



**SERVICE AGREEMENT**

The following paragraphs of this Service Agreement (the "Agreement") outline the agreements and understandings by and between

**LOOMIS ARMORED US, LLC**  
**("LOOMIS")**  
a Texas Limited Liability Company  
with offices at:  
2500 CityWest Blvd. Ste. 2300,  
Houston, TX 77042.

and

City of Emeryville  
**("CUSTOMER")**  
With offices at:  
1333 Park Ave  
Emeryville, CA 94608

This Agreement expresses and outlines the services, roles, and responsibilities of the parties. If additional locations are added to the scope of this Agreement, consistent terms and services will be maintained. These promises for such services and their related payments form the basis of this Agreement, made this 26th day of June, 2019.

**Term:** Service will begin on the 1st day of August, 2019 and shall continue for a period of one (1) year(s). At the expiration of the initial term, this Agreement shall automatically be extended for successive like term periods unless either party provides written notice of non-renewal at least sixty (60) days prior to the end of the then current term. CUSTOMER agrees that LOOMIS is the exclusive provider for these services for the facilities contained herein. Except as expressly stated herein, CUSTOMER understands and agrees that this Agreement contains no provision for early termination in whole or part. Either party may terminate this Agreement with five (5) days written notice in the event of bankruptcy, or insolvency of the other party. LOOMIS may terminate this Agreement with thirty (30) days written notice in the event of a material reduction or cancellation of LOOMIS' insurance.

**CUSTOMER and LOOMIS agree to the following:**

Schedule for Services: Conjunctive, sequential, on route pickup and delivery of items at the following location(s) to/from CUSTOMER's designated, mutually agreed-upon location(s):

LOOMIS BRANCH	UNIT # / LOCATION	MAXIMUM LIABILITY COVERAGE	SERVICE FREQUENCY	FEE for SERVICE
1260 Richmond	City of Emeryville 1333 Park Ave Emeryville, CA 94608	25K	2 x week (Tue, Fri) Does not include Holiday service	\$300 per month, plus applicable fees below

**Premise Time:** Each service location under this Agreement (regardless of the pickup/delivery points) is allotted seven (7) minutes of service time. Over seven (7) minutes, a fee of \$3.00 per one (1) minute shall be assessed. Over fifteen (15) minutes, LOOMIS may elect to depart from the CUSTOMER'S location. Should LOOMIS be requested to return, the pick-up will be rescheduled as a Special Pick-up and will be charged at an agreed upon fee prior to rendering service.

**Research and Supply Fee:** A fee of \$65.00 per hour plus supplies will be charged for research of LOOMIS' documents or receipts that have aged over sixty (60) days, unless it is determined to be solely an error of LOOMIS.

**Excess Item Handling:** A fee of \$1.50 per Item is assessed when the number of items or containers exceeds ten (10) items per shipment. An "Item" refers to the number of containers, sealed bags or other vessels LOOMIS is required to transport.

**Non-Scheduled/Off-Day Service:** \$75.00 per trip, per location in Urban areas. Additional fees apply for off-route and remote locations.

**Holiday Service Fee:** A fee of \$100.00 will be charged for the service provided on those Holidays as listed in Section 11.

**Excess Liability:** A fee of \$0.40 per \$1,000 or fraction thereof for any amounts which exceed the Liability Coverage per Shipment Amount.

**Insurance Fee:** A fee of 7% will be assessed to all services provided within this Agreement.

**Living Wage Fee:** A fee of 11% will be assessed to all services provided within this Agreement.

**CUSTOMER does not desire this Excess Liability Coverage, CUSTOMER must decline Excess Liability Coverage by initialing the box below:**

Decline

**Reconstruction Obligations:**

As explained in Section 7(c), of the Terms and Conditions, CUSTOMER has certain obligations regarding reconstruction of lost, damaged, destroyed checks or items that provide an audit trail. If CUSTOMER prefers to opt-out of these reconstruction obligations, CUSTOMER must decline by initialing the box below.

Decline

If CUSTOMER does NOT agree to reconstruction obligations or cannot meet its reconstruction obligations contained within Section 7(c), LOOMIS' liability for all checks contained within the shipment is limited to Ten Thousand Dollars (\$10,000.00) regardless of the face value of the checks in shipment.

## TERMS AND CONDITIONS

1. **Service(s):** LOOMIS agrees to pick up, receive from, and/or deliver to CUSTOMER, or any designated agent, securely sealed or locked shipments which may contain any or all of the following: currency, coin, checks, securities, or other valuables. If the shipment container(s) does not appear to be securely locked or sealed, LOOMIS has the right to refuse to accept such container(s) and will not receive said container(s) from the CUSTOMER or its designated agent. If LOOMIS accepts the sealed container(s), LOOMIS will give CUSTOMER a receipt for said sealed container(s), and transport and deliver such sealed container(s) to the consignee designated by the CUSTOMER. CUSTOMER agrees that it will not conceal or misrepresent any material fact or circumstances concerning the property delivered to LOOMIS pursuant to this Agreement. The fee payable by CUSTOMER to LOOMIS is based upon the Maximum Liability Amount(s) and level(s) of service provided by LOOMIS as stated in this Agreement. All additional or special services must be evidenced and agreed to in a signed amendment to this Agreement.

2. **Billing and Payment:** CUSTOMER agrees to pay LOOMIS within thirty (30) days of receipt of invoices which shall include any applicable federal, state or local taxes. In addition, LOOMIS may, at its discretion, impose a service charge of one and one-half percent (1.5%) per month or eighteen percent (18%) per annum or such lesser rate as may be required by law, of the amount unpaid by CUSTOMER, as is due and payable to LOOMIS on all invoices not paid in full by invoice due date. CUSTOMER further agrees that undisputed portions of any invoice shall be remitted to LOOMIS in accordance with normal payment terms. However, should CUSTOMER fail to pay any undisputed amounts within thirty (30) days of the invoice date, LOOMIS may, in its sole discretion, terminate this Agreement upon ten (10) days written notice to CUSTOMER. CUSTOMER agrees to notify LOOMIS of dispute(s) arising from any invoice within thirty (30) days after such invoice has been presented to CUSTOMER, or else such claim shall be deemed waived. All amounts due hereunder shall be paid by cash, check or ACH unless otherwise agreed on the signature page of this Agreement.

3. **Rate Adjustment:** LOOMIS shall annually increase the service fee(s) based upon the year to year changes in the Consumer Price Index (CPI) or other applicable economic factor(s).

To account for future movements in the price of diesel fuel LOOMIS will henceforth adjust the monthly fuel fee based on U.S. average diesel prices as measured and published by the Department of Energy ([WWW.EIA.DOE.GOV](http://WWW.EIA.DOE.GOV)). The monthly fuel fee shall equal the product of the applicable percentage (based on the chart below) multiplied by the aggregate monthly service fee (including any applicable Ancillary Item). LOOMIS' established baseline is \$1.31. Any cost above the \$1.31 baseline cost will be adjusted on a monthly basis by 0.5% on price movements of 10 cents per gallon (i.e. if diesel prices rise to \$1.41, the corresponding fuel fee is increased by 0.5%). The applicable fuel fee percentage will be based on the national average of diesel fuel prices published on the Department of Energy Website averaged over the first four Mondays of the month rounded to the next cent. The table is for reference only and does not reflect the maximum rate which may be assessed.

Minimum	Maximum	Per Gallon	Fee (%)
\$4.91	\$5.00	\$ .10	18.00%
\$4.81	\$4.90	\$ .10	17.50%
\$4.71	\$4.80	\$ .10	17.00%
\$4.61	\$4.70	\$ .10	16.50%
\$4.51	\$4.60	\$ .10	16.00%
\$4.41	\$4.50	\$ .10	15.50%
\$4.31	\$4.40	\$ .10	15.00%
\$4.21	\$4.30	\$ .10	14.50%
\$4.11	\$4.20	\$ .10	14.00%
\$4.01	\$4.10	\$ .10	13.50%
\$3.91	\$4.00	\$ .10	13.00%
\$3.81	\$3.90	\$ .10	12.50%
\$3.71	\$3.80	\$ .10	12.00%
\$3.61	\$3.70	\$ .10	11.50%
\$3.51	\$3.60	\$ .10	11.00%

\$3.41	\$3.50	\$.10	10.50%
\$3.31	\$3.40	\$.10	10.00%
\$3.21	\$3.30	\$.10	9.50%
\$3.11	\$3.20	\$.10	9.00%
\$3.01	\$3.10	\$.10	8.50%
\$2.91	\$3.00	\$.10	8.00%
\$2.81	\$2.90	\$.10	7.50%
\$2.71	\$2.80	\$.10	7.00%
\$2.61	\$2.70	\$.10	6.50%
\$2.51	\$2.60	\$.10	6.00%
\$2.41	\$2.50	\$.10	5.50%
\$2.31	\$2.40	\$.10	5.00%
\$2.21	\$2.30	\$.10	4.50%
\$2.11	\$2.20	\$.10	4.00%
\$2.01	\$2.10	\$.10	3.50%
\$1.91	\$2.00	\$.10	3.00%
\$1.81	\$1.90	\$.10	2.50%
\$1.71	\$1.80	\$.10	2.00%
\$1.61	\$1.70	\$.10	1.50%
\$1.51	\$1.60	\$.10	1.00%
\$1.41	\$1.50	\$.10	.50%
\$1.31	\$1.40	\$.10	.00%

a) LOOMIS reserves the right in times of global economic downturn or due to changes in regulatory obligations to renegotiate rates and fees in good faith with CUSTOMER. In the event that CUSTOMER refuses to consent to such adjustment(s) or fee(s), LOOMIS shall have the right to terminate this Agreement upon thirty (30) days written notice to CUSTOMER.

4. **Liability:** LOOMIS agrees to assume the liability for any Cargo Loss, according to the terms of this Agreement of the securely sealed container(s) from the time LOOMIS signs for and receives physical custody of the sealed container(s). The term "Cargo Loss" shall mean any loss or destruction of currency ("Cargo") that occurs while the Cargo is under Loomis' sole care, custody and control. LOOMIS' responsibility terminates when the CUSTOMER or its designated consignee takes physical possession of the sealed container(s) and signs LOOMIS' receipt. If it is impossible to complete the delivery, LOOMIS shall be responsible for any Cargo Loss until the sealed container(s) is returned to the CUSTOMER or its designated agent and a signed receipt obtained. While the sealed container(s) is stored in the CUSTOMER'S premises, LOOMIS does not assume the liability for any loss. If CUSTOMER conceals or misrepresents any material fact or circumstance concerning the property or container, or the contents thereof, LOOMIS will have no liability for any loss in any way related to such fact or circumstance. CUSTOMER agrees that LOOMIS does not undertake the obligation of an absolute insurer in the performance of this Agreement. LOOMIS reserves the right to take any and all action as may be reasonably necessary to prevent money laundering to the extent permitted under applicable law or regulation or as may be required by any regulatory body that may exert a right of control over LOOMIS.

UNDER NO CIRCUMSTANCES WILL LOOMIS BE LIABLE TO THE OTHER PARTY FOR LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING FROM THE SUBJECT MATTER OR SERVICES OF THIS AGREEMENT, REGARDLESS OF THE TYPE OF CLAIM AND EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; SUCH AS, BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF INTEREST, LOST DATA, DATA TRANSPORTATION OR TRANSMISSION ERROR OR ANTICIPATED PROFITS OR LOST BUSINESS. EXCEPT FOR ANY CARGO LOSS (WHICH SHALL BE SUBJECT TO THE MAXIMUM LIABILITY AMOUNT), IN NO EVENT SHALL LOOMIS' LIABILITY TO CUSTOMER EXCEED THE SERVICE FEE PAID BY CUSTOMER TO LOOMIS FOR THE SERVICE OUT OF WHICH THE ALLEGED LIABILITY AROSE.

5. **Excess Liability:** The following terms will apply if CUSTOMER did not decline excess liability coverage. If LOOMIS accepts tender of a shipment in excess of the Maximum Liability Amount, CUSTOMER agrees to pay LOOMIS the excess liability fee set forth herein. **CUSTOMER, by paying this additional fee, will obtain full dollar coverage of any or all losses, subject to the other provisions of this Agreement. If CUSTOMER declines Excess Liability Coverage, liabilities covered under this Agreement are limited to the Maximum Liability Amount.**

6. **Indemnity:** CUSTOMER agrees to indemnify, defend and hold harmless LOOMIS from all claims, costs or expenses arising out of any third party's or government's threatened or actual claim, suit, demand, garnishment or seizure of any funds or property provided by CUSTOMER hereunder that is in LOOMIS' custody. LOOMIS agrees to give CUSTOMER prompt notice of any such claim, suit, demand or seizure and to provide CUSTOMER reasonable cooperation on the defense.

7. **Claim Procedures:** The following provisions shall control in the event of any Cargo Loss, notwithstanding anything to the contrary contained in this Agreement:

a) In the event of a Cargo Loss, CUSTOMER agrees to notify LOOMIS in writing within four (4) calendar days after the loss is discovered or should have been discovered in the exercise of due care, and in no event later than forty-five (45) days after the pick-up by LOOMIS of the securely sealed container in connection with which the Cargo Loss is asserted. If notice of the Cargo Loss is not received by LOOMIS within this forty-five (45) day period, the claim for the Cargo Loss shall be deemed waived and released by the CUSTOMER. All claim notices must be signed and received on company letterhead and contain a brief description of the loss to include: date of service/date of loss, claim amount, Loomis branch performing service, ATM number if applicable, customer contact information with payment instructions and supporting documentation if available at the time of notice. **All claims must be sent to the Loomis Centralized Claim Unit via email at [claims2@us.loomis.com](mailto:claims2@us.loomis.com).** It is agreed that both parties will work together to determine the extent of the Cargo Loss, and if possible, the cause of Cargo Loss.

b) Notwithstanding anything set forth in this Agreement to the contrary, the sole liability of LOOMIS in the event of a Cargo Loss, from whatever cause, shall be subject to the Maximum Liability Amount or the Excess Liability Coverage, if not declined by CUSTOMER.

c) CUSTOMER shall retain sufficient information to allow reconstruction of item(s) in the event of a Cargo Loss. CUSTOMER agrees it will cooperate and assist in reconstructing lost, damaged, or destroyed items constituting a part of any loss. In no event shall LOOMIS' liability for any Cargo Loss, irrespective of the Maximum Liability Coverage amount, include the face value of any lost or destroyed check. LOOMIS' liability, unless otherwise stated in this Agreement, shall be limited to the payment to the CUSTOMER for the reasonable costs necessary to reconstruct the checks, but never to exceed ten thousand dollars (\$10,000.00) per shipment "Reconstruction" shall mean the identification of the face amount, the identity of the maker or endorser of the check, identification of the payee and identification of the financial institution upon which the check is drawn. CUSTOMER agrees in the event of a loss, that any liability of LOOMIS shall be reduced by the face value of reconstructed or recovered item(s).

d) Upon the request of LOOMIS, CUSTOMER will furnish a proof of loss to LOOMIS or its insurance carrier. Once reimbursement has been made to CUSTOMER, LOOMIS and its insurer shall receive any and all of the CUSTOMER'S rights and remedies of recovery.

8. **Limitations & Force Majeure:**

a) The CUSTOMER agrees that LOOMIS will not be liable for any loss caused by or resulting from Shortages claimed in the contents of the sealed or locked shipment(s), for non-performance or delays, or for the breakage of statuary, marble, glassware, bric-a-brac, porcelains and similar fragile articles. A "Shortage" shall mean any difference between the stated value on the Deposit Ticket and the actual value of the contents of any sealed shipment container. Likewise, LOOMIS shall not be liable to CUSTOMER for failure to render service if LOOMIS in its sole discretion, determines the same may endanger the safety of CUSTOMER'S property or personnel or LOOMIS' vehicles or employees.

b) It is further agreed that LOOMIS shall not be held accountable or liable for any damages or losses, caused by or resulting from illegal or fraudulent acts of CUSTOMER's employees, agents, representatives, or third-party contractors.

c) CUSTOMER agrees that LOOMIS shall not have any liability for losses of any documentation carried by LOOMIS at CUSTOMER's request without compensation.

d) CUSTOMER expressly understands and accepts that ownership (title) to cash transported or stored by LOOMIS shall never transfer to LOOMIS.

e) It is further agreed LOOMIS shall not be held accountable or liable for any damages or losses, whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) for which liability is assumed by LOOMIS, resulting from:

(i) Hostile or warlike action in time of peace or war, including action hindering, combating or defending against an actual, impending or expected attack; (1) by any government or sovereign power (de jure or de facto) or

- by any authority maintaining or using military, naval or air forces; or (2) by military, naval or air forces; or (3) by any agent of any such government, power authority or forces.
- (ii) Nuclear reaction, nuclear radiation, radioactive contamination or any weapon of war employing atomic fission or radioactive force whether in time of peace or war.
  - (iii) Insurrection, rebellion, revolution, terrorist act, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence; seizure or destruction under quarantine or customs regulations; confiscation by order of any governmental or public authority; or risks of contraband or illegal transportation or trade.
  - (iv) Acts of God, strikes, labor disturbances, impostor pick-up or deliveries, or other conditions or circumstances beyond LOOMIS' reasonable control.

9. **Disputes:** CUSTOMER and LOOMIS agree that except for disputes regarding over-payment or non-payment of fees for services under this Agreement, any controversy or claim, including any claim of misrepresentation, arising out of or related to this Agreement, or the furnishing of any service by LOOMIS to CUSTOMER, shall be settled by arbitration under the then current rules of the American Arbitration Association. The arbitrator shall be chosen from a panel of persons knowledgeable in the fields of financial institution security operations and armored car services. CUSTOMER and LOOMIS agree to equally share in the cost and fees of this resolution process. The decision and award of the arbitrator shall be final and binding. Judgment upon the award so rendered may be entered in any court having jurisdiction thereof. Any arbitration hereunder shall be held in Houston, Texas.

10. **Container Value Limitation:** CUSTOMER acknowledges and agrees that the maximum value which LOOMIS will transport in any individual container will not exceed two hundred & fifty thousand dollars (\$250,000). If the total value of a shipment which CUSTOMER seeks to tender to LOOMIS exceeds two hundred & fifty thousand dollars (\$250,000), such shipment must be broken down into separate shipment containers of two hundred & fifty thousand dollars (\$250,000) or less.

11. **Holiday Service:** LOOMIS agrees to provide service as stated in the Agreement with the following holiday exceptions: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Columbus Day, Thanksgiving Day, Christmas Day, federal banking and any local applicable observed holiday. Charges for service on such days will be as stated upon page 2 of this Agreement, excluding Christmas Day. LOOMIS will not provide Christmas Day service.

12. **Specials:** Unscheduled pickups or deliveries are available under the same conditions and provisions of this Agreement. Prices are quoted upon request.

13. **Excess Liability Coverage:** LOOMIS reserves the right to refuse tender of any shipment in excess of the Maximum Liability Amount.

14. **Confidentiality:** Each party receiving information (each being a "Receiving Party" and a "Disclosing Party") undertakes to retain in confidence the terms of this Agreement and all other non-public information, technology, materials and know-how of the other party disclosed or acquired by the Receiving Party pursuant to or in connection with this Agreement which is either designated as proprietary and/or confidential or, by the nature of the circumstances surrounding disclosure, ought in good faith to be treated as proprietary and/or confidential ("Confidential Information"). Neither party shall use any Confidential Information for any purpose other than to carry out the activities contemplated by this Agreement. Each party agrees to use commercially reasonable efforts to protect Confidential Information of the other party, and in any event, to take precautions at least as great as those taken to protect its own confidential information of a similar nature. Each party shall also notify the other promptly in writing in the event such party learns of any unauthorized use or disclosure of any Confidential Information that it has received from the other party, and will cooperate in good faith to remedy such occurrence to the extent reasonably possible. Confidential Information shall not include:

- (1) information which was already known by, or already in the possession of, Receiving Party prior to receipt from Disclosing Party;
- (2) information which is obtained by Receiving Party from a third person who, to the actual knowledge of Receiving Party is not in violation of any agreement to a third party not to disclose such information
- (3) information which is or becomes publically available other than through breach by the Receiving Party of this Agreement; and,
- (4) information which is independently developed by or on behalf of Receiving Party.

15. **Entire Agreement:** This Agreement: (a) shall be governed by and construed in accordance with the laws of the State of Texas without reference to conflict of laws principles; (b) constitutes the entire agreement and understanding of the parties with respect to its subject matter, except that the terms of any agreement regarding confidential information of the parties shall be deemed to be a part of this Agreement; (c) and the terms and conditions including fees set forth in it shall be treated as confidential information; (d) is not for the benefit of any third party; (e) may not be amended except by a written instrument signed by both CUSTOMER and LOOMIS; (f) may not be assigned by CUSTOMER without LOOMIS prior written consent; (g) may be assigned by LOOMIS, provided that LOOMIS shall furnish written notice of such assignment to CUSTOMER; (h) shall be binding upon any assignees, and defined terms used in this Agreement to apply to either party shall be construed to refer to such party's assignee; (i) is the product of negotiation; (j) is subject to a contractually agreed one (1) year statute of limitations on all claims or the minimum allowable by applicable law; (k) shall not be deemed to have been drafted by either party; (l) contains article and section headings which are for convenience of reference only and which shall not be deemed to alter or affect the meaning or interpretation of any provision of this Agreement; (m) does not make either party the agent, fiduciary or partner of the other; (n) does not grant either party any authority to bind the other to any legal obligation; (o) does not intend to nor grant any rights to any third party and (p) shall remain valid and enforceable despite the holding of any specific provision to be invalid or unenforceable, except for such specific provision. The waiver by either party of any rights arising out of this Agreement shall not cause a waiver of any other rights under this Agreement, at law or in equity. Any and all correspondence regarding this Agreement shall be delivered via certified mail (return receipt requested) or verifiable third-party courier (return receipt requested).

This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together will be deemed to constitute one and the same agreement when a duly authorized representative of each party has signed a counterpart. The parties may sign and deliver this Agreement by facsimile or electronic (i.e., .pdf) transmission. Each party acknowledges that the delivery hereof by facsimile or electronic transmission will have the same force and effect as delivery of original signatures.

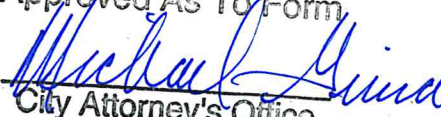
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

**CUSTOMER**

By \_\_\_\_\_  
Printed Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

**LOOMIS**

By \_\_\_\_\_  
Printed Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Approved As To Form  
  
City Attorney's Office

