

TERMINATION AND GENERAL RELEASE AGREEMENT

This Termination and General Release Agreement (“Agreement”) is made and entered into as of the last date of signature indicated below, by and between Metro, a metropolitan service district and municipal corporation of the State of Oregon (“Metro”) organized under Oregon Revised Statutes Chapter 268 and the Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon 97232, and Replica, Inc. (“Replica”) a Delaware corporation, located at 8024 Conser St, Overland Park, KS 66204 (collectively the “Parties”).

BACKGROUND

On or about May 13, 2019, Metro entered into a software agreement with Replica to provide a synthetic representation of travel-related outcomes that can improve the monitoring and planning of transportation and land use systems (“Software Agreement”) (Metro Contract No. 935980, Software as a Service Subscription Agreement between Replica Inc. and Metro). The Parties have determined that it is in their mutual best interests to terminate the Software Agreement.

NOW, THEREFORE, in reliance on the above facts and in consideration of the mutual promises described below, the adequacy of which the Parties hereby acknowledge, the Parties agree as follows:

1. Background Incorporated. The Parties incorporate the Background set out above, as if fully set forth herein.
2. Termination of Contract. The parties agree that the Software Agreement is terminated. The parties no longer have any liabilities or obligations related to the Software Agreement.
3. General Release. In consideration for the provisions of this Agreement, Replica agrees to fully and forever release, acquit, and discharge Metro and its respective insurers, agents, representatives, attorneys, employees, councilors, officers, directors, businesses, parent corporations, subsidiaries, affiliates, beneficiaries, heirs, and assigns from any and all claims, demands, damages, causes of action, and liabilities, whether known or unknown, arising from any cause whatsoever, that have been or could have been asserted on or before the date of this Agreement that relate in any way to the Software Agreement that is the subject of this Agreement.

In consideration for the provisions of this Agreement, Metro agrees to fully and forever release, acquit, and discharge Replica and its respective insurers, agents, representatives, attorneys, employees, councilors, officers, directors, businesses, parent corporations, subsidiaries, affiliates, beneficiaries, heirs, and assigns from any and all claims, demands, damages, causes of action, and liabilities, whether known or unknown, arising from any cause whatsoever, that have been or could have been asserted on or before the date of this Agreement that relate in any way to the Software Agreement that is the subject of this Agreement.

Nothing in this Agreement waives any rights or claims of the Parties that may arise after this Agreement is executed by the Parties, including any claim relating to the breach of this Agreement.

4. Cooperation. The Parties agree to cooperate to effectuate the terms of this Agreement and to provide whatever stipulations and other documents as are necessary to implement its terms.

5. Non-disparagement. Replica agrees that it will not disparage Metro or any related entities, assigns, or successors or any individual employees, consultants, commissioners, council members or agents of Metro or any person acting by, through, under or in concert with any of them, with any written or oral statement.

Metro agrees that Margi Bradway and Jeff Frkonja will not disparage Replica or its products, services, agents, representatives, directors, officers, shareholders, attorneys, employees, affiliates, successors or assigns, or any person acting by, through, under or in concert with any of them, with any written or oral statement. This section binds Metro only so long as the Metro employees identified remain employed by Metro.

This Section does not prohibit the parties from providing truthful information in response to a subpoena or other legal process. In addition, this section does not prohibit the parties from responding to inquiries related to the Software Agreement or discussing the Software Agreement in general. Metro staff may publish or present factual findings on their experience with the Replica product in academic journals, professional conferences, and professional interactions with peers in the field.

6. Representation that this Agreement is Valid and Binding. The Parties hereby represent, warrant and covenant with each other that this Agreement has been duly and validly executed and delivered by the Parties and constitutes a valid and legally binding agreement and is enforceable in accordance with its terms.
7. Non Admission of Liability. This Agreement must not be construed as an admission of liability by either party.
8. Modification and Waiver. This Agreement may not be modified unless such modification is in writing and signed by all of the Parties. No provision of this Agreement is considered waived by any Party unless such a waiver is made in writing signed by the Party making the waiver. Waiver of any provision of this Agreement will not affect the enforceability of any other provision of this Agreement.
9. Choice of Law. This Agreement must be construed, applied, and enforced in accordance with the laws of the State of Oregon.
10. Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Agreement will not be affected.
11. Entire Agreement. This Agreement is the entire Agreement between the Parties.
12. Voluntary Agreement. Each Party hereby declares and represents that it fully understands the terms of this Agreement, that it has had ample opportunity to review this Agreement and solicit and receive the advice of its own legal counsel, and that it voluntarily enters into this Agreement.
13. Authority to Enter Into This Agreement and Signatory Authority. Each Party hereby declares and represents that it has the legal power, right, and authority to enter into this Agreement. The individuals signing below warrant that they have full authority to execute this Agreement on behalf of the Party for which they sign.

THE PARTIES WARRANT AND COVENANT THAT THEY HAVE CAREFULLY READ THE FOREGOING AGREEMENT, KNOW ITS CONTENTS, AND UPON ADVICE OF THEIR ATTORNEYS, SIGN THIS AGREEMENT AS THEIR OWN FREE ACT AND WILL.

METRO

By: _____

Date: _____

Date: _____

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