2.8. Professional Services. Customer and Company may modify Exhibit B or enter into one or more statement of works or Work Orders subject to this Agreement, which may incorporate one or more service descriptions for the provision of professional services at specified Fees. Company will perform the professional services, subject to the fulfillment of any responsibilities and payments due from Customer, as stated in the applicable exhibit, statement of work, and/or Work Order.

### 3. Fees and Payment.

3.1. Subscription Fees. The rates for the Service are identified in Exhibit A. The Subscription Fees, subject to Section 3.4 below, will commence on the Effective Date, and will continue for the Term. Subscription Fees are paid annually in advance, upon the Effective Date and each anniversary thereafter.

3.2. Cost of Equipment. The cost of Equipment is identified in Exhibit A.

3.3. Payment, Taxes and Procedures. Company will invoice Customer for Fees. Customer shall pay Company in accordance with payment terms set forth below:

3.3.1. Fees are payable in U.S. dollars only and are due no later than thirty (30) days after the invoice date. Fees are nonrefundable.

3.3.2. Payments shall be delivered to the address indicated on the invoice, unless otherwise instructed by Company.

3.3.3. Late payments shall be subject to interest at the monthly rate of one percent (1%), or the maximum amount allowed by applicable law, if lower. Interest on late payments will be calculated from the date when payment becomes overdue until the date payment is received by Company.

3.3.4. Customer shall pay Company's costs of collecting amounts past due under this Agreement, including reasonable attorneys' fees.

3.3.5. Prices do not include applicable state and local sales, use and other taxes. Customer is responsible for such taxes or shall provide proof of tax exemption.

3.3.6. Customer must provide written notice of any disputed invoice and/or Fees owed to Company within ten (10) days of receipt of such invoice.

3.4. Fee Increase. Company shall, upon each anniversary of the Effective Date during the Term, increase Fees by six percent (6%). Company may increase Fees by greater than six percent (6%) subject to the requirement that it provide Customer with at least thirty (30) days written notice.

3.5. Suspension of Services. If any undisputed Fees are not received by the Company by the applicable due date, the Company may, without limiting its other rights and remedies, suspend provision of any or all of the Service until such amounts are paid in full. The Company shall provide written notice of non-payment prior to suspension. Suspension of Service shall not relieve the Customer of its obligation to pay all Fees due under this Agreement, and the Company shall not be liable for any damages, losses, or liabilities arising from such suspension. If Company suspends the Service for non-payment, Customer may be charged a fee for reinstatement of the Service by Company based on the additional effort required to complete the reinstatement.

### 4. Term and Termination.

4.1. Term. This Agreement begins on the Effective Date and will remain in effect for the Initial Term. The Agreement will automatically renew for additional successive one (1) year periods (each a "Renewal") unless either party provides written notice to the other party at least one hundred twenty (120) days before the end of the Term. Company acknowledges that the Customer is a governmental entity, and the validity of the Agreement is based upon the availability of public funding under its authority. In the event the applicable elected body does not appropriate funds to Customer for any fiscal year covered by the term of the Agreement for the services to be provided, the Agreement shall be terminated, upon thirty (30) days written notice, on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to Customer. Such termination shall not be a breach of the Agreement, and any unused payment made to the Company shall be promptly returned to Customer. Company shall be entitled to receive and Customer shall pay applicable fees for the Service and charges incurred for any work performed as of the effective termination date.

4.2. Termination for Breach. Either party may terminate this Agreement if the other party materially breaches any of the terms and conditions of this Agreement and it is not cured:

4.2.1. Within ten (10) days after written notice if the breach relates to payment of Fees; or

4.2.2. Within thirty (30) days after written notice for any other breach.

### 4.3. Effect of Termination or Expiration.

4.3.1. Upon termination or expiration of this Agreement for any reason, (i) the Customer's license and right to access and use the Service automatically terminates, and (ii) the Customer's right to

receive, view and/or access the Service Data automatically terminates. Termination of this Agreement does not relieve Customer of its obligation to pay any Fees or other monies due to Company.

4.3.2. Should this Agreement be terminated before the end of the Term, for any reason other than Company breach, Customer must pay all current, outstanding, and remaining Fees for the remainder of the Term. Fees are due no later than thirty (30) days from the effective date of termination of the Agreement.

4.4. Survival. The terms provided in Sections 4.3, 4.5, 5, 6, 7, 8, and 9 of this Agreement survive any termination or expiration of this Agreement.

4.5. Excess Use Fees. In the event that Customer's use of the Service exceeds any defined limits or quantities set out in an applicable Exhibit or Work Order ("**Excess Use**"), Customer will be required to pay additional Fees for all such Excess Use at the rates set out in the Exhibit or Work Order or, if no such rates are specified, at Company's then-current standard rates, promptly upon receipt of notice from Company.

4.6. Service Decommissions. Customer may not decrease their Service subscription count during the Term. Upon not less than one hundred twenty (120) days before the end of the Term, Customer must provide written notice to Company should Customer require fewer Service subscriptions or other reductions during the Renewal. For avoidance of doubt, Customer may at any time during the Term, pursuant to an amendment to this Agreement, purchase additional Service subscriptions.

5. Warranties and Disclaimer of Company.

5.1. Equipment Base Warranty. Company's Equipment may be subject to standard warranty coverage or optional extended warranty coverage, as further detailed in the Company's applicable warranty Documentation upon Customer's acceptance. The scope, duration, and terms of such coverage shall be governed exclusively by the warranty Documentation provided by Company at the time of sale or delivery of the applicable Equipment. No additional warranties, express or implied, shall apply unless expressly set out in such Documentation.

5.2. Third-Party Warranty. In the event any third-party Equipment is provided to Customer hereunder, either as part of the Services or as necessary or incidental to Company's provision of Services (including hosting services), Company shall pass through to Customer any and all representations, warranties and covenants from such third-party providers, in addition to any representations, warranties and covenants provided by Company in this Agreement. Such warranties may be voided as the result of Customer's negligence, willful misconduct, or if caused by an action under Section 5.5.

5.3. Professional Services Warranty. Company represents and warrants that the professional services will be performed in a workmanlike manner consistent with industry standards.

5.4. Exclusive Remedy. Customer's exclusive remedy for breach of related warranties in this Sections 5 shall be that Company will use commercially reasonable efforts in endeavoring to resolve and cure any such breach.

5.5. Warranty Limitations. Company is not responsible for failure of the Service to conform to the Documentation or to provide accurate information with respect to the location, time, status, availability or existence of Customer's Vehicle Fleet if the Equipment is (i) damaged, blocked, modified, disassembled, vandalized, destroyed, or interfered with; (ii) subjected to extreme temperatures, flooding, over-voltage, electrical surges, misapplication of electrical power, or caustic chemicals; (iii) improperly installed or maintained by Customer or any third party; or (iv) used for a purpose other than as intended by Company, including but not limited to use in a configuration not recommended by Company.

5.6. Additional Fees. Company requires that installation or re-installation of all Equipment be performed by Company or a third-party expressly authorized by Company. In the event Company has to repair, modify, or replace any component of the Equipment due to Customer's improper installation, additional fees shall incur.

5.7. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, COMPANY MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM TRADE USAGE OR COURSE OF DEALING. IN ADDITION, THE SERVICE DEPENDS UPON DATA BEING TRANSMITTED OVER THE INTERNET, CUSTOMER'S NETWORK, GPS SATELLITES, AND THIRD-PARTY CARRIER NETWORKS, AND AS COMPANY HAS NO CONTROL OVER THE FUNCTIONING OF THE INTERNET, THE SERVICE IS OFFERED ON AN "AS-AVAILABLE" BASIS. COMPANY DOES NOT WARRANT THAT THE SERVICE WILL OPERATE UNINTERRUPTED OR ERROR-FREE.

5.8. Excluded Parties. Company represents that it has no knowledge that any prospective business partner, employee, subcontractor, or supplier is included in the General Services

Administration's (GSA's) List of Parties Excluded from Federal Procurement and Non-Procurement Programs.

5.9. Lobbying Disclosure Act. Company represents that it has no knowledge that any prospective business partner, employee, subcontractor, or supplier is in violation of the Lobbying Disclosure Act of 1995.

5.10. Non-Discrimination. Company represents that it does not discriminate against any employee or applicant for employment because of race, religion, creed, national origin, age, gender, marital status, citizenship, disability, sexual orientation, veteran's status, or membership in any other protected group.

6. Warranties and Acknowledgement of Customer.

6.1. Use Requirements, Restrictions and Limitations. Customer represents that it will observe the following requirements and restrictions in connection with its access to and use of the Service:

6.1.1. Customer shall not reverse engineer, de-compile or disassemble the Software or Equipment, shall not attempt to access any data underlying the Software or circumvent the user interface or other technological measures put in place by Company, and shall not modify, access, download, copy, or interfere with the Equipment or its embedded software without the express consent of Company.

6.1.2. Customer shall not rent, sell, assign, lease, or sublicense the Service. Customer shall not use the Service in a service bureau, outsourcing or other arrangement to process or administer data on behalf of any third party.

6.1.3. Customer shall not knowingly access, store, or transmit via the Service any material that (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or offensive; (ii) facilitates illegal activity; (iii) is discriminatory; or (iv) causes damage or injury to any person or property.

6.1.4. Customer shall not violate or attempt to violate the security of Company's networks, including (i) accessing data not intended for Customer; (ii) accessing a server or account which Customer is not authorized to access; (iii) attempting to scan or test the vulnerability of a system or network or to breach security or authentication measures; or (iv) attempting to interfere with the availability or functionality of the Services, including by means of submitting a virus, overloading, flooding, spamming, mail bombing or crashing.

6.1.5. Customer shall cause each of Customer's employees, agents and independent contractors to comply with (i) the obligations set forth in this Section 6.1 and (ii) all applicable laws, rules and regulations in connection with their use of the Service.

6.1.6. Company reserves the right, without liability to Customer, to disable Customer's or a User's access to the Service for breach of this Section 6.1.

6.2. Customer acknowledges and agrees:

6.2.1. That the Service is an information tool only and is not a substitute for competent management and oversight of Customer's Vehicle Fleet, transportation system, and personnel;

6.2.2. That the Service depends upon data being transmitted over the internet, Customer's network, GPS satellites, and third-party carrier networks, and that, Company has no control over the functioning of the internet, Customer's network, GPS satellites, or the network of a carrier; and

6.2.3. That Customer alone is responsible for acquiring and maintaining Customer's Vehicle Fleet, Customer's network, Customer's internet access, and the rest of Customer's physical and technological infrastructure; and

6.2.4. That Customer's cooperation is required for the timely delivery of the Service, and, as a result, Customer will promptly respond to Company's requests and inquires and cause its Project Manager (or any applicable representative) to cooperate with Company, in good faith, to complete the implementation of the Service and troubleshoot any issues with the Service.

6.3. International Roaming. The Equipment may transmit and receive data without user intervention and, as a result, will generate international roaming charges when it is taken out of the United States. Customer alone is responsible for roaming charges, which will be charged as Excess Use.

7. Confidentiality and Ownership.

7.1. Intellectual Property. Company is the sole and exclusive owner of all rights, title and interest in and to the Service, including all updates, modifications, customizations, enhancements and other derivative works thereof (collectively "**Derivative Works**"), and in any and all copyrights, patents, trademarks, trade secrets and other proprietary and/or intellectual property rights therein or thereto. To the extent any Derivative Work is developed by Company based upon ideas or suggestions submitted by Customer to Company, Customer hereby irrevocably assigns all rights to modify or enhance the Service using such ideas or suggestions or joint contributions to Company, together with all copyrights, patents, trademarks, trade secrets, and other proprietary and/or intellectual property rights related to such Derivative Works. Nothing contained in this Agreement shall be

construed to convey to Customer (or to any party claiming through Customer) any rights in or to the Service, other than the rights expressly granted in Section 2.1.

7.2. Trademarks. Customer hereby consents to and grants to Company a non-exclusive, royalty-free, worldwide license to use Customer's name, logos, and trademarks a) on Company's website in order to direct end-users to the public-facing aspects of the Service; b) to create a Customer-specific public-facing website hosted by Company where Users may access the Service; and, c) in the event Company's white label application is included as part of the Service, to create a Customer-branded application.

7.3. Ownership of Data. Customer acknowledges and agrees that, as between Customer and Company, Company retains all ownership right, title and interest in and to all Service Data, including all copyrights, patents, trademarks, trade secrets, and other proprietary and/or intellectual property rights therein or thereto. Company may analyze and compile Service Data for the purpose of creating De-Identified Data. Company may use the De-Identified Data without restriction and may combine the De-Identified Data with data from other sources to create aggregate statistical data.

7.4. Nondisclosure.

7.4.1. A Receiving Party (a) shall hold the Disclosing Party's Confidential Information in strict confidence and will use the same degree of care in protecting the confidentiality of the Disclosing Party's Confidential Information that it uses to protect its own Confidential Information, but in no event less than reasonable care; and (b) except as expressly authorized by this Agreement, shall not, directly or indirectly, use, disclose, copy, transfer or allow access to the Confidential Information. Notwithstanding the foregoing, a Receiving Party may disclose Confidential Information of the Disclosing Party as required by law or court order. In such event, the Receiving Party shall (i) use its best efforts to inform the Disclosing Party before any such required disclosure, and (ii) provide reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

7.4.2. The Customer shall limit access to the password-protected portions of the Service and any Equipment to Customer's employees who have a legitimate need to access the Service and Equipment.

7.4.3. Upon the termination or expiration of this Agreement, or upon the request of the Disclosing Party, the Receiving Party will return to the Disclosing Party all the Confidential Information delivered or disclosed to the Receiving Party, together with all copies in existence thereof at any time made by the Receiving Party.

7.4.4. If Customer receives a public record request for Confidential Information, Customer shall notify Company and Company shall, within fifteen (15) business days (or within the maximum period allowed by applicable law), notify Customer whether it desires for the Confidential Information to be withheld, and provide a legal basis under the applicable Public Records Act for withholding the Confidential Information. If Customer withholds the Confidential Information pursuant to Company's request, Company shall indemnify and defend Customer from any and all costs or liabilities resulting from such withholding including, but not limited to, attorney fees and court costs. If Company fails to notify Customer within the time specified or to provide a legal basis for withholding of the Confidential Information, Company agrees that Customer shall be entitled to release and disclose the Confidential Information.

7.4.5. Notwithstanding anything in this Agreement, the Agreement, or any part thereof, is a public record, and it, along with any documents or materials, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Open Records Act, set out in T.C.A. § 10-7-503 et seq., are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, the Customer must, upon proper request, release public documents and records as defined by T.C.A. § 10-7-503 et seq., including, but not limited to, the Agreement and all records created and maintained related to the Agreement, without delay and without the requirement to disclose such request to Company or providing Company with notice or the time to obtain a protective order.

Customer does not have the burden of establishing that requested record is not confidential information or that its release is authorized. This section 7.4.5 serves to meet such burden and authorization of disclosure.

7.5. Remedies. Each party acknowledges and agrees that any violation of this Section 7 (Confidentiality and Ownership) may cause irreparable injury to the other party for which there would be no adequate remedy at law and, therefore, such other party shall be entitled to preliminary and other injunctive relief against the other party for any such violation. Such injunctive relief shall be in addition to, and in no way in limitation of, all other remedies or rights that the parties may have at law or in equity.

7.6. Third Party Software. In the case of any third-party Equipment, Third Party Software, related Documentation, or third-party services provided under this Agreement, such third party shall retain all rights in patents, copyrights, trademarks, trade secrets, and any other intellectual property. The terms and restrictions of the license grants contained in Section 7, in addition to any other terms required by any third-party licensor(s), will apply to the use of any Third Party Software and related Documentation, and the licensors of such Third Party Software are third party beneficiaries of the rights granted under those terms. Where required, Customer shall enter into a separate end-user-license agreement as required for any Third Party Software or Equipment procured. Customer may only transfer any Software or Third Party Software embedded with any Equipment in accordance with the terms and conditions of this Agreement. Other than the rights of use expressly conferred upon Customer by this paragraph, Customer shall have no further rights to use third-party Equipment, Third Party Software, related Documentation, or third-party services, and shall not copy, reproduce, modify, adapt, reverse engineer, disassemble or translate them, without the express written authority of Company.

8. Indemnity and Liability.

8.1. Customer Indemnity. Only to the extent permitted by law, Customer shall indemnify and hold Company and its Affiliates and their respective officers, directors, shareholders, employees, agents, successors and assigns harmless from any and all claims that relate to Customer's or Users' use of or reliance upon the Service or Customer's failure to properly maintain (or to request maintenance of) the Equipment, except any claims for which Company Indemnifies Customer as described in Section 8.2.

8.2. Company Intellectual Property Infringement Protection.

8.2.1. If a third party claims that the Service provided to Customer by Company under this agreement infringes that party's United States patent or copyright, Company shall defend Customer and Customer's Affiliates against that claim and shall pay any losses, liabilities, damages, judgments, awards, expenses, and costs, including reasonable attorneys' fees that a court of competent jurisdiction finally awards against Customer, provided that Customer (i) promptly notifies Company of the claim and (ii) permits Company to control and cooperates with Company in the defense and any related settlement negotiations. Customer may participate, at Customer's own expense, in the defense of such claim.

8.2.2. If any part of the Service is, or in Company's reasonable judgment may become, the subject of any such proceeding Company may, at its expense and option, do one of the following: (i) procure for Customer the necessary right to continue using the Service and Equipment; (ii) replace or modify the infringing portion of the Service or Equipment with a functionally equivalent non-infringing item or portion thereof, or (iii) if none of the foregoing are commercially reasonable, terminate Customer's right to use the Service or the affected portion thereof, and refund to Customer an amount equal to the prepaid Subscription Fee or the affected portion thereof and the cost of any equipment, less amortization for its use on a straight line basis over a period of five (5) years from the Effective Date. The preceding sets forth Company's only obligations and Customer's sole and exclusive remedies with respect to infringement or misappropriation of intellectual property rights.

8.2.3. Company will not be liable hereunder for any claim of infringement that is based upon (i) the combination of the Service, or any part of the Service, or the Equipment with any product, software, hardware, machine, or device which is not provided by Company or identified by Company in its specifications as necessary to operate the Service, (ii) any modification of the Service or Equipment by a party other than Company, or (iii) the use of a version of the Service other than a current, unaltered release of the Service if such infringement would have been avoided by the use of a current, unaltered release.

8.3. Limitation of Liability. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR LOST PROFITS OR LOSS OF DATA OR BUSINESS INTERRUPTION), WHETHER ARISING FROM NEGLIGENCE, ERRORS, OR FAILURE OF PERFORMANCE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON DAMAGES AND CLAIMS SHALL APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

8.4. Damages. IN NO EVENT SHALL COMPANY'S AGGREGATE LIABILITY FOR ALL CLAIMS UNDER THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY EXCEED AN AMOUNT EQUAL TO THE FEES PAID BY CUSTOMER OR CUSTOMER'S AFFILIATE IN THE SIX (6) MONTH PERIOD PRECEDING THE ACT GIVING RISE TO THE CLAIM FOR DAMAGES.

9. General Provisions.

9.1. Notices. Any notice permitted or required under this Agreement may be delivered in person, by registered or certified mail (postage prepaid), by recognized overnight delivery service, or by e-mail to the party's address identified below (or other address designated by a party by written notice that conforms to this Section 9.1). Notice will be deemed effective upon personal delivery, on the day after deposit for overnight delivery, three days after deposit by registered or certified mail, upon being sent by email, or sooner if receipt is acknowledged by the receiving party.

If to Company: TransLoc, Inc. 5000 Centregreen Way Suite 500 Cary, NC 27513 Email:	If to Customer: City of Kingsport Attn: Timothy Kingsland 415 Broad Street Kingsport, TN 37660  Email: TimothyLand@KingsportTN.gov
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If no address in this Section 9.1 is provided for Notices to Customer, any Customer address in the Agreement will be an acceptable address for use.

Each party may update its notice information under this Section 9.1. by providing written notice to the other party. Such notice shall specify the updated contact information and shall be deemed effective upon receipt by the other party. The updated notice information shall be used for all future communications under this Agreement.

9.2. Audit Rights. Software may contain reporting tools that track and audit usage and operational characteristics of the Service in order to monitor Software performance and verify compliance with the terms and conditions of this Agreement. Customer agrees to cooperate in good faith with any reasonable requests for information made by Company in connection with its tracking and audit activities.

9.3. Compliance with Laws. Each party will comply with all applicable federal, state, and local laws, ordinances, rules and regulations relating to the performance and use of the Service as set forth in this Agreement.

9.4. Ineligibility. Company will not knowingly contract with, purchase from, employ, sub-contract with or carry on business in any form with any person or entity that is officially listed as excluded, debarred, declared ineligible, suspended or otherwise ineligible for participation in any Federal or State program.

9.5. Assignment. Neither party may assign or otherwise transfer any of the rights and obligations arising out of this Agreement without the prior written consent of the other party, except in connection with the sale or transfer of all or substantially all of such party's business, whether by merger, sale or otherwise. Notwithstanding the foregoing, however, Customer's consent shall not be required for assignments of this Agreement in whole or in part by Company, provided the contract is assigned to an affiliate of Company or an entity under common control with Company or Company's corporate parent.

9.6. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the state where the Customer is physically located as stated in this Agreement, without reference to any choice of law principles of such state and will not be construed in accordance with or governed by the United Nations Convention for International Sales of Goods.

9.7. No Arbitration, Jurisdiction, Waiver of Jury Trial, Venue. Notwithstanding any other provision in the Agreement to the contrary, arbitration is not permitted and if a dispute arises between the parties and it cannot be resolved by mutual agreement, any party may resort to resolution of the dispute by litigation in the state or federal courts for Tennessee. The parties waive their right to a jury trial. The parties agree that mandatory and exclusive venue and jurisdiction for any disputes shall be in state or federal courts for Kingsport, Sullivan County, Tennessee, and the parties consent to such venue and jurisdiction.

9.8. Force Majeure. Except for payment obligations, neither party will be liable or responsible for any failure or delay in the performance of its obligations due to causes beyond the reasonable control of the party affected or its subcontractors or suppliers, including but not limited to war, sabotage, insurrection, epidemics, earthquakes, terrorism, riot or other act of civil disobedience, strikes or other labor shortages, accident, fire, explosion, flood, hurricane, severe weather or act of God. The obligations of the party suffering from the force majeure event will be suspended for the duration of the force majeure.

9.9. Accessibility. Company warrants that the software conforms to the following accessibility guidelines: has supporting assistive software or devices such as large-print interfaces, text-to-speech

output, refreshable braille displays, voice-activated input, and alternate keyboard or pointer interfaces established by the World Wide Web Consortium's Web Content Accessibility Guidelines 2.0 Level AA (WCAG 2.0 AA), and the accessibility guidelines established by Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and implementing regulations set forth in 36 C.F.R. Part 1194. Company shall provide Customer a current completed Voluntary Product Accessibility Template (VPAT), currently 2019 version and any subsequent versions, to detail compliance with the federal Section 508 standards. Company shall promptly respond to and resolve any complaint regarding accessibility of its products or services. Company further agrees to indemnify and hold harmless Customer from any claims brought by a third party arising out of Company's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of this Agreement.

9.10. Integration. This Agreement, together with the Exhibits and fully executed Work Orders, constitutes the final and exclusive agreement between the parties as to the matters described in it. This Agreement supersedes all prior proposals, negotiations, conversations, discussions, understandings, representations, or agreements between the parties concerning its subject matter. Without limiting the generality of the foregoing, Company will not be bound by any other terms and conditions referenced on any invoice, purchase order, or other document produced by Customer, unless such terms explicitly set out the intention to modify this Agreement and are accepted in writing by execution by a duly authorized representative of Company. In the case of disagreement in the terms and conditions between this Agreement and any of its Exhibits or Work Orders, this Agreement shall govern.

9.11. Amendment and Waiver. This Agreement may only be modified in writing signed by both parties and identifying the provision of the Agreement that is to be amended. No delay or omission by either party in exercising any right or remedy under this Agreement or existing at law or equity shall be considered a waiver of such right or remedy. No waiver by either party of any right or remedy whether under this Agreement or otherwise shall be effective unless in writing.

9.12. Severability. If any term, provision, or condition of this Agreement is held to be invalid or unenforceable, the other provisions of this Agreement will be unimpaired, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

9.13. Promotion Rights. No public statements concerning the existence or terms of this Agreement will be made or released to any media except with the prior approval of both parties or as required by law. With Customer's prior approval, approval of which will not be unreasonably withheld by the Customer, Company may publicize its relationship with Customer for marketing and promotion purposes, which may include issuing a press release, mentioning the relationship on the Company website (in each case by disclosing Customer's name, general information and/or a link to Customer's website), and/or list Customer as a user of the Service.

9.14. Relationship. In making and performing this Agreement, Company and Customer act and shall act at all times as independent contractors and nothing contained in this Agreement shall be construed or implied to create an agency, partnership, joint venture, or employer and employee relationship between Company and Customer.

9.15. Document. Each party acknowledges and represents that the person signing on its behalf has read and understood all of the terms and provisions of this Agreement. Neither this Agreement nor any of the matters set forth herein or in the schedules will be construed against either party by reason of the drafting or preparation thereof. This Agreement may be signed in any number of counterparts, each of which will be deemed an original and all of which, taken together, shall be deemed one and the same document, and may be executed by means of signatures transmitted by facsimile or by other electronic means. Headings herein are for convenience of reference only and shall in no way affect interpretation of this Agreement.

9.16. Execution. This Agreement and its Exhibits and Work Orders may be executed by the parties in counterparts and delivered by email, and all such counterparts, taken together, shall constitute one and the same agreement. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed binding and original signatures for this Agreement and all matters related thereto.

The parties have caused this Agreement to be executed by and through their duly authorized representatives as of the Effective Date.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the agreement set out herein that do not substantially alter the

material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 19th day of May, 2026.

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PAUL W. MONTGOMERY, MAYOR

ATTEST:

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ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

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RODNEY B. ROWLETT, III, CITY ATTORNEY