



## TERMS AND CONDITIONS FOR SERVICE CONTRACT WITH YOLOBE, INC.

Revised: 10/29/2018

### 1. SPECIFIC CONDITIONS OF PAYMENT:

It is the City's policy to pay all invoices within 30 days. If the City does not make payment within 45 days after receipt of properly completed supporting payment and other required contract documentation, the City shall pay simple interest beginning with the 31st calendar day at the rate of one percent per month (unless the amount due is subject to a good-faith dispute and, before the 45th day of receipt, notice of the dispute is sent to the contractor by first-class mail, personally delivered, or sent in accordance with the notice provisions in the contract). If there are subcontractors, consistent with s.66.0135(3), Wis. Stats., the prime contractor must pay the subcontractors for satisfactory work within seven days of the contractor's receipt of payment from the City of Milwaukee, or seven days from receipt of a properly submitted and approved invoice from the subcontractor, whichever is later. If the contractor fails to make timely payment to a subcontractor, the contractor shall pay interest at the rate of 12 percent per year, compounded monthly, beginning with the 8th calendar day. Reference Common Council File No. 101137 adopted January 2011.

2. PAYMENT MONITORING REQUIREMENTS – All Contractors awarded a contract valued at \$25,000.00 or more are required to participate in training on the City of Milwaukee's contract compliance software. Contractors must complete the training no later than 30 days after the date of contract award. Throughout the contract term, Contractors are required to regularly provide timely payment information in the City's contract compliance software. Please contact the Office of Small Business Development (OSBD) at 414-286-5553 should you have any questions or concerns regarding the training process.

***CONTINUATION OF THIS CONTRACT BEYOND DECEMBER 31 OF ANY YEAR IS CONTINGENT UPON THE APPROPRIATION OF SUFFICIENT FUNDS BY THE PROPER CITY OFFICIALS.***

### 3. REPORTS

- A. The CONTRACTOR agrees to submit reports as may be required by the CITY at such times as may be scheduled for submittal, unless otherwise agreed to in writing.
- B. Both parties understand that the CITY is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Contract are subject to and conditioned on the provisions of Wis. Stat. Section 19.21, et seq. CONTRACTOR acknowledges that it is obligated to assist the CITY in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Contract, and that the CONTRACTOR must defend and hold the City harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven (7) years after receipt of final payment under this Contract.
- C. All reports, studies, memoranda, and related data and material as may be developed during the performance of this Contract will be treated according to Exhibit H in addendum.

4. TIME OF PERFORMANCE. The services to be performed under the terms and conditions of this Contract shall be in force and shall commence upon execution of this Agreement by the CONTRACTOR and upon written notice from the City to proceed, or when the CONTRACTOR has received an original of the Contract which is complete and fully executed, and shall be undertaken and completed in such sequence as to assure its expeditious completion in the light of the purposes of this Contract, but in any event, unless terminated sooner pursuant to the terms of this Contract, the obligations of the parties shall remain in effect until December 31, 2023, all of the services required hereunder shall be completed as indicated on page 1 under "Time of Performance", which is the termination date of this Contract. In addition to all other remedies inuring to the CITY should the Contract not be completed by the date specified in accordance with all of its terms, requirements and conditions therein set forth, the CONTRACTOR shall continue to be obligated thereafter to fulfill CONTRACTOR's responsibility to complete the scope of services and to execute any necessary amendments to this CONTRACT. In addition, this Contract may be extended for two additional two year terms upon mutual agreement of the parties.

5. CONDITIONS OF PERFORMANCE AND COMPENSATION.

- A. Performance. Notwithstanding any references to the contrary in the contract documents, the CONTRACTOR agrees that the performance of CONTRACTOR's work, services and the results therefrom, pursuant to the terms, conditions and agreements of this Contract, shall conform to applicable professional standards.
- B. Place of Performance. The CONTRACTOR shall conduct CONTRACTOR's services as required under the terms and conditions of this Contract at such place or places as is necessary so as to enable the CONTRACTOR to fulfill CONTRACTOR's obligations under this Contract.
- C. Compensation. The CITY agrees to pay, subject to the contingencies herein, and the CONTRACTOR agrees to accept for the satisfactory performance of the services under this Contract the maximum as indicated on page 1 under "Total Amount of Contract," inclusive of all expenses, it being expressly understood and agreed that in no event will the total compensation to be paid hereunder exceed the maximum sum for all of the services required.
- D. Additional Fringe or Employee Benefits. The CONTRACTOR shall not receive nor be eligible for any fringe benefits or any other benefits to which CITY salaried employees are entitled to or are receiving.
- E. Taxes, Social Security, Insurance, and Government Reporting. Personal income tax payments, social security contributions, insurance, and all other governmental reporting and contributions required as a consequence of the CONTRACTOR receiving payment under this Contract shall be the sole responsibility of the CONTRACTOR.

The CONTRACTOR shall be solely responsible to meet CONTRACTOR's insurance needs as required by the CITY during the terms of this Contract or any extension thereof. A Certificate of Insurance shall be provided to the CITY as an additional insured providing for a thirty (30) day notice to the CITY prior to change, termination or cancellation.

- F. The CONTRACTOR shall not subcontract for the performance of any of the services herein set forth in Exhibit B in Addendum without prior written approval obtained from the City Purchasing Director with advice from the City Clerk

- 6. METHOD OF PAYMENT: The City agrees that subsequent to the full and complete performance of this Contract and satisfactory performance of the services in accordance with the "scope of work" set forth in Exhibit B in Addendum herein it will pay the amount or amounts as hereinafter set forth. In the event of a dispute as to the services performed or the compensation to be paid, the decision of the City Clerk or his designee shall prevail. The conditions of payment are as follows: Compensation for services required under this Contract shall be contingent upon each activity being reviewed for approval by the CITY approving officer designated on page 1 and approved by them for payment (as referenced and stipulated in V) (Conditions of Performance and Compensation).
- 7. PRICE ESCALATIONS: Price quoted will be firm for one year as per price schedule set forth in Exhibit C in Addendum. After one year an escalator may be invoked upon request and verification of a letter from the supplier and market data or published price sheets. Such request must be made to the purchasing agent listed on the contract at least sixty (60) days in advance of the effective date of the increase. Price shall be based on product cost only and not to exceed 15% of the initial contract price during the contract period. The increase must be approved by the City Clerk prior to its effective date. Likewise, any de-escalation in price shall be passed on to the City of Milwaukee. Vendors are obligated to treat price decreases as equally as price increases during the tenure of the contract. Price escalation clauses are not applicable for "discount from list" contracts as the vendor's current list will already reflect market changes. Therefore, while the percent of discount offered by the vendor must remain firm for term of contract, the vendor must provide updated price lists to the City User Department(s) when updated.
- 8. DEFENSE OF SUITS. CONTRACTOR will defend City of Milwaukee as described in Exhibit G in addendum.
- 9. INDEMNIFICATION. CONTRACTOR will indemnify City of Milwaukee as described in Exhibit G in addendum
- 10. REGULATIONS. Contractor agrees to comply with all of the requirements of all federal, state and local laws related thereto.

11. JURISDICTION, VENUE, CHOICE OF LAW. This contract shall be governed by and construed according to the laws of the State of Wisconsin. Any litigation relating to the formation, interpretation or alleged breach of this contract must be brought in the state and federal courts having jurisdiction in Milwaukee County, Wisconsin, and CONTRACTOR consents to the jurisdiction of such courts.
12. TERMINATION OF CONTRACT FOR CAUSE. If, through any cause, the CONTRACTOR shall fail to fulfill in timely and proper manner its obligations under this Contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this Contract, the City Purchasing Director shall thereupon have the right to terminate this Contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five (5) days before the effective date of the termination. Prior to termination of the Contract for cause, the CITY shall notify the CONTRACTOR in writing of its intent to terminate, identifying the alleged deficiencies in CONTRACTOR'S performance, and shall give the CONTRACTOR thirty (30) days to cure such deficiencies prior to termination. In such event, all deliverables completed by CONTRACTOR as of the date of termination shall at the option of the CITY, become property of the CITY.

Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the CONTRACT by the CONTRACTOR, and the CITY may withhold any payments to the CONTRACTOR for the purpose of set off until such time as the exact amount of damages due to the CITY from the CONTRACTOR is determined.

13. TERMINATION FOR CONVENIENCE OF THE CITY. The CITY may terminate this Contract at any time for any reason by giving at least ten (10) days' notice in writing from the City Purchasing Director to the CONTRACTOR. If the CONTRACTOR is terminated by the CITY as provided herein, the CONTRACTOR will be paid an amount which bears the same ratio to the total compensation as the services actually and satisfactorily performed bear to the total services of the CONTRACTOR covered by this Contract, less payments for such services as were previously made. Provided, however, that if less than sixty percent (60%) of the services covered by this Contract have been performed upon the effective date of such termination the CONTRACTOR shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under the Contract) incurred by the CONTRACTOR during the Contract period which are directly attributable to the uncompleted portion of the services covered by this Contract. If this Contract is terminated due to the fault of the CONTRACTOR, Paragraph 11 hereof, relative to termination, shall apply.
14. CHANGES. The City Purchasing Director with advice from the City Clerk, may from time to time, request changes in the scope of services of the CONTRACTOR to be performed hereunder. Such changes, including any increase or decrease in the amount of CONTRACTOR's compensation which are mutually agreed upon by and between the CITY and the CONTRACTOR, shall be incorporated in written amendments to the Contract.
15. PERSONNEL
  - A. The CONTRACTOR represents that it has or will secure at its own expense all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the CITY.
  - B. All of the services required hereunder will be performed by the CONTRACTOR or under their supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
  - C. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City Purchasing Director. If any work or services is subcontracted, it shall be specified by written contract or agreement and shall be subject to each provision of this Contract. The CONTRACTOR shall be as fully responsible to the CITY for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by it, as well as for the acts and omissions of persons directly employed by them.
16. ASSIGNABILITY. The CONTRACTOR shall not assign any interest in this Contract and shall not transfer any interest in same (whether by assignment, novation or any other manner), without the prior written consent of the City Clerk. Provided, however that claims for money due or to become due the CONTRACTOR from the CITY under this Contract may be assigned to a bank, trust company or other financial institution without such approval. Notices of any such assignment or transfer shall be furnished promptly to the City Clerk.

17. RECORDS.

- A. Establishment and Maintenance of Records. Records shall be maintained in accordance with requirements prescribed by the CITY with respect to all matters covered by this Contract. Both parties understand that the CITY is bound by Wisconsin Public Records Law, and as such, all of the terms of this Contract are subject to and conditioned on the provisions of Wis. Stat. Section 19.21, *et seq.* CONTRACTOR acknowledges that it is obligated to assist the CITY in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Contract, and that the CONTRACTOR must defend and hold the City harmless from liability under that law. Except as otherwise authorized, these records shall be maintained for a period of seven (7) years after receipt of the final payment under this Contract.
- B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of other accounting documents pertaining in whole or in part to this Contract and shall be clearly identified and readily accessible.

18. REPORT AND INFORMATION. At such times and in such forms as the CITY may require, there shall be furnished the City Clerk such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Contract.

19. AUDITS AND INSPECTIONS. At any time during normal business hours and as often as the CITY, or if federal or state grants or aids are involved, as the appropriate federal or state agency may deem necessary, there shall be made available to the CITY or such agency for examination all of its records with respect to all matters covered by this Contract and CONTRACTOR shall permit the City or such agency and/or representatives of the Comptroller General to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Contract.

20. FINDINGS CONFIDENTIAL. CONTRACTOR agrees to comply with confidentiality claims as set forth in Exhibit H in addendum.

21. CONFLICT OF INTEREST

- A. Interest in Contract. Except where otherwise noted in Exhibit I in addendum, no officer, employee or agent of the CITY who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Contract pertains, shall have any personal interest, direct or indirect in this Contract.
- B. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of this Contract, shall have any personal interest, direct or indirect, in this Contract.
- C. Interest of Contractor and Employees. The CONTRACTOR covenants that no person described in Paragraph 20 A and B above who presently exercises any functions or responsibilities in connection with the Contract has any personal financial interest, direct or indirect, in this Contract. The CONTRACTOR further covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The CONTRACTOR further covenants that in the performance of this Contract no person having any conflicting interest shall be employed. An interest on the part of the CONTRACTOR or its employees must be disclosed to the CITY. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area.

22. DISCRIMINATION PROHIBITED CONTRACTOR agrees to comply with all assurances in Exhibit D in addendum.

23. WORKER'S COMPENSATION INSURANCE. The CONTRACTOR, and all contractors, if any, shall provide to the CITY an affidavit or other satisfactory proof which the CITY may require evidencing that the CONTRACTOR and all subcontractors have obtained Worker's Compensation Insurance for all persons performing any work or services under the Contract or subcontract as is required by the Worker's Compensation Act of the State of Wisconsin. No payments or disbursements under the Contract shall be made if such proof has not been furnished.

24. WITHHOLDING OF SALARIES. Intentionally left blank

25. CLAIMS AND DISPUTES PERTAINING TO SALARY RATES. Intentionally left blank

26. FEDERAL EXECUTIVE ORDERS 12549 AND 12689 DEBARMENT AND SUSPENSION. The City of Milwaukee also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

27. OTHER PROVISIONS.

- A. Any and all information, plans, reports and conclusions derived or developed as a consequence or result of this Contract will be treated according to Exhibit H in addendum.
- B. The word "CONTRACTOR" means a person, or an entity, whether public or private, that enters into contract with the CITY, and whenever or wherever the word "CONTRACTOR" appears in Part II attached hereto, it means the same and is synonymous with "CONTRACTOR" as it appears in Part 1 of this Contract.

**IN WITNESS WHEREOF**, this Contract shall become effective as of the final date set forth below.

Yolobe, Inc:

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David Douglas  
President & CEO

Date

City of Milwaukee:

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Jim Owczarski  
City Clerk

Date

Countersigned:

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Martin Matson

Approved as to Content, Form, and Execution:

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Assistant City Attorney

## EXHIBIT A

### Definitions

#### **DEFINITIONS**

- a. "We," "Us" or "Our" means the Yolobe Inc. Company.
- b. "The City" or "The City's" means, The City of Milwaukee or City personnel authorized to act on its behalf.
- c. "Partner Third Parties" means, an individual, organization or entity working with Yolobe and "The City" as part of The City's Direct Connect MKE (DCMKE) initiative, but not included in either "Us" or "The City".
- d. "Customers" collectively means, The City and Partner Third Parties and who have an active agreement with Us.
- e. "Users" and "End Users" means individuals within The City, Partner Third Parties and the general public who consume The Services and all Data.
- f. "Services" means the products and services that are ordered by The City under an agreement of purchase and Scope of Work or provided to The City free of charge (as applicable) or under a free trial, and made available online by Us, including associated offline or mobile components, as described in the Documentation. "Services" exclude Data and Non-Yolobe Inc Applications.
- g. "Customer Data" means electronic data and information submitted by Customers or for Customers by designated Partner Third Parties such as job postings, events, and training opportunities
- h. "User Data" means electronic data and information submitted by End Users such as user profiles, personally identifiable information and social interactions
- i. "Generated Data" means aggregate or derivative electronic data and information obtained by processing in aggregate User data or City data
- j. "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. The City's Confidential Information includes City Data. Partner Third Parties Confidential Information includes Partner Third Parties Data; Our Confidential Information includes the Services; and Confidential Information of each party includes the terms and conditions of this Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party, or was User Data.
- k. 'Receiving Party' and "Disclosing Party" of Confidential Information can be either Yolobe, the City, or Partner Third Parties.

## EXHIBIT B

### Scope of Services

#### **SPECIFIC DUTIES AND RESPONSIBILITIES**

Yolobe will be responsible for the following for the DCMKE Social Media software implementation and rollout

- a. Develop, update and maintain training and onboarding materials for all participating organizations.
- b. Deliver ½ day training as needed prior to Wave 2 launch in the second quarter of 2019. The tentative training dates are 3/8, 3/15, 3/22, 3/29, 4/5 and 4/12. Yolobe will also deliver additional ½ day review sessions for Wave 1 participating organizations throughout 2019 (dates TBD).
- c. Migrate all (DCMKE) current e-mail subscribers to the new platform in 1<sup>st</sup> quarter of 2019
- d. Participate in recurring DCMKE advisory meetings as appropriate throughout 2019 to review overall progress, identify issues and opportunity areas, and generally facilitate the overall management and health of the program.
- e. Participate in weekly or bi-weekly meetings with DCMKE POC to oversee program rollout and address issues and opportunities as appropriate.
- f. Run quarterly retrospectives with participating organizations that are Wave 1 & 2 DCMKE Members to ensure we are identifying and resolving issues promptly and most importantly applying continuous improvement.
- g. Facilitate program management by DCMKE POC by providing access to timely reporting and metrics so we can gauge progress against our goals.
- h. Running and maintaining the technology to support DCMKE Wave 1 & 2 DCMKE Members.
- i. Be available for customer support and technical support for DCMKE Wave 1 & 2 DCMKE Members by phone and e-mail. Issues can be escalated directly through POC to Yolobe for 24 hour response time.
- j. Work with DCMKE to facilitate linking opportunity databases such as Job Center of Wisconsin to drive more opportunity and jobs to DCMKE Wave 1 & 2 Members.
- k. Billing participating organizations who opt for premium service and handling all questions in a professional and timely manner.
- l. Prioritizing feedback and feature requests from DCMKE Wave 1 & 2 Members in the ongoing development of our product and product roadmap.
- m. Communicating new features, bug fixes and enhancements to DCMKE Wave 1 & 2 Members.
- n. Collaboratively, with The City, recruit new organizations into the DCMKE Alliance Hub.

## EXHIBIT C

### Payment of Services

#### **FREE BASIC SERVICES**

We make certain features of Our Services available completely free of charge to both The City and Partner Third Parties .

- a. Organizations using only the free services will not be issued invoices, billing statements or notice of modifications of contract for free Services by Us.
- b. We provide free services “as-is” without any warranty and We shall have no indemnification obligations with respect to the free services and the participating Third Parties.

We maintain a list of our services including free services on our website at [yolobe.com/pricing](http://yolobe.com/pricing). The free services are:

- Posting of Jobs, internships, and other opportunities
- Reach web, mobile apps, sms and messenger services
- Digests & notifications
- Basic reporting & analytics

#### **PREMIUM PAID SERVICES**

We make certain features of our Service only available to organizations, entities or individuals who purchase a “Premium” subscription. Partners and Additional Third Parties have access to purchase such subscriptions.

- a. **Premium Subscriptions.** Purchased Premium Services are purchased as subscriptions with either monthly or yearly renewals
- b. **Responsibilities.** Third Parties are solely responsible for (i) compliance with the Yolobe Subscription Agreement, (ii) the accuracy, quality and legality of Their Data, and the means by which They acquired Their Data and Their use of Their Data with our Services, (iii) using all commercially reasonable efforts to prevent unauthorized access to or use of Services, and notifying Us promptly of any such unauthorized access or use, and (iv) complying with terms of service of any Non-Yolobe Applications with which They use Services.
- c. The City will NOT be responsible for any fees incurred by Third Parties in the use of Our Services.

We maintain a list of our services including premium services on our website at [yolobe.com/pricing](http://yolobe.com/pricing). The premium service are defined as:

- All Basic services plus:
- Multi-channel campaign marketing
- Access vault data (for intake and eligibility)
- Advanced reporting & analytics
- Custom url
- 3<sup>rd</sup> party integration
- Priority e-mail support

Premium services will be offered to Partner Third Parties at \$199/mo (Annual Plan)\_or \$250/mo (Monthly plan)



## **ALLIANCE HUB SERVICES**

We make certain features of our Service only available to the cities, municipalities, school districts, organizations, initiatives and individuals who purchase an “Alliance” subscription.

- a. **Alliance Subscriptions.** Purchased Alliance Services are purchased as subscriptions with either monthly or yearly renewals.
- b. **Responsibilities.** The City has purchased an Alliance Hub named DIRECTCONNECTMKE (DCMKE). The Alliance Hub allows participating Third Parties to join DCMKE as either a basic or premium network, benefit from DCMKE resources, opportunities, and City marketing campaigns, and more easily collaborate with each other to better serve Users.

Alliance Hub services will be offered to the City based on the number of networks using the DCMKE Hub. The pricing plan based on number of networks is:

- Up to 10 networks: \$319/mo (annual) or \$425/mo (monthly)
- Up to 30 networks: \$419/mo (annual) or \$525/mo (monthly)
- Up to 50 networks: \$519/mo (annual) or \$625/mo (monthly)
- Up to 100 networks: \$619/mo (annual) or \$725/mo (monthly)

Monthly Alliance hub pricing includes 10,000 inbound and outbound text messages (SMS) per month using our Veronica virtual assistant service. Should messages exceed this threshold in a given month we will bill for the overage at a rate of \$100 for each 10,000 inbound and outbound text messages.

We maintain a list of our services including alliance hub services on our website at [yolobe.com/pricing](http://yolobe.com/pricing). The alliance hub services are defined as:

- All Premium services plus:
- Area-wide metrics and reporting
- Enhanced sharing and silo-breaking tools
- Priority e-mail & phone support

## **TERMINATION OF ALLIANCE HUB SERVICES**

If The City should terminate its contract for The Services for Convenience of the City, Partner Third Parties may, at their choice, decide to continue their use of Free and Premium services with Yolobe.

## EXHIBIT D

### Assurances

#### **We certify that Yolobe**

1. Will give the City, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
2. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. Are an equal opportunity employer.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U. S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
6. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
7. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
8. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
9. Will act in good faith to promote the use of the DCMKE Alliance hub as the primary Alliance Hub in the greater Milwaukee area for Partner Third Parties.
10. Will act in good faith to promote enhanced sharing and network behavior for all organizations within the DCMKE Alliance Hub.
11. In all hiring or employment made possible by or resulting from this Contract there will not be any discrimination against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories. The Contractor will cause the foregoing provision to be inserted in all subcontracts, if any, for any work covered by this Contract so that such provisions will be binding upon each subcontractor. (Section 109-9-3-e Milwaukee Code of Ordinances)

## EXHIBIT E

### Proprietary Rights & Licenses

- a. **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, We and Our Affiliates, Our licensors and Content Providers reserve all of Our/their right, title and interest in and to the Services and Content, including all of Our/their related intellectual property rights. No rights are granted to the City and Partner Third Parties hereunder other than as expressly set forth herein.
- b. **Access to and Use of Content.** Partner Third Parties have the right to access and use our applicable Services with prior approval from City of Milwaukee DCMKE Alliance Hub.
- c. **License to Host Customer Data and Applications.** You grant Us, Our Affiliates and applicable contractors a worldwide, limited-term license to host, copy, display and use any Non-Yolobe Applications and program code created by or for Customers using a Service or for use by Customers with the Services, and Customer Data, each as reasonably necessary for Us to provide, and ensure proper operation of, our Services and associated systems in accordance with Contracts or Agreements. Subject to the limited licenses granted herein, We acquire no right, title or interest from Customers or Customer licensors under this Agreement in or to any of Your Data, Non-Yolobe Application or such program code.
- d. **License to Use Feedback.** The City and Partner Third Parties grant to Us and Our Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into Our and/or Our Affiliates' services any suggestion, enhancement request, recommendation, correction or other feedback provided by City, Partner Third Parties or End Users relating to the operation of Our or Our Affiliates' services.
- e. **License to Generate Data.** The City and Partner Third Parties grant to Us and Our Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into Our and/or Our Affiliates' to create Generated Data, such as reports and studies, that is based from User Data obtained from interacting with City and Partner Third Parties Data. We acquire no right, title or interest from the City or Partner Third Parties for Generated Data, such as reports and studies generated directly from City or Partner Third Parties Data, this data will remain the sole property of the City and Partner Third Parties.

## EXHIBIT F

### End User Data & Privacy

The Yolobe Privacy Policy for End Users attached as Exhibit J.. This policy defines Our Approach to Data and Privacy for Users who may use Our Services as part of the DCMKE initiative or otherwise.

#### Definitions of Data

#### END USER SUPPLIED CONTENT

By using our Service End Users will understand and agree that We will provide End Users with a platform for Users to post content, including photos, comments and other materials ("User Supplied Content"), to the Service and to share User Content publicly unless Users opt-out. This means that other Users may search for, see, use, or share any User Content that Users make publicly available through the Service, consistent with the terms and conditions of Our Privacy Policy and Our Terms of Use

#### PERSONAL CONFIDENTIAL INFORMATION

When using our Service End Users can also provide The Services with "personal confidential information" about themselves for purposes of determining eligibility for certain restricted resources. This type of information is heavily protected and not displayed publicly, or transferred to any other organization without the End Users consent. Additionally, The City and Partner Third Parties, which End Users are a member of, may ask End Users consent to transfer End User personal confidential information to Yolobe on their behalf. At any time, End Users may revoke personal confidential information transfer and storage consent, and remove End User information from Yolobe. End Users will be able to continue using the Service after revocation, but may lose access to protected or restricted resources.

Personal Confidential Information includes all classifications of PII data as defined by OMB Memorandum M-07-1616.

#### AGGREGATE NON PERSONAL DATA

The Yolobe Service periodically analyses collectively all User Supplied Content (specifically this collection excludes Personal Confidential Information) stripped of any information that would identify any individual, to produce new aggregate information. This information may be shared with Yolobe Partner organizations for purposes of research or bettering The Services.

Yolobe agrees to provide a defense and indemnify the City for any damages, regardless of character, to the extent attributable to a breach by Yolobe of the Yolobe Data and Privacy Policy (Exhibit J) alleged by a User to the extent identified in Exhibit G(b), without any Limitation of Liability, notwithstanding any provisions in Exhibit G to the contrary.

## EXHIBIT G

### Indemnification & Liabilities

- a) **Indemnification by Us Relating to Intellectual Property.** We will defend The City against any claim, demand, suit or proceeding made or brought against The City by a third party alleging that any Service infringes or misappropriates such third party's intellectual property rights (a "Claim Against The City"), and will indemnify The City from any damages, attorney fees and costs finally awarded against The City as a result of, or for amounts paid by The City under a settlement approved by Us in writing of, a Claim Against The City, provided The City (a) promptly give Us written notice of the Claim Against The City, (b) give Us sole control of the defense and settlement of the Claim Against The City (except that We may not settle any Claim Against The City unless it unconditionally releases The City of all liability), and (c) give Us all reasonable assistance, at Our expense. If We receive information about an infringement or misappropriation claim related to a Service, We may in Our discretion and at no cost to The City (i) modify the Services so that they are no longer claimed to infringe or misappropriate, without breaching Our warranties under "Warranties" above, (ii) obtain a license for Your continued use of that Service in accordance with this Agreement, or (iii) terminate The City's subscriptions for that Service upon 30 days' written notice and refund The City any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply if (1) the allegation does not state with specificity that our Services are the basis of the Claim Against The City; (2) a Claim Against The City arises from the use or combination of our Services or any part thereof with software, hardware, data, or processes not provided by Us, if our Services or use thereof would not infringe without such combination; (3) a Claim Against The City arises from Services under an Order Form for which there is no charge; (4) a Claim against The City is based on traditional online storefront commerce functionality that is or was in general use in the industry; or (5) a Claim Against The City arises from Content, a Non-Yolobe Application or Your use of the Services in violation of this Agreement, the Documentation or applicable Order Forms.
- b) **General Indemnification by Us.** In case any action in court or proceeding before an administrative agency is brought against the City or any of its officers, agents, or employees for Our failure or neglect, in whole or in part, to perform any of the covenants, acts, matters or things by this Contract undertaken, or for bodily injury or property damage caused by Our alleged negligence, or the alleged negligence of Our officers, agents or employees, the City shall indemnify and save harmless the City and its officers, agents and employees from all losses, damages, costs, expenses, judgments, or decrees arising out of such action. The City shall tender the defense of any claim or action at law or in equity to Us or Our insurer, and upon such tender it shall be Our duty or the duty of Our insurer to defend such claim or action without cost or expense to the City or its officers, agents, or employees. We shall be solely responsible for the conduct and performance of the services required under the terms and conditions of this Contract and for the results therefrom. Notwithstanding any references to the contrary in the contract documents, We assume full liability for all of Our acts in the performance of this contract. We will save and indemnify and keep harmless the City against all liabilities, judgments, costs, and expenses which may be claimed against the City in consequence of the granting of this Contract to Us, or which may result from Our carelessness or neglect, or from Our agents, employees or workmen in any respect whatever. If judgment is recovered, whether in suits of law or in equity, against the City by reason of Our carelessness, negligence, or by Our acts or omissions, or such persons, firms or corporations carrying out the provisions of the Contract for Us, We assume full liability for such judgment not only as to the amount of damages, but also the cost, attorney fees or other expenses resulting therefrom.
- c) **Indemnification by You.** The City will defend Us and Our Affiliates against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that (a) any of The City Data or The City use of The City Data with our Services, (b) a Non-Yolobe Application provided by The City, or (c) the combination of a Non-Yolobe Application provided by The City and used with Our Services, infringes or misappropriates such third party's intellectual property rights, or arising from The City's use of the Services in an unlawful manner or in violation of the Agreement, and The City will indemnify Us from any damages, attorney fees and costs finally awarded against Us as a result of, or for any amounts paid by Us under a settlement approved by The City in writing of, a Claim Against Us, provided We (a) promptly give The City written notice of the Claim Against Us, (b) give The City sole control of the defense and settlement of the Claim Against Us (except that You may not settle any Claim Against Us unless it unconditionally releases Us of all liability), and (c) give The City all reasonable assistance, at The City's expense.

## **LIMITATION OF LIABILITY**

- a) **Limitation of Liability.** EXCEPT IN THE EVENT OF BODILY INJURY, PROPERTY DAMAGE, OR A CLAIM FOR INTELLECTUAL PROPERTY INFRINGEMENT, OR AS PROVIDED IN EXHIBIT F, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY YOU AND YOUR AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT YOUR AND YOUR AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT (5)" SECTION ABOVE.
- b) **Exclusion of Consequential and Related Damages.** EXCEPT IN THE EVENT OF BODILY INJURY, PROPERTY DAMAGE, OR A CLAIM FOR INTELLECTUAL PROPERTY INFRINGEMENT, OR AS PROVIDED IN EXHIBIT F, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW

## Exhibit H

### Confidentiality

- a) The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section. Notwithstanding the foregoing, We may disclose the terms of this Agreement to a subcontractor or Non-Yolobe Application Provider to the extent necessary to perform Our obligations to the City under this Agreement, under terms of confidentiality materially as protective as set forth herein.
- b) **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## **EXHIBIT I**

### Disclosures

One strategy we use to meet company objectives is to solicit outside equity investment from investors, customers and partners. We do this from time to time. Considering the strategic importance of this initiative and the desire to continually strengthen our partnership with the City, we reserve the right to discuss with businesses and individuals in Milwaukee (who are not officers, employees or agents of the City of Milwaukee) about possible strategic investment in Us.



## EXHIBIT J

Privacy with



### Yolobe Data and Privacy Policy

For Yolobe Inc, Yolobe.com.

Revision: December 1<sup>st</sup> 2017

#### Introduction:

Welcome to Yolobe ("Yolobe," "we," "us" or "our"). Yolobe is a social software platform that connects users to resources to spur goal achievement, learning new things, and generally to provide more growth opportunities.

Yolobe is a conduit for communicating opportunities (events, meet-ups, interesting talks, etc.) to our users from people and organizations in the community or at the school. Over time this will evolve into a broad ecosystem of resources, support, and interaction where Yolobe acts as a hub connecting our users to the best resources to make their lives better, our motto.

Your participation with our service will help us better understand how to cultivate and grow the service to meet our overall mission.

Our Privacy Policy explains how we intend to collect, use, share and protect information in relation to our web site (the "Service"), and your choices about the collection and use of your information.

Our Policy applies to all visitors, users, and others who access the Service (collectively "Users").

#### 1. INFORMATION WE COLLECT

We classify information into three categories: "User Supplied Content", "Personal Confidential Information" – and "Aggregate Non-personal Data".

##### 1a. USER SUPPLIED CONTENT

By using our Service you understand and agree that we will provide you with a platform for you to post content, including photos, comments and other materials ("User Supplied Content"), to the Service and to share User Content publicly unless you opt-out. This means that other Users may search for, see, use, or share any of your User Content that you make publicly available through the Service, consistent with the terms and conditions of this Privacy Policy and our Terms of Use.

User Supplied Content Includes:

- Profile information that you provide for your user profile (e.g., first and last name, picture, phone number). This information allows us to help you or others be "found" on Yolobe and send your relevant opportunities. We will also may use this information to communicate with you, or help others contact you after you have provided consent.
- Profile information generated based on your usage of the Service
- User Generate Yolobe Content (e.g., photos, comments, opportunities and other materials) that you post to the Service.
- Communications between you, Yolobe and the other users of the Service. For example, we may send you communications in addition to Service-related emails (e.g., account verification, changes/updates to features of the Service, technical and security notices). Note that you may not opt out of Service-related communications.

##### 1b. PERSONAL CONFIDENTIAL INFORMATION

When using our Service you can also provide Yolobe with "personal confidential information" about yourself for purposes of determining eligibility for certain restricted resources. This type of information is heavily protected and not displayed publicly, or transferred to any other organization without your consent. Additionally, organizations that Yolobe has partnered with, that you are a member of, may ask your consent to transfer your personal confidential information to Yolobe on your behalf. At any time, you may revoke personal confidential information transfer and storage consent, and remove your information from Yolobe. You will be able to continue using the Yolobe service after revocation, but may lose access to protected or restricted resources.

Personal Confidential Information Includes:

- Personal identifying demographic information such as physical addresses, SSNs, tax identification or information, state or federal employer information

#### 1c. AGGREGATE NON PERSONAL DATA

The Yolobe Service periodically analyses collectively all User Supplied Content (specifically this collection excludes Personal Confidential Information) stripped of any information that would identify any individual, to produce new aggregate information. This information may be shared with Yolobe Partner organizations.

### 2. HOW WE USE YOUR INFORMATION

In addition to some of the specific uses of information we describe in this Privacy Policy, we may use information or technical copies that we receive to:

- Help you efficiently access your information after you sign in
- Remember information so you will not have to re-enter it during your visit or the next time you visit the Service
- Provide personalized content and information to you and others, which could include interesting opportunities based on your interests
- Provide, improve, test, and monitor the effectiveness of our Service
- Develop and test new products and features
- Monitor metrics such as total number of visitors, traffic, and demographic patterns
- Diagnose or fix technology problems

### 3. SHARING OF YOUR INFORMATION

Yolobe will never share Personal Confidential Information in aggregate, or individually to any organization without your specific consent for each organization. Yolobe may share Aggregate Non-personal Data or User Supplied Content that is made public. Certain third party services we use collect additional usage information for technical services that Yolobe does is not able to provide or control - this category contains providers of mapping, directions and financial transactions.

#### 3a. Purposes for sharing data with additional organizations:

We may share your information with members of the Yolobe team for purposes of learning how to create better and more engaging software. As part of our user group, we will actively solicit your feedback on our services.

We may also combine your information with other information in a way that it is no longer associated with you and share that aggregated information with potential investors as we continue to grow this service. This may include reporting on aggregated usage data and interest data.

#### 3b. Parties with whom you may choose to share your User Content:

We currently have privacy settings for our users. No information is shared with anyone who is not a user of Yolobe. You can control who see your profile information within the privacy settings of your profile.

#### 3c. What happens in the event of a change of control:

If we sell or otherwise transfer part or the whole of Yolobe or our assets to another organization (e.g., in the course of a transaction like a merger, acquisition, bankruptcy, dissolution, liquidation), your information such as name and email address, User Content, Personal Confidential Information, Aggregate Non Personal Information and any other information collected through the Service may be among the items sold or transferred. You will continue to own your User Content and Personal Confidential Information. The buyer or transferee will have to honor the commitments we have made in this Privacy Policy, and any changes will be communicated to you in such an event.

#### 3d. Responding to legal requests and preventing harm:

We may access, preserve and share your information in response to a legal request (like a search warrant, court order or subpoena) if we have a good faith belief that the law requires us to do so. This may include responding to legal requests from jurisdictions outside of the United States where we have a good faith belief that the response is required by law in that jurisdiction, affects users in that jurisdiction, and is consistent with internationally recognized standards. We may also access, preserve and share information when we have a good faith belief it is necessary to: detect, prevent and address fraud and other illegal activity; to protect ourselves, you and others, including as part of investigations; and to prevent death or imminent bodily harm. Information we receive about you may be accessed, processed and

retained for an extended period of time when it is the subject of a legal request or obligation, governmental investigation, or investigations concerning possible violations of our terms or policies, or otherwise to prevent harm.

#### 4. HOW WE STORE YOUR INFORMATION

Storage and Processing:

Your information collected through the Service will be stored and processed in the United States.

We use commercially reasonable safeguards to help keep the information collected through the Service secure and take reasonable steps (such as requesting a unique password that is securely stored) to verify your identity before granting you access to your account. However, Yolobe cannot ensure in totality the security of any information you transmit to Yolobe or guarantee that information on the Service may not be accessed, disclosed, altered, or destroyed.

Please do your part to help us. You are responsible for maintaining the secrecy of your unique password and account information, and for controlling access to communications between you and Yolobe, at all times. Your privacy settings may also be affected by changes the social media services you connect to Yolobe make to their services. We are not responsible for the functionality, privacy, or security measures of any other organization.

#### 5. YOUR CHOICES ABOUT YOUR INFORMATION

5a. Your account information and profile/privacy settings:

Update your account at any time by logging in and changing your profile settings.

5b. How long we keep your User Content:

Following termination or deactivation of your account, Yolobe may your User Generated Content and aggregate non personal data for a commercially reasonable time for backup, archival, and/or audit purposes.

To delete your account send an e-mail to [support@yolobe.com](mailto:support@yolobe.com) with your name, Yolobe handle and e-mail requesting to have your account deactivated.

#### 6. CHILDREN'S PRIVACY

Yolobe does not knowingly collect or solicit any information from anyone under the age of 13 or knowingly allow such persons to register for the Service. The Service and its content are not directed at children under the age of 13. In the event that we learn that we have collected personal information from a child under age 13 without parental consent, we will delete that information as quickly as possible. If you believe that we might have any information from or about a child under 13, please contact us at [support@yolobe.com](mailto:support@yolobe.com)

#### 7. OTHER WEB SITES AND SERVICES

We are not responsible for the practices employed by any websites or services linked to or from our Service, including the information or content contained within them. Please remember that when you use a link to go from our Service to another website or service, our Privacy Policy does not apply to those third-party websites or services.

Your browsing and interaction on any third-party website or service, including those that have a link on our website, are subject to that third party's own rules and policies. In addition, you agree that we are not responsible and do not have control over any third-parties that you authorize to access your User Content. If you are using a third-party website or service and you allow them to access your User Content you do so at your own risk.

#### 8. HOW TO CONTACT US

If you have any questions about this Privacy Policy or the Service, please e-mail us at [support@yolobe.com](mailto:support@yolobe.com).