

## PARS Employer Portal Terms of Service Effective Date: April 1, 2019

Public Agency Retirement Services is a provider of retirement services directed at public agencies. Public Agency Retirement Services operates the <https://employer.pars.org> website (the “*Employer Portal*”). PLEASE READ THESE TERMS OF SERVICE CAREFULLY BEFORE USING THE EMPLOYER PORTAL.

### 1. Acceptance of Terms

THESE TERMS OF SERVICE, AS AMENDED FROM TIME TO TIME AND PUBLISHED AT <HTTPS://EMPLOYER.PARS.ORG>, INCORPORATE THE PARS PRIVACY POLICY AVAILABLE AT <HTTPS://EMPLOYER.PARS.ORG> (“*TERMS OF SERVICE*”), AND ARE A LEGAL AGREEMENT BETWEEN PUBLIC AGENCY RETIREMENT SERVICES (“*PARS*”) AND YOU (“*YOU,*” or “*YOUR*”).

YOU MUST READ AND AGREE TO THESE TERMS OF SERVICE, INCLUDING THE PRIVACY POLICY, BEFORE USING THE EMPLOYER PORTAL. BY USING THE EMPLOYER PORTAL, YOU AGREE TO THESE TERMS OF SERVICE AND THE PRIVACY POLICY. IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE OR THE PRIVACY POLICY, DO NOT USE THE EMPLOYER PORTAL.

You are responsible for regularly reviewing the Terms of Service, as modified from time to time. All such modifications will be effective with reasonable notice after posted by PARS. If You are dissatisfied with any modification to the Terms of Service, Your only remedy is to terminate Your use of the Employer Portal, as described in Section 9 (Termination and Survivability) of these Terms of Service. Your continued use of the Employer Portal after a change or update has been made to the Terms of Service constitutes Your acceptance of such change or update.

### 2. Eligibility

By using the Employer Portal, You represent, warrant, and covenant that:

- (a) All registration information You submit to PARS is truthful and accurate;
- (b) You will maintain the accuracy of such information; and
- (c) Your use of the Employer Portal does not violate any applicable law or regulation.

### 3. Use of the Employer Portal

Provided that You comply with these Terms of Service, PARS hereby grants to You, and You hereby accept from PARS, a limited, revocable, nonexclusive, nonassignable, nonsublicensable license and right to access the Employer Portal, through a generally available web browser or mobile device, to view information and use the services offered through the Employer Portal.

#### **4. User Accounts**

To use the Employer Portal, You will be required to create a user account (“*Account*”). If You create an Account, You agree to provide PARS with current, complete, true and accurate information, and You further agree to update this information should it change. PARS may suspend, terminate, modify, or delete Your access to Your Account through the Employer Portal with or without notice to You, at any time for any reason or for no reason, including but not limited to Your violation of the Terms of Service without any liability to You or to any third party. If we terminate, suspend, or cancel Your access to Your Account through the Employer Portal, You will have no further access to Your Account through the Employer Portal or anything associated with it.

PARS reserves the right to change or discontinue any service or feature provided by PARS, including, without limitation, the Employer Portal, at any time and without notice. You agree that PARS shall not be liable for any loss or damage caused, directly or indirectly, by any such termination, suspension, change or discontinuance.

YOU ARE ENTIRELY RESPONSIBLE FOR MAINTAINING THE CONFIDENTIALITY OF YOUR PASSWORD AND FOR ANY AND ALL ACTIVITIES THAT OCCUR IN CONNECTION WITH YOUR ACCOUNT, WHETHER OR NOT AUTHORIZED BY YOU. You agree to notify PARS immediately of any unauthorized use of Your Account or any other breach of security and to provide properly documented evidence as requested by PARS. You may not use anyone else’s Account at any time and You may not allow anyone else to use Your Account at any time. You agree that PARS will not be liable for any loss You may incur as a result of someone else using Your password or Account, either with or without Your knowledge, and You further agree that You will be liable for losses incurred by PARS or another party due to someone else that You knowingly allow to use Your Account or password.

#### **5. Limitations**

ANY USE OF THE EMPLOYER PORTAL IN VIOLATION OF THESE TERMS OF SERVICE WILL BE REGARDED AS AN INFRINGEMENT OF PARS’ COPYRIGHT RIGHTS IN AND TO THE CONTENT.

(“Content” shall mean including, without limitation, data, audio, text, and any and all other material and information you see on portal, whether provided by pars or otherwise).

You may not, under any circumstances, modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, adapt, translate, transfer, buy, auction, rent, lease, loan or sell any Content, or other materials appearing in or generated by the Employer Portal, or any information obtained from the Employer Portal, without the prior express written consent of PARS.

You may not, under any circumstances, exploit the Content or the Employer Portal for any purpose whatsoever.

You may not, under any circumstances, use the Content or the Employer Portal in any manner that is:

- (a) Unlawful;
- (b) That could damage, disable, overburden, or impair any PARS server or the network(s) connected to any PARS server;
- (c) That could interfere with any other party's use and enjoyment of the Employer Portal;
- (d) That gains or attempts to gain unauthorized access to the Employer Portal, unpublished information or material, other users' Accounts, or computer systems and/or networks connected to any PARS server, or to any part of the Employer Portal, through hacking, password mining or any other means;
- (e) That collects or aggregates information regarding other users' actions relating to the Employer Portal; or
- (f) That reverse engineers, decompiles, disassembles or attempts to reverse engineer, decompile, or disassemble any part of the Employer Portal.

## **6. Communications**

By creating an Account, You understand You may receive periodic information regarding current and future services offered on the Employer Portal and/or related third party products. You may unsubscribe at any time by terminating Your Account as described in Section 9 (Termination and Survivability).

## **7. Privacy/Security**

You understand that any information that You provide or that is collected by PARS in connection with Your use of the Employer Portal will be used in the manner described in these Terms of Service and PARS Privacy Policy available at: <https://employer.pars.org>. Without limiting the terms of the Privacy Policy, You understand that PARS does not guarantee that Your use of the Employer Portal and/or the information provided by You will be private or secure, and PARS is not responsible or liable to You for any lack of privacy or security You may experience. You are fully responsible for taking all precautions and providing security measures best suited for Your access to, and use of, the Employer Portal.

## **8. Jurisdictional Issues and Export Control Laws**

The Employer Portal is controlled and operated by PARS from its offices within the United States. PARS makes no representation that Content and other materials available through the Employer Portal are appropriate or available for use in any other locations. Those who choose to access the Employer Portal from other locations do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable.

## **9. Termination and Survivability**

These Terms of Service are effective until terminated. PARS may terminate these Terms of Service with or without notice to You by terminating Your access to Your Account through the Employer Portal as set forth in Section 4 (User Accounts). You may terminate these Terms of Service and Your access to Your Account through the Employer Portal by sending an email stating Your intention to terminate these Terms of Service to PARS at: [trust@pars.org](mailto:trust@pars.org), Attn: Client Services Department, with the subject line "Account Termination." Such termination will not be effective until acknowledged by PARS, but not more than thirty (30) days after sending such termination email.

The provisions of 5 (Limitations), 9 (Termination and Survivability), 11 (Disclaimer of Warranty; Limitation of Liability), 12 (Indemnity), and 13 (Jurisdiction and Choice of Law) shall survive any termination of these Terms of Service.

## **10. Links to Third Party Sites**

The Employer Portal may link to third party sites ("**Linked Sites**"). These Linked Sites are not controlled by PARS. PARS is not responsible for the information of the Linked Sites, for the business practices or privacy policies of the Linked Sites, or for the collection, use or disclosure of any information by the Linked Sites. PARS provides links to the Linked Sites only as a matter of convenience, and the inclusion of any link does not imply an endorsement by PARS of any Linked Site.

You assume any and all risks, known or unknown, now existing or hereafter arising, related to the transactions with the Linked Sites' items, including, but not limited to, completing transactions, default, negligence, unauthorized use of Your Account and password and other users acting under false identity.

## **11. Disclaimer of Warranty; Limitation of Liability**

YOU EXPRESSLY AGREE THAT THE USE OF THE EMPLOYER PORTAL IS AT YOUR SOLE RISK. THE EMPLOYER PORTAL IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS FOR YOUR USE, WITHOUT WARRANTIES (INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, ACCURACY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE) OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, UNLESS SUCH WARRANTIES OR CONDITIONS ARE LEGALLY INCAPABLE OF EXCLUSION.

PARS NOR ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, LICENSORS, DISTRIBUTORS, SUBLICENSEES, AGENTS, OR SUBCONTRACTORS (COLLECTIVELY, THE "**PARS PARTIES**") ASSUME ANY RESPONSIBILITY FOR ANY DAMAGES SUFFERED BY YOU, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, ERRORS, SYSTEM DOWN TIME, OR

INTERRUPTIONS IN THE ACCESSIBILITY OR USE OF THE EMPLOYER PORTAL CAUSED BY THE PARS PARTIES, OR BY YOUR OR OTHER USERS' ERRORS AND/OR OMISSIONS.

YOU ACKNOWLEDGE AND AGREE THAT TO THE MAXIMUM EXTENT PERMISSIBLE BY LAW, THE PARS PARTIES ARE NOT LIABLE FOR ANY ACT OR FAILURE TO ACT BY THEM OR ANY OTHER PERSON REGARDING CONDUCT, COMMUNICATION OR CONTENT ON THE EMPLOYER PORTAL OR USE OF THE EMPLOYER PORTAL. YOU ACKNOWLEDGE AND AGREE THAT YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH PARS IS TO STOP USING THE EMPLOYER PORTAL, AND TO CANCEL YOUR ACCESS TO YOUR ACCOUNT(S) THROUGH THE EMPLOYER PORTAL.

IN NO CASE SHALL THE LIABILITY OF THE PARS PARTIES TO YOU EXCEED ONE HUNDRED DOLLARS. IN NO CASE SHALL THE PARS PARTIES BE LIABLE TO YOU FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO YOUR USE OF THE EMPLOYER PORTAL OR ANY INTERACTIONS WITH PARS.

BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, THE LIABILITY OF PARS AND THE PARS PARTIES SHALL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW. PARS DOES NOT ENDORSE, WARRANT, OR GUARANTEE ANY THIRD PARTY PRODUCT OR SERVICE OFFERED THROUGH THE EMPLOYER PORTAL AND WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD PARTY PROVIDERS OF PRODUCTS OR SERVICES.

## **12. Indemnity**

You agree to defend, indemnify and hold harmless PARS and its directors, officers, employees, agents, shareholders, licensors, parent companies and representatives, from and against all claims, losses, costs and expenses (including without limitation reasonable attorneys' fees) arising out of

- (a) Your use of, or activities in connection with the Employer Portal;
- (b) Any violation of these Terms of Service by You or through Your Account or using Your user name; or
- (c) Any allegation that any information, messages, or materials that You make available or create through the Employer Portal infringes or otherwise violates the copyright, trademark, trade secret, privacy or other intellectual property or other rights of any third party.

## **13. Jurisdiction and Choice of Law**

These Terms of Service, and any disputes arising from or relating to the conduct covered by the Terms of Service, are governed by the laws of the State of California. In the event either You or PARS institutes legal proceedings to enforce or interpret these Terms of Service, the venue and

jurisdiction shall be Orange County, California, without regards to any principles of conflicts of laws and the United Nations Convention on Contracts for the International Sale of Goods.

#### **14. Assignment**

PARS may assign these Terms of Service, in whole or in part, at any time. You may not assign, transfer or sublicense these Terms of Service or any or all of Your rights or obligations under these Terms of Service without PARS' express prior written consent.

#### **15. Waiver**

No waiver by either party of any breach or default hereunder will be deemed to be a waiver of any preceding or subsequent breach or default.

#### **16. Headings**

Any heading, caption or section title contained herein is inserted only as a matter of convenience, and in no way defines or explains any section or provision hereof.

#### **17. Notice**

Notices to You may be made via posting to the Employer Portal, by email, or by regular mail, in PARS' discretion. PARS may also provide notices of changes to these Terms of Service or other matters by displaying such notices or by providing links to such notices on the Employer Portal. Without limitation, You agree that a printed version of these Terms of Service and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms of Service to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

#### **18. Severability**

If any part of these Terms of Service are determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms of Service shall continue in effect.

#### **19. Complete Agreement**

These Terms of Service, including the documents expressly incorporated by reference, constitute the entire agreement between You and PARS with respect to its subject matter. These Terms of Service supersede all prior or contemporaneous communications, whether electronic, oral or written, between You and PARS with respect to its subject matter and You represent that You have not relied on any such communications in accepting these Terms of Service.

## **20. Notice for California Users**

Under California Civil Code Section 1789.3, California Website users are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 400 R Street, Suite 1080, Sacramento, California 95814, or by telephone at (916) 445-1254 or (800) 952-5210.

## **21. Questions**

If You have any questions, comments or complaints regarding these Terms of Service or the Employer Portal, feel free to contact us at: [trust@pars.org](mailto:trust@pars.org).

## **22. General Provisions**

A printed version of these Terms of Service and of any notices given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms of Service to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

The parties agree that all correspondence relating to these Terms of Service shall be written in the English language.

***© 2019 Public Agency Retirement Services - All Rights Reserved.***