



Exos Comments to Attachment C – South Walton Fire District RFP for Employee Wellness Program

Exos' competitive pricing is contingent on establishing fair terms with South Walton Fire District that balance the benefits and risk of implementing world-class programming. If selected, the parties will work in good faith to align on the following provisions.

Section 4 – Compensation: Exos pays its staff and requires 30-day payment terms for invoices rendered in advance;

Section 5.10 - E-Verify: Exos complies with e-verify, however, all staff are employed through different entities depending on location. All our E-Verify is conducted through either Athletes' Performance, Inc. or Exos Human Capital, LLC.

Section 6.4 – Key Personnel: Exos does not generally agree to a principle of dedicated staff. It requires the ability to remove or change the staff member as it sees fit. Alternatively, we will agree to provide staff with appropriate degrees, certifications, and training for their responsibilities outlined in the agreement.

Section 6.5 – Objectionable Employees: We can agree to a removal principle; however, cannot remove staff without the ability to engage in performance training. Accordingly, we request this provision is updated to allow Exos to have a 30-day period of performance training. Following such period, if performance is not improved Exos will remove the staff member in question. Additionally, we can agree to specific situations requiring immediately removal (theft & other forms of misconduct).

Section 6.7 – Status Reports and Inspections: We request the final sentence of this provision is struck. It is overbroad and may inadvertently require Exos to deliver internal documents related to the project.

Section 6.11 – Conflicts of Interest: We'd like to update this provision to ensure a "Conflict of Interest" is limited to circumstances that would materially impair our objectivity or risk your confidential information. If we ever identify a situation that might meet that definition, we must notify you within five business days, explain the nature of the potential conflict, and propose any mitigation measures. You then have ten business days to decide whether to waive the conflict, approve our mitigation plan (such as a fire-walled team), or withhold consent, in which case we will not proceed with the conflicting engagement. Routine



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activities (e.g., minor equity investments, unrelated governmental filings, or work outside your commercial scope) are expressly carved out so we don't burden you with unnecessary approvals.

Section 7.1 – Termination for Convenience: Our commercial proposals are not generally based on including a concept of termination for convenience. In this case, we will agree to include such a right; however, (a) it must be amended to be mutual, and (b) 120 days' prior written notice will be required to properly wind down the services.

Section 7.2 Termination for Cause: Any right to terminate for material breach should be updated to be mutual.

Section 8 – Waiver: We can agree to this concept provided the following changes are implemented (1) concept of mutuality to ensure both parties are protected, (2) carve out latent or unknown / could not be reasonably discovered with ordinary diligence before final payment, and (3) carve out indemnification to ensure both parties can still recover under the applicable concept.

Section 9.3 – Audit: We can agree to the audit concept; however, it must be updated to include a "reasonableness" standard as well as timelines and standards for when and how (i.e., the scope) the audit can be completed.

Section 11 – Indemnification & Liability Caps: Encouraging employees to exercise or participate in wellness activities necessarily creates a risk of injury, even where Exos uses reasonable care. Exos indemnifies its clients against third-party claims resulting from its negligence, up to an amount based on the value of the service agreement (e.g., two times annual spend). Exos expects clients to indemnify Exos on the same basis, on account of client's obligations, e.g., to maintain the premises. Each party's responsibility for claims arising directly between them is likewise limited (e.g., to annual spend) and excludes lost profits and other "consequential" harms. Only intentional misconduct is uncapped. We are requesting this provision is updated to align to these principles.

Section 16.1 – Project Data: We request this provision is updated to incorporate a concept of Member / Participant Data. Client employees ("Members") consume Exos' fitness & wellness services. In personalizing programming, Exos learns about member life goals such as weight loss, and medical information such as injury history. This data belongs to the member, and not to the client. Exos uses data collected directly from members only in



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accordance with the Exos privacy policy, which provides customary data rights (e.g., access, deletion). Exos shares with clients only aggregate data regarding services engagement, absent a member's opt-in consent to be identified (e.g., to be rewarded for completing a challenge). In contrast, information a client furnishes to Exos in its corporate capacity (e.g., list of authorized members) remains client data for which the client acts as the "controller." This dichotomy is reflected in the definition of "personal data" in data processing agreements.

Section 16.2 – Intellectual Property: Exos wellness services include proprietary methods and content. Exos owns all IP delivered to clients, except to the extent it incorporates any client IP such as trademark. Any subsequent provider will bring its own IP—a client's right to use Exos IP ends if Exos is no longer providing the services. This provision should be updated to align to this principle.

Section 17 – Audit Rights: Please see comment in section 9.3.

Insurance Requirements: Please see attached COI reflecting the insurance limits that Exos can commit to.



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