AGREEMENT FOR THE GATEKEEPER SOFTWARE; SUPPORT & MAINTENANCE

BETWEEN

CITY AND COUNTY OF DENVER

AND

TRANSCORE, L.P.

AT
DENVER INTERNATIONAL AIRPORT

AGREEMENT

THIS AGREEMENT FOR THE GATEKEEPER SOFTWARE; SUPPORT & MAINTENANCE (Contract Number PLANE-201310318) ('Agreement"), made and entered into as of the date set forth on the signature page below (the "Effective Date") by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("City"), Party of the First Part, and **TRANSCORE, L.P.**, a limited partnership organized and existing under and by virtue of the laws of the State of Delaware ("Consultant"), Party of the Second Part;

W I T N E S S E T H:

WHEREAS, the City owns and operates Denver International Airport ("DIA" or the "Airport"), and desires to purchase hardware, software, software upgrades, support, maintenance and related equipment for the Gatekeeper software which operates the Automated Vehicle Identification (AVI) revenue control system, and will require professional services for the same, and such other work as may be requested by the City, at Denver International Airport; and

WHEREAS, the Consultant is qualified and ready, willing and able to provide the requested hardware, software and professional services to the City, in accordance with the terms of this Agreement;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the parties hereto agree as follows:

1. LINE OF AUTHORITY:

The City's CEO of Aviation, his designee or successor in function (the "CEO of Aviation" or the "CEO") authorizes all work performed under this Agreement. The CEO hereby delegates his authority over the work described herein to the Airport's Senior Vice President of Technologies - CIO (the "Senior Vice President") as the CEO's authorized representative for the purpose of administering, coordinating and approving work performed by the Consultant under this Agreement. The Senior Vice President's authorized representative for day-to-day administration of the Consultant's services under this Agreement is the Project Manager. The Consultant shall submit its reports, memoranda, correspondence and submittals to the Project Manager. The CEO and the Senior Vice President may rescind or amend any such designation of representatives or delegation of authority and the Senior Vice President may from time to time designate a different individual to act as Project Manager, upon notice to the Consultant.

2. SCOPE OF WORK:

A. The Consultant, under the general direction of, and in coordination with the CEO, or other designated supervisory personnel as set forth herein, shall diligently perform any and all authorized services provided under this Agreement. The Consultant shall provide the goods and services provided in the attached **Exhibit A, "SCOPE OF WORK"**.

B. Additional Services: The Consultant may also perform services, hereinafter referred to as "Additional Services," which relate to the subject matter of this Agreement, but which the Senior Vice President determines to be not described in the Scope of Work or in excess of the requirements of the Scope of Work. Change orders and/or additional Statements of Work (SOWs) will be provided as needed to document work beyond that identified in **Exhibit A**. The Consultant shall be compensated for such Additional Services only if the services and the amount of fees and reimbursable expenses for the services have been authorized in writing in advance by the Senior Vice President. The total amount of fees and reimbursable expense costs for Additional Services shall not cause this Agreement to exceed the Maximum Contract Liability set forth herein, and in no event shall the approval of Additional Services and the cost of performing them be deemed to constitute an agreement by the City to an increase in the Maximum Contract Liability.

C. The Consultant shall faithfully perform the work ("Work") required under this Agreement in accordance with standards of care, skill, training, diligence and judgment provided by highly competent service providers who perform work of a similar nature to the work described in this Agreement.

3. TERM:

The initial Term of this Agreement shall commence on the Effective Date, and shall terminate three (3) years thereafter, unless sooner terminated. The term of this Agreement may be extended, by mutual agreement, for two (2) periods of one (1) year each, by written amendment to this Agreement. Notwithstanding any other extension of term under this paragraph 3 the term of this Agreement may be extended by the mutual agreement of the parties, confirmed by written notice from the City to the Consultant, to allow the completion of any work which has been commenced prior to the date upon which this Agreement otherwise would terminate. However, no extension of the Term shall increase the Maximum Contract Liability stated herein; such amount may be changed only by a duly executed written amendment to this Agreement.

4. COMPENSATION AND PAYMENT:

A. Fee: The City agrees to pay to the Consultant, and the Consultant agrees to accept as its sole compensation for services rendered and costs incurred under this Agreement, the rates set forth on **Exhibit B, "RATES AND CHARGES"** and as may be further described herein.

B. Reimbursement Expenses: There are no reimbursable expenses allowed under this Agreement, unless approved in writing, in advance, by the Senior Vice President.

C. Invoicing: Consultant shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City. The charges for time and materials services and any expenses as described in this Agreement will be invoiced each month for charges for the upcoming month. The City shall pay any undisputed amounts in accordance with its obligations under the City's Prompt Payment Ordinance. The City shall notify Consultant within five (5) calendar days of any disputed invoice amount to provide Consultant the opportunity to correct any noted deficiency.

D. Maximum Contract Liability:

(i) Any other provision of this Agreement notwithstanding, in no event shall the City be liable to pay for services rendered and expenses incurred by the Consultant under the terms of this Agreement for any amount in excess of ONE MILLION THREE HUNDRED THREE THOUSAND THREE HUNDRED TWENTY THREE DOLLARS AND EIGHT CENTS ($1,303,323.08) (the "Maximum Contract Liability"). Funding under the provisions of this paragraph 4.D. may be payable from the City's Airport System Capital Replacement Fund and/or Airport Operations and Maintenance Fund. The Consultant acknowledges that the City is not obligated to execute an Order, agreement or an amendment to this Agreement for any services and that any services performed by Consultant beyond that specifically described in an Order are performed at Consultant's risk and without authorization under this Agreement.

(ii) The Parties agree that the City's payment obligation, whether direct or contingent, shall extend only to funds appropriated as stated herein and encumbered for the purpose of this Agreement. The Parties agree that (a) the City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years and (b) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

(iii) The Parties further agree that Consultant shall be excluded from liability for acts or omissions by the City, City's other contractors, subcontractors, agents, public utilities, Governmental Bodies, patrons, or other third parties, or any other causes beyond Consultant's control, including but not limited to, loss of transaction data, lost data reads, systems communications system failures, loss of system power or interruption of power, power surges, damage from power sources or peripheral City equipment or hardware, improper operation or maintenance of the system, vandalism, lack of maintenance of City equipment or hardware related to said acts.

E. CPI Adjustment:

The Agreement for years two (2), and three (3) of the initial term shall be subject to a (CPI) adjustment at the beginning of each respective annual period. To the extent that the term of this Agreement extends beyond the initial term as defined in Article 3 herein, this Agreement shall be adjusted at the beginning of each extended annual period, by the annual percentage increase in the U.S. Government's Consumer Price Index (CPI) for software support workers, and Urban Wage Earners and Clerical Workers in the Denver metropolitan area. Notwithstanding the above, a flat percentage increase can be provided pending mutual agreement. Any increase agreed upon shall be no more than 3% in a given year.

F. Adjustment of Fees:

(i) Effective on the first year anniversary of the Effective Date of this Agreement, and on each subsequent yearly anniversary, the fees paid to Consultant hereunder shall be increased annually for each Contract Year during the term of this Agreement by application of

the following formulae, where "Index" (or “CPI”) is as defined as set forth in paragraph 4.F(ii), below.

The Fee Adjustment using the CPI shall involve changing the base payment by the percent change in the level of the CPI between the reference period and a subsequent time period. This will be calculated by first determining the index point change between the two periods and then the percent change. The following **example** illustrates the computation of percent change:

CPI for current period	136.0
Less CPI for previous period	129.9
Equals index point change	6.1
Divided by previous period CPI	129.9
Equals	0.047
Result multiplied by 100	0.047 x 100
Equals percent change	4.7

In no event shall the adjustment of fees paid to the Consultant by use of the CPI increase more than 3% in any given year. If the CPI percentage change is calculated as a negative then Fees shall remain the same as the previous year.

(ii) “Index” means the Consumer Price Index Denver, Colorado Metropolitan Area All Urban Consumers (CPI-U) Current Series, Customized Table for Denver-Boulder-Greeley, Colorado Metropolitan Area as maintained by the U.S. Bureau of Labor Statistics (1982-84 = 100) for the for the Annual period of each calendar year, issued in February of the following year. If the United States Bureau of Labor Statistics shall discontinue the issuance of the Index, then the Index changes shall be calculated on the basis of changes in the most comparable and recognized cost-of-living index then issued and available which is published by the United States Government.

5. TAXES AND COSTS:

A. The Consultant, at its own expense, shall promptly pay, when due, all taxes, bills, debts and obligations it incurs performing work under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against land, facilities or improvements owned by the City.

B. The City shall provide to Consultant, at no cost, all necessary clearances and permits necessary to install and/or deliver the products and/or services under Agreement. Where such clearances, permits, leases, or fees of a similar nature are required to be obtained and paid for directly by Consultant, the City shall reimburse Consultant the actual cost of such items.

C. The City affirms that it is a tax-exempt entity under the Laws of the State of Colorado and this purchase qualifies for the Denver and Colorado sales tax exemption for sales to the United States government, the State of Colorado, its departments and institutions, and its

political subdivisions (county and local governmental, school districts and special districts); is a government purchase used only in an official governmental capacity; and will be paid directly by a government agency. Taking into account the City's status, Consultant confirms that all Charges are inclusive of all taxes, levies, duties and assessments ("Taxes") of every nature in effect as of the Effective Date and due in connection with its performance of its obligations under this Agreement. Consultant is responsible for payment of such Taxes to the appropriate governmental authority.

6. STATUS OF CONSULTANT:

It is agreed and understood by and between the parties hereto that the status of the Consultant shall be that of an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.1(E)(x) of the Charter of the City and County of Denver, and it is not intended, nor shall it be construed, that the Consultant or its personnel are employees or officers of the City under Chapter 18 of the Revised Municipal Code for any purpose whatsoever.

7. NO AUTHORITY TO BIND CITY TO CONTRACTS:

The Consultant has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City as required by Charter and Ordinance.

8. PERSONNEL ASSIGNMENTS:

A. The Consultant shall assign a Project Manager to this Project that has experience and knowledge satisfactory to the City. The Project Manager shall be the contact person in dealing with the City's Project Manager on matters concerning this Project and shall have the authority to act for the Consultant's organization. Consultant's designated Project Manager shall remain assigned on this contract during the entire contract term, while in the employ of the Consultant, or, until such time that his performance is deemed unsatisfactory by the City and a formal written request is submitted which requests the removal of the Consultant's Project Manager.

B. The Consultant may submit and the City will consider a request for reassignment of a Project Manager, should the Consultant deem it to be in the best interest of the City, the best interest of the Consultant's organization or in the best interest of the Consultant's Project Manager.

C. If the City allows the removal of a Project Manager, the replacement Project Manager must have, at least, similar or equal experience and qualifications to that of the original Project Manager. The replacement Project Manager's assignment is subject to the approval of the Senior Vice President.

D. All key professional personnel identified by the Consultant will be assigned by the Consultant or subcontractors to perform work under the Work. The Senior Vice President must approve additional personnel in writing. It is the intent of the parties hereto that all key professional personnel be engaged to perform their specialty for all such services required by the Work, and

that the Consultant's and the sub-consultant's key professional personnel be retained for the life of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed hereunder.

E. If the Consultant decides to replace any of its key professional personnel, it shall notify the Senior Vice President in writing of the changes it desires to make. No such replacement shall be made until the replacement is approved in writing by the Senior Vice President, which approval shall not be unreasonably withheld. The Senior Vice President shall respond to the Consultant's written notice regarding replacement of key professional personnel within fifteen days after the Senior Vice President receives the list of key professional personnel, which the Consultant desires to replace. If the Senior Vice President or his designated representative does not respond within that time, the listed personnel shall be deemed to be approved.

F. If, during the term of this Agreement, the Senior Vice President determines that the performance of approved key personnel is not acceptable, he shall notify the Consultant, and he may give the Consultant notice of the period of time, which the Senior Vice President considers reasonable to correct such performance. If the Senior Vice President notifies the Consultant that certain of its key personnel should be reassigned, the Consultant will use its best efforts to obtain adequate substitute personnel within ten days from the date of the Senior Vice President's notice.

9. SUBCONTRACTORS:

A. Although the Consultant may retain, hire and contract with outside subcontractors, no final agreement or contract with any such subcontractor shall be entered into without the prior written consent of the Senior Vice President or his authorized representative. Requests for such approval must be made in writing and include a description of the nature and extent of the services to be provided, the name, address and professional experience of the proposed subcontractor, and any other information requested by the Senior Vice President. Any final agreement or contract with an approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make any claim of payment against the City or to file or claim any lien or encumbrance against any City property arising out of the performance or non-performance of the contract.

B. Because the Consultant's represented professional qualifications are a consideration to the City in entering into this Agreement, the Senior Vice President shall have the right to reject any proposed outside subcontractor deemed by him, in his sole discretion, to be unqualified or unsuitable for any reason to perform the proposed services, and the Senior Vice President shall have the right to limit the number of outside subcontractors, or to limit the percentage of Work to be performed by them, all in his sole and absolute discretion.

C. The Consultant shall not retain any subcontractor to perform work under this Agreement if the Consultant is aware, after a reasonable written inquiry has been made, that the subcontractor is connected with the sale or promotion of equipment or material which is or may be used on work related to or following on from this Agreement, or that any other conflict of interest exists.

D. Notwithstanding the foregoing, for purposes of this Agreement for GateKeeper Software Support and Maintenance, GateKeeper Systems is deemed an approved subcontractor, and upon execution of this Agreement, the Senior Vice President or his authorized representative is deemed to have provided written consent.

10. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:

A. The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes, and Den. Rev. Mun. Code 20-90 and the Consultant is liable for any violations as provided in said statute and ordinance.

B. The Consultant certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

(2) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

C. The Consultant also agrees and represents that:

(1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(2) It shall not enter into a contract with a subcontractor or subconsultant that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.

(4) It is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it has complied with all federal requirements regarding the use of the E-Verify program, including, by way of example, requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subcontractor or subconsultant performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and the City within three days. The Consultant will also then terminate such subcontractor or subconsultant if within three days after such notice the subcontractor or subconsultant does not stop employing or contracting with the illegal alien, unless during such

three day period the subcontractor or subcontractor provides information to establish that the subcontractor or subconsultant has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S. or the City Auditor under authority of Den. Rev. Mun. Code 20-90.3.

11. NO DISCRIMINATION IN EMPLOYMENT:

In connection with the performance of work under this Agreement, the Consultant agrees not to fail or refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Consultant further agrees to insert the foregoing provision in all subcontracts hereunder.

12. DSBO GOALS:

The Consultant may be subject to the City's ordinance, DRMC Chapter 28, Article III (MBE/WBE Ordinance) which prohibits discrimination in the awarding of contracts and subcontracts and directs the DSBO Director to establish goals for MBE and WBE participation in the preconstruction and construction of City-owned facilities. The goal for this Agreement is: ***Not Applicable.*** If it is determined that project goals apply, such project goals must be met with certified MBE and WBE participants or by demonstrating good faith efforts under the MBE/WBE Ordinance. The Consultant must comply with the terms and conditions of the MBE/WBE Ordinance in soliciting and contracting with its subcontractors in administering the performance of the work hereunder. It shall be an ongoing, affirmative obligation of the Consultant to maintain, at a minimum, compliance with the originally achieved level of MBE/WBE participation upon which this Agreement was awarded, for the duration of this Agreement, unless the City initiates a material alteration to the scope of work.

13. PREVAILING WAGES:

Employees of the Consultant or its subcontractors may be subject to the payment of prevailing wages pursuant to D.R.M.C. 20-76, depending upon the nature of the Work. By executing this Agreement, the Consultant covenants that it is familiar with this Code Section and is prepared to pay or cause to be paid prevailing wages, if any, applicable to the work conducted by the Consultant's or its subcontractor's employees. The schedule of prevailing wage is periodically updated and Consultant is responsible for payment of then current prevailing wage. The Consultant may obtain a current schedule of prevailing wage rates at any time from the City Auditor's Office.

14. PROMPT PAY:

The Consultant is subject to D.R.M.C. Section 20-112 wherein the Consultant is to pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later

than seven days after receipt of any payment from City. Any late payments are subject to a late payment penalty as provided for in the prompt pay ordinance (Section 20-107 through 20-118).

15. CITY REVIEW OF PROCEDURES:

The Consultant agrees that, upon request of the Senior Vice President, at any time during the term of the Agreement or three years thereafter, it will make full disclosure to the City of the means, methods, and procedures used in performance of services hereunder.

16. COORDINATION OF SERVICES:

The Consultant agrees to perform its work under this Agreement in accordance with the operational requirements of DIA, and all work and movement of personnel or equipment on areas included within the DIA site shall be subject to the regulations and restrictions established by the City or its authorized agents.

17. INSURANCE:

A. The Consultant shall obtain and keep in force during the entire term of this Agreement, including any warranty periods, all of the minimum insurance coverage forms and amounts set forth in **Exhibit C**, which is incorporated into this Agreement by this reference. The Consultant shall submit to the City fully completed and executed certificates of insurance (ACORD form or equivalent approved by the City) which specifies the issuing company or companies, policy numbers and policy periods for each required form of coverage. The certificates for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf, and must be submitted to the City at the time the Consultant signs this Agreement.

B. All certificates and any required endorsements must be received and approved by the City before any work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project, including any warranty periods. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of the Agreement. All subcontractors' work shall also be subject to the minimum requirements identified in **Exhibit C**. All subcontractors' certificates and endorsements must be received and approved by the Consultant before work commences. The City reserves the right to request copies of these certificates at any time.

C. All certificates required by this Agreement shall be sent directly to Denver International Airport, Risk Management, Airport Office Building, Room 8810, 8500 Pena Boulevard, Denver, Colorado 80249. The City Project/Agreement number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete copies of all insurance policies required by this Agreement at any time.

D. The City's acceptance of any submitted insurance certificate is subject to the approval of the City's Risk Management Administrator. All coverage requirements specified in

the certificate shall be enforced unless waived or otherwise modified in writing by the City's Risk Management Administrator.

E. The Consultant shall comply with all conditions and requirements set forth in the insurance certificate for each required form of coverage during all periods in which coverage is in effect.

F. Unless specifically excepted in writing by City's Risk Management Administrator, Consultant shall include all subcontracts performing services hereunder as insureds under each required policy or shall furnish a separate certificate (on the form certificate provided), with authorization letter(s) for each subcontractor, or each subcontractor shall provide its own insurance coverage as required by and in accordance with the requirements of this section of the Agreement. All coverages for subcontractors shall be subject to all of the requirements set forth in the form certificate and Consultant shall insure that each subcontractor complies with all of the coverage requirements.

G. The insurance coverage forms specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Consultant under the terms of this Agreement, including the Indemnification provisions herein. The Consultant shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

18. DEFENSE AND INDEMNIFICATION:

A. Consultant hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees for, from, and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any negligent acts or omissions of Consultant or its subcontractors either passive or active, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City. In no event shall the liability of Consultant for any Claims, as defined herein or for cumulative damages for non-performance or substandard performance, as defined in Attachment 1 Exhibit A, Scope of Work, exceed 3x maximum contract liability in the aggregate for the term of this Agreement. For professional liability claims, indemnification responsibility is limited to Consultant's proportionate share of the negligence.

B. Consultant's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Consultant's duty to defend and indemnify City shall arise even if City is the only party sued by claimant.

C. Consultant will defend Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including court costs and reasonable attorney fees incurred in defending and investigating such Claims or

seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

D. Consultant will reimburse DIA for actual costs incurred by DIA in responding to, and mitigating damages caused by, any loss of customer personal or payment information caused by any act or omission of Consultant in the performance of its obligations under this Agreement, including all costs of notice and/or remediation.

E. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Consultant under the terms of this indemnification obligation. The Consultant shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

F. This defense and indemnification obligation shall survive the expiration or termination of this Agreement, subject to the applicable statute of limitations.

19. COLORADO GOVERNMENTAL IMMUNITY ACT:

The parties hereto understand and agree that the City and County of Denver, its officers, officials and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the City and County of Denver, its officers, officials and employees.

20. INTELLECTUAL PROPERTY INDEMNIFICATION AND LIMITATION OF LIABILITY:

Consultant shall (i) defend City against any third party claim that the Work, or materials provided by Consultant to City infringe a patent, copyright or other intellectual property right, and (ii) pay the resulting costs and damages finally awarded against City by a court of competent jurisdiction or the amounts stated in a written settlement signed by Consultant. The foregoing obligations are subject to the following: the City (a) notifies the Consultant promptly in writing of such claim, (b) grants the Consultant sole control over the defense and settlement thereof subject to the final approval of the City Attorney, and (c) reasonably cooperates in response to request for assistance. Should such a claim be made, or in the Consultant's opinion be likely to be made, the Consultant may, at its option and expense, (1) procure for the City the right to make continued use thereof, or (2) replace or modify such so that it becomes non-infringing. If the preceding two options are commercially unreasonable, then Consultant shall refund the portion of any fee for the affected Work. The Consultant shall have no indemnification obligation to the extent that the infringement arises out of or relates to: (a) the use or combination of the subject Work and/or materials with third party products or services, (b) use for a purpose or in a manner for which the subject Work and/or materials were not designed in accordance with Consultant's standard documentation; (c) any modification to the subject Work and/or materials made by anyone other than the Consultant or its authorized representatives, if the infringement claim could have been avoided by using the unaltered version of the Work and/or materials, (d) any modifications to the

subject Work and/or materials made by the Consultant pursuant to the City's specific instructions, or (e) any technology owned or licensed by the indemnitee from third parties. THIS SECTION STATES THE INDEMNITEE'S SOLE AND EXCLUSIVE REMEDY AND THE INDEMNITOR'S ENTIRE LIABILITY FOR THIRD PARTY INFRINGEMENT CLAIMS.

21. INTELLECTUAL PROPERTY RIGHTS; OWNERSHIP OF HARDWARE AND SOFTWARE:

A. Ownership: The City and Consultant intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, data, products, inventions, and any other work or recorded information, exclusive of software and ideas created by the Consultant and developed solely for and paid for by the City pursuant to this Agreement, in preliminary or final forms and on any media (collectively, "Materials"), shall belong to the City. The Consultant shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, et seq., the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a "work made for hire," the Consultant hereby sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark and other intellectual property rights in perpetuity. Upon the City's written concurrence that the hardware and software are satisfactorily installed and payment to the Consultant by City under the terms of this Agreement, title to the hardware shall automatically pass to the City.

B. License Grant: The Consultant will grant the City the software license as more attached herein as **Exhibit D.**

C. Reservation of Rights: Consultant reserves all rights not expressly granted to City in this Agreement. Except as expressly stated, nothing herein shall be construed to: (1) directly or indirectly grant to a receiving party any title to or ownership of a providing party's intellectual property rights in services or materials furnished by such providing party hereunder, or (2) preclude such providing party from developing, marketing, using, licensing, modifying or otherwise freely exploiting services or materials that are similar to or related to the Work or materials provided hereunder. Notwithstanding anything to the contrary herein, City acknowledges that Consultant has the right to use any City provided materials solely for the benefit of City in connection with the Work performed hereunder for City.

22. OWNERSHIP OF WORK PRODUCT:

Except as otherwise set forth at paragraph 21, excluding software and ideas, above, all plans, drawings, reports, other submittals, and other documents submitted to the City or its authorized agents by the Consultant shall become and are the property of the City, and the City may, without restriction, make use of such documents and underlying concepts as it sees fit. The Consultant shall not be liable for any damage which may result from the City's use of such documents for purposes other than those described in this Agreement.

23. COMPLIANCE WITH PATENT, TRADEMARK, COPYRIGHT AND SOFTWARE LICENSING LAWS:

A. The Consultant agrees that all work performed under this Agreement shall comply with all applicable patent, trademark, copyright and software licensing laws, rules, regulations and codes of the United States. The Consultant will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission and all releases and other necessary documents. If the Consultant prepares any design documents which specify any material, equipment, process or procedure which is protected, the Consultant shall disclose such patents, trademarks and copyrights in the construction drawings or specifications.

B. The Consultant further agrees to release, indemnify and save harmless the City, its officers, agents and employees, pursuant to Paragraph 18, "Defense and Indemnification," and Paragraph 20, "Intellectual Property Indemnification and Limitation of Liability," from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which violates or infringes upon any patent, trademark, copyright or software license protected by law, except in cases where the Consultant's personnel are working under the direction of City personnel and do not have direct knowledge or control of information regarding patents, trademarks, copyrights and software licensing.

24. SOFTWARE SOURCE CODE ESCROW:

N/A

25. ADVERTISING AND PUBLIC DISCLOSURES:

The Consultant shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the CEO. Any oral presentation or written materials related to DIA shall include only presentation materials, work product, and technical data which have been accepted by the City, and designs and renderings, if any, which have been accepted by the City. The CEO shall be notified in advance of the date and time of any such presentations. Nothing herein, however, shall preclude the Consultant's use of this contract and its component parts in GSA form 254 or 255 presentations, or the transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO, any member or members of City Council, and the Auditor.

26. COLORADO OPEN RECORDS ACT:

The Consultant acknowledges that the City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes §24-72-201 et seq., and the Consultant agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such act for the disclosure of any materials or information which the Consultant asserts is confidential and exempt from disclosure. Any other provision of this Agreement notwithstanding, including

exhibits, attachments and other documents incorporated into this Agreement by reference, all materials, records and information provided by the Consultant to the City shall be considered confidential by the City only to the extent provided in the Open Records Act, and the Consultant agrees that any disclosure of information by the City consistent with the provisions of the Open Records Act shall result in no liability of the City.

27. DATA CONFIDENTIALITY:

A. For the purpose of this Agreement, confidential information means any information, knowledge and data marked "Confidential Information" or "Proprietary Information" or similar legend. All oral and/or visual disclosures of Confidential Information shall be designated as confidential at the time of disclosure, and be summarized, in writing, by the disclosing Party and given to the receiving Party within thirty (30) days of such oral and/or visual disclosures.

B. The disclosing Party agrees to make known to the receiving Party, and the receiving Party agrees to receive Confidential Information solely for the purposes of this Agreement. All Confidential Information delivered pursuant to this Agreement:

(i) shall not be distributed, disclosed, or disseminated in any way or form by the receiving Party to anyone except its own employees, corporate partners, affiliates and alliance partners who have a need to know said Confidential Information;

(ii) shall be treated by the receiving Party with the same degree of care to avoid disclosure to any third Party as is used with respect to the receiving Party's own information of like importance which is to be kept confidential.

C. These obligations shall not apply, however, to any information which:

(i) is already in the public domain or becomes available to the public through no breach of this Agreement by the receiving Party; or

(ii) was in the receiving Party's possession prior to receipt from the disclosing Party; or

(iii) is received by the receiving Party independently from a third Party free to disclose such information; or

(iv) is subsequently independently developed by the receiving Party as proven by its written records; or

(v) is disclosed when such disclosure is compelled pursuant to legal, judicial, or administrative proceeding, or otherwise required by law, subject to the receiving Party giving all reasonable prior notice to the disclosing Party to allow the disclosing Party to seek protective or other court orders.

D. Upon the request from the disclosing Party, the receiving Party shall return to the disclosing Party all Confidential Information, or if directed by the disclosing Party, shall destroy such Confidential Information.

28. EXAMINATION OF RECORDS:

A. The Consultant agrees that the City's duly authorized representatives, including but not limited to the City's Auditor, shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the Consultant involving this Agreement.

B. In connection with any services performed hereunder on items of work toward which federal funds may be received under the Airport and Airway Development Act of 1970, as amended, the City, the Federal Aviation Administration, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Consultant which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. The Consultant further agrees that such records will contain information concerning the personnel, hours and specific tasks performed, along with the applicable federal project number.

29. INFORMATION FURNISHED BY CITY:

The City will furnish to the Consultant available information concerning DIA and any such other matters that may be necessary or useful in connection with the work to be performed by the Consultant under this Contract. The Consultant shall be responsible for the verification of the information provided to the Consultant.

30. TERMINATION:

A. The City has the right to terminate this Agreement without cause on thirty (30) days written notice to the Consultant, and with cause on ten (10) days written notice to the Consultant. However, nothing herein shall be construed as giving the Consultant the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the CEO.

B. If the Consultant is discharged before all the services contemplated hereunder have been completed, or if the Consultant's services are for any reason terminated, stopped or discontinued because of the inability of the Consultant to provide service under this Agreement, the Consultant shall be paid only for those services satisfactorily performed prior to the time of termination.

C. If this Agreement is terminated, the City shall take possession of all materials, equipment, tools and facilities owned by the City which the Consultant is using by whatever method it deems expedient, and the Consultant shall deliver to the City all drafts or other documents it has completed or partially completed under this Agreement, together with all other items, materials and documents which have been paid for by the City, and these documents and materials shall be the property of the City.

D. Upon termination of this Agreement by the City, the Consultant shall have no claim of any kind whatsoever against the City by reason of such termination or by reason of any act incidental thereto, except as follows: if the termination is for the convenience of the City the Consultant shall be entitled to reimbursement for the reasonable cost of the Work to the date of termination, including multiplier, and reasonable costs of orderly termination, provided request for such reimbursement is made no later than six (6) months from the effective date of termination. The Consultant shall not be entitled to loss of anticipated profits or any other consequential damages as a result of any such termination for convenience, and in no event shall the total sums paid exceed the Contract Amount.

31. RIGHTS AND REMEDIES NOT WAIVED:

In no event shall any payment by the City hereunder constitute or be construed to be a waiver by the City of any breach of covenant or default which may then exist on the part of the Consultant, and the making of any such payment when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the City with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

32. SURVIVAL OF CERTAIN CONTRACT PROVISIONS:

The parties understand and agree that all terms and conditions of this Agreement, including any warranty provision, which by reasonable implication contemplate continued performance or compliance beyond the termination of this Agreement (by expiration of the term or otherwise) shall survive such termination and shall continue to be enforceable as provided herein.

33. NOTICES:

Notwithstanding any other provision of this Agreement, notices concerning termination of this Agreement, notices of alleged or actual violations of the terms of this Agreement, and other notices of similar importance shall be made as follows:

by Consultant to:	CEO of Aviation Denver International Airport 8500 Peña Boulevard, 9th Floor Denver, Colorado 80249-6340
And by City to:	TransCore, L.P. 8158 Adams Dr. Hummelstown, PA 17036

Said notices shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service. Either party may from time to time

designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification thereof.

34. NO THIRD PARTY BENEFICIARIES:

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the City and the Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the City and the Consultant that any person other than the City or the Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

35. ASSIGNMENT:

The Consultant shall not assign, pledge or transfer its duties and rights under this Agreement, in whole or in part, without first obtaining the written consent of the CEO. Any attempt by the Consultant to assign or transfer its rights hereunder without such prior written consent shall, at the option of the CEO, automatically terminate this Agreement and all rights of the Consultant hereunder. Such consent may be granted or denied at the sole and absolute discretion of the CEO.

36. CONFLICT OF INTEREST:

The Consultant agrees that it and its subsidiaries, affiliates, subcontractors, principals, or employees will not engage in any transaction, activity or conduct which would result in a conflict of interest. The Consultant represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities, or conduct that would affect the judgment, actions or work of the Consultant by placing the Consultant's own interests, or the interest of any party with whom the Consultant has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement if such a conflict exists, after it has given the Consultant written notice which describes such conflict. The Consultant shall have thirty days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

37. GOVERNING LAW; BOND ORDINANCES; VENUE; DISPUTES:

A. This Agreement is made under and shall be governed by the laws of Colorado. Each and every term, provision or condition herein is subject to the provisions of Colorado law, the Charter of the City and County of Denver, and the ordinances and regulations enacted pursuant thereto. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

B. This Agreement is in all respects subject and subordinate to any and all City bond ordinances applicable to the Denver Municipal Airport System and to any other bond ordinances which amend, supplement, or replace such bond ordinances.

C. All disputes between the City and Consultant regarding this Agreement shall be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 5-17.

38. COMPLIANCE WITH ALL LAWS AND REGULATIONS:

All of the work performed under this Agreement by the Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado, the charter, ordinances and rules and regulations of the City and County of Denver, and all Denver International Airport Rules and Regulations.

39. FEDERAL PROVISIONS:

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes and the expenditure of federal funds for the extension, expansion or development of the Denver Municipal Airport System, including DIA. The provisions of the attached Appendix No. 1 is incorporated herein by reference.

40. AIRPORT SECURITY:

A. It is a material requirement of this Contract that the Consultant shall comply with all rules, regulations, written policies and authorized directives from the City and/or the Transportation Security Administration with respect to Airport security. The Consultant shall conduct all of its activities at the Airport in compliance with the Airport security program, which is administered by the Security Section of the Airport Operations Division, Department of Aviation. Violation by the Consultant or any of its employees, subcontractors or vendors of any rule, regulation or authorized directive from the City or the Transportation Security Administration with respect to Airport Security shall be grounds for immediate termination by the City of this Contract for cause.

B. The Consultant shall promptly upon notice of award of this Contract, meet with the Airport's Assistant Security Manager to establish badging and vehicle permit requirements for the Consultant's operations under this Contract. The Consultant shall obtain the proper access authorizations for all of its employees, subcontractors and vendors who will enter the Airport to perform work or make deliveries, and shall be responsible for each such person's compliance with all Airport rules and regulations, including without limitation those pertaining to security. Any person who violates such rules may be subject to revocation of his/her access authorization. The failure of the Consultant or any subcontractor to complete any required services hereunder shall not be excused on account of the revocation for good cause of access authorization of any person.

C. The security status of the Airport is subject to change without notice. If the security status of the Airport changes at any time during the term of this Contract, the Consultant shall take immediate steps to comply with security modifications which occur as a result of the changed status. The Consultant may at any time obtain current information from the Airport Security Office regarding the Airport's security status in relation to the Consultant's operations at the Airport.

D. The Consultant shall return to the City at the expiration or termination of this Contract, or upon demand by the City, all access keys or access badges issued to it or any subcontractor for any area of the Airport, whether or not restricted. If the Consultant fails to do so, the Consultant shall be liable to reimburse the City for all the City's costs for work required to prevent compromise of the Airport security system. The City may withhold funds in the amount of such costs from any amounts due and payable to the Consultant under this Contract.

41. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:

The Consultant and Consultant's agents shall cooperate and comply with the provisions of the City and County of Denver Executive Order No. 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City's barring the Consultant and Consultant's agents from City facilities or participating in City operations.

42. CITY SMOKING POLICY:

Consultant acknowledges that smoking is not permitted in Airport buildings and facilities except for designated Airport Smoking Concessions, and so agrees that it will prohibit smoking by its employees and the public in indoor areas and within 15 feet of entryways of the Airport Premises, except as may otherwise be permitted by the Colorado Clean Indoor Air Act, C.R.S. §§ 25-14-201 to 209. Consultant and its officers, agents, and employees shall cooperate and comply with the provisions of the Denver Revised Municipal Code, §§ 24-301 to 317 et. seq., the Colorado Clean Indoor Air Act, C.R.S. §§ 25-14-201 to 209, City's Executive Order No. 99 dated December 1, 1993, and Executive Order No. 13 dated July 31, 2002.

43. PARAGRAPH HEADINGS:

The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

44. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:

This Agreement consists of Sections 1 through 51 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference (the "Contract Documents"):

Appendix No. 1: Federal Required Contract Provisions

Exhibit A:	Scope of Work
Exhibit B:	Rates and Charges
Exhibit C:	Certificate of Insurance
Exhibit D:	License Agreement

In the event of an irreconcilable conflict between a provision of Sections 1 through 51 and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

Appendix No. 1
Sections 1-51 of this Agreement
Exhibit A
Exhibit B
Exhibit C
Exhibit D

45. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS:

This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement properly executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

46. INUREMENT:

The rights and obligations of the parties herein set forth shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns permitted under this Agreement.

47. FORCE MAJEURE:

Neither party shall be liable for any failure to perform any of its obligations hereunder due to or caused by, in whole or in part, fire, strikes, lockouts, unusual delay by common carriers, unavoidable casualties, war, riots, acts of terrorism, acts of civil or military authority, acts of God, judicial action, or any other causes beyond the control of the parties. Both parties shall have the duty to take reasonable actions to mitigate or prevent further delays or losses resulting from such causes.

48. SEVERABILITY; ENTIRE AGREEMENT:

If any part, portion or provision of this Agreement shall be found or declared null, void, or unenforceable for any reason whatsoever by any court of competent jurisdiction or any governmental agency having applicable authority, only such part, portion, or provision shall be affected thereby and all other parts, portions and provisions of this Agreement shall remain in full force and effect. The Contract Documents form the entire agreement between the parties and are fully binding on the parties. No oral representations or other agreements have been made except as specifically stated in the Contract Documents.

49. COUNTERPARTS OF THIS AGREEMENT:

This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement.

50. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:

Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

51. CITY EXECUTION OF AGREEMENT:

This Agreement is expressly subject to and shall not be or become effective or binding on the City until it has been approved by City Council, if so required by law, and fully executed by all signatories of the City and County of Denver.

[SIGNATURE PAGE FOLLOWS]

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By_____

_____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By_____

By_____

By_____

Contract Control Number: PLANE-201310318-00

Contractor Name: TRANSCORE LP

By: Michael R Mauritz

Name: Michael R. Mauritz
(please print)

Title: Sr. Vice President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

APPENDIX 1

Federal Aviation Administration Required Contract Provisions

ALL CONTRACTS – NON-AIP FUNDED

Federal laws and regulations require that recipients of federal assistance (Sponsors) include specific contract provisions in certain contracts, requests for proposals, or invitations to bid.

Certain provisions must be included in all sponsor contracts, regardless of whether or not the contracts are federally-funded. This requirement was established when a sponsor accepted the Airport Improvement Program (AIP) grant assurances.

As used in these Contract Provisions, "Sponsor" means The City and County of Denver, Department of Aviation, and "Contractor" or "Consultant" means the Party of the Second Part as set forth in Contract Number PLANE **201310318-00**

GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

APPENDIX 1

Federal Aviation Administration Required Contract Provisions

ALL CONTRACTS – NON-AIP FUNDED

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

    a. Withholding payments to the contractor under the contract until the contractor complies; and/or

    b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

APPENDIX 1

Federal Aviation Administration Required Contract Provisions

ALL CONTRACTS – NON-AIP FUNDED

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The [*contractor* | *consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*contractor* | *consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

APPENDIX 1

Federal Aviation Administration Required Contract Provisions

ALL CONTRACTS – NON-AIP FUNDED

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

Exhibit A

Scope of Work

General Description

Under this Statement of Work (SOW), TransCore, in conjunction with its Subcontractor GateKeeper Systems Inc (GateKeeper), shall maintain in good working order the computer software licensed to Denver International Airport (DIA, herein after referred to as "Covered Software." Covered Software includes:

- Commercial Vehicle Management (CVM) software
- Microsoft Dynamics-GP
- CVM Vendor Website
- Lane Controller Computer software and firmware
- GateKeeper Systems, Inc. (GSI) Mobile RFID reader device software and firmware
- Servers Alive

These software applications are being used in the operation of the Automated Vehicle Identification (AVI) System at the Denver International Airport. This contract is solely for the support of the covered software and hardware/equipment configuration, no hardware support is included other than twice a year preventative maintenance visits. The parties agree and consent to the following general provisions:

- DIA is responsible for coordinating the activities of all the parties (DIA, Xerox, TransCore, and GateKeeper). However, it is anticipated that TransCore and GateKeeper need to maintain their current working relationship and ability to communicate and request actions of either party to accomplish necessary support tasks.

- DIA and TransCore agree to and understand that TransCore shall monitor all actions for its Subcontractor GateKeeper while GateKeeper is providing software maintenance or any other work related services upon DIA's premises.

I. First Responder Designation and Support Matrix

It is recognized that both DIA and TransCore may be the "first responder" to system monitoring, events, problems, malfunctions, errors, and any other activities relating to the Covered Software. The following matrix describes overall system level components and who the expected first responder is and what escalation activities entail regarding the production environment:

A Support Procedure document will be created jointly by DIA and TransCore. This document will designate DIA's System Administrator, and will include standard and out of business hours communication procedures along with current phone number and email address information. -

AVI System Responsibility Matrix

Description	System Issue First Responder / Monitor	SERVICE NOW Tkt	Field Respond	Remote respond	**Fix / Correct	Document
	Action					
GSI Application Health	TC	TC	N/A	TC	TC	TC
Server Operating System	DIA	DIA	DIA	DIA	DIA	DIA
Dynamics Application - Client	DIA	DIA	DIA	TC	TC	DIA
Dynamics Software – (Server side)***	TC	TC	N/A	TC	TC	TC
Dynamics Advantage processes and interfaces	DIA	DIA	N/A	DIA	DIA	DIA
SQL DB Health	DIA	DIA	N/A	DIA	DIA	DIA
Storage Health / Array	DIA	DIA	DIA	DIA	DIA	DIA
Backup	DIA	DIA	N/A	DIA	DIA	DIA
Restore	DIA	DIA	DIA	TC	TC	DIA
Virtual Memory	DIA	DIA	N/A	TC	DIA	DIA
Virtual Processor(s)	DIA	DIA	DIA	TC	DIA	DIA
MSMQ size / health	DIA	DIA	DIA	TC	DIA	DIA
Firewall	DIA	DIA	DIA	TC	DIA	DIA
*Website Op'l Status	DIA	DIA	N/A	TC	TC	DIA
Network	DIA	DIA	DIA	DIA	DIA	DIA
*Physical cabling	DIA	DIA	DIA	DIA	DIA	DIA
*AVI Reader	DIA	DIA	DIA	TC	DIA	DIA
*AVI Lane Controller	DIA	DIA	DIA	TC	DIA	DIA
*Reader --> Lane Controller	DIA	DIA	DIA	TC	DIA	DIA
*Lane Controller --> Host	DIA	DIA	DIA	TC	DIA	DIA
Trip Builds complete	-DIA	DIA	N/A	TC	TC	DIA
*Light Functionality	DIA	DIA	DIA	TC	DIA	TC
GT Admin Op'l Status	DIA	DIA	N/A	TC	TC	TC
GT Reports Op'l Status	DIA	DIA	N/A	TC	TC	TC
Batch CVMS --> Dynamics	DIA	DIA	N/A	TC	TC	TC

NOTES:

1. Item assignments represent initial response. Other parties will have responsibility for action/input/documentation as needed to close-out an item.
2. All TransCore/GateKeeper troubleshooting shall be completed remotely, with the physical work completed by DIA at the direction of TransCore/GateKeeper.

3. Parties identified as "first responder" in matrix will be responsible for the monitoring tools needed to monitor that area of the system.
4. For the items identified below, DIA monitoring can be augmented with alerts generated out of Servers Alive, the monitoring application used by Gatekeeper.
    a. AVI Reader
    b. AVI Lane Controller
    c. Reader → Lane Controller
    d. Lane Controller → Host
5. Because of access restrictions, TransCore cannot currently monitor the processes below. This access must be addressed and maintained in order for TransCore to assume monitoring responsibility.
    a. Verify Servers Alive is running
    b. Verify eConnect Service is running
    c. Verify GSI Dynamics Service is running

* Assign DIA Parking Contractor as 1st responder, per initial contract.
** All parties recognize primary party listed may rely on efforts of other entities to provide final fix/correct action. The understanding of DIA is that if DIA is primary responsible party, they can escalate to TransCore/gatekeeper as needed for remote assistance. If physical presence at DIA by TransCore or GateKeeper is needed for fix/correct action, additional charges may apply.
*** Assumes full TransCore access to monitor the server. Refer to "Dynamics Advantage processes and interfaces' item for exceptions.

As indicated for each element of the system responsibility matrix, DIA and TransCore will monitor various system component status as assigned, receive system-generated alerts, text messages, email messages or other notifications and shall be responsible for performing preliminary diagnoses of the problem, documenting the system behavior and/or system problem and contacting the appropriate service provider to respond and take the necessary steps to return the system to normal operating condition.

Both TransCore and DIA will make every reasonable effort to notify (using processes identified in this work scope) each other in the event of a known incident or anomaly that is happening that may be degrading service in the AVI and Commercial Vehicle Management System. Both TransCore and DIA responders need to advise the other in the event of an incident to make sure the other party is doing everything in their realm of responsibility to return the entire system to normal operations in a timely fashion. It is expected that some repair activities will require action by both parties and collaboration on underlying issue will expedite the repair.

Originating responder is responsible to monitor the status of the problem, communicate to other stakeholders, and ensure the problem is fixed by the appropriate resolving entity and document that the system has returned to normal operations.

Notification Process – Refer to Section V.

II. Software Support Services

TransCore shall maintain and provide software support for the Covered Software, and assist DIA personnel in maintaining the described software to eliminate or correct software malfunctions and return the software to normal operation. TransCore will further assist DIA personnel with the diagnosis of any system software problems with the Covered Software, or

any other software that relates to the performance of this Agreement. The categories of software support to be provided under this Agreement shall include:

- **Response to System Problems.** TransCore shall provide on-line remote and phone support as stated in Sections V and VII of this SOW to DIA personnel each month for the period of the Agreement to remotely diagnose and make required changes to TransCore's software as well as other system components. All TransCore support and developer personnel shall be qualified and shall be technically competent with the Covered Software, or any other software or software components that relate to this SOW. All system malfunctions, glitches or errors will be reported as specified in Section 7.

- **System Monitoring**: TransCore will conduct weekly remote checks of the Covered Software. TransCore shall verify to DIA personnel in writing that the system is operating normally and shall identify any maintenance tasks that need to be completed. TransCore shall contact the appropriate DIA staff to coordinate the completion of any required items. TransCore shall configure a server monitoring and alert package Servers Alive for system problems or other errors and conditions related to server monitoring. As assigned in the responsibility matrix, TransCore shall monitor the components that they have full and sufficient access to twenty-four (24) hours a day and seven (7) days a week. All system malfunctions, glitches or errors will be reported as specified in Section 7. TransCore will attend, by phone, status updates with DIA on a scheduled periodic basis and, when necessary, any specific meetings.

- **Software Reporting:** TransCore shall provide DIA a written monthly report describing the performance of the Covered Software, or any other software related to the performance of the AVI system. This monthly report shall be submitted to the appropriate DIA staff member at the initiation of performance of this Agreement. This report shall include all service requests, problems, fixes, and activities worked on for the period. Additionally, TransCore shall maintain and generate an alert log which specifies any problems, malfunctions, abnormalities, glitches, or any other failures with the described software and the actions taken to resolve the incident.

- **System Review:** TransCore shall make two separate one-day site visits to DIA to review the system operation with the Ground Transportation and IT staff and provide a one four hour training class or discussions with these individuals on system operation or problems. The trips will occur on mutually agreeable dates

- **Maintaining and Updating Non-TransCore Software:** TransCore shall upgrade, at no charge to the Software Owner, the Covered Software and the CVM as part of one of the regularly scheduled upgrades. The Software Owner shall assist TransCore with these software or data system updates.

III. Maintenance Tasks

TransCore will provide / perform software and routine system maintenance for the Covered

Software between the hours of 11 pm to 4 am, Monday through Thursday Mountain Standard Time (MST). On Friday, TransCore shall only provide maintenance for emergency patches or any other similar type of situations.

IV. Response to System Problems

DIA shall provide prior to the performance of the Agreement a list of personnel authorized to request assistance from TransCore.

- GateKeeper Notification:
  - If an emergency arises the authorized individual (or process designee) should call GateKeeper at the Dedicated Software Support Phone number:

    (866) 688-3404

  - GateKeeper's Support Line, is answered 24/7 each day of the year, operator will record the information about the request or problem and immediately contact the best available TransCore specialist to respond.
  - For routine questions, GateKeeper may also be contacted directly at its general number: (651) 365-0700 during regular office hours of 8:00 am to 5:00 pm Central Standard Time, Monday – Friday or by sending an email to support@gksys.com
  - Escalation: if the response is not satisfactory or the support line is not answered, contact the assigned GateKeeper contact as listed in the Support Procedure Document.

- DIA Notification:
  - TransCore/Gatekeeper shall notify DIA of system problems via calling DIA Service Desk at:

    (303) 342-2012.

  - Escalation: (303) 342-4888

  - In accordance with the Support Procedure document referenced in Section I.

- DIA Service Desk staff will record the information about the request or incident and immediately contact the appropriate line management resolver group to respond.

V. Response Time

TransCore shall provide DIA priority support response times. TransCore shall respond within the remedial support time specified in Section VI. TransCore covenants that its actions will be directed by reasonable and prudent steps to minimize the loss of data for the AVI System with the understanding that some risks do exist for its response time and these actions may have unanticipated consequences.

.

Incidents involving revenue loss shall take the highest severity/priority level and personnel from both parties shall work to resolve the matter as timely as possible.

VI. Remedial Support

Upon identification of a system error, defect, malfunction, or nonconformity in the Covered Software, TransCore shall respond as provided below:

- **Severity 1, a Major Incident**: A Severity 1 incident is considered to be a major incident. A major incident is defined as an unplanned interruption to an IT service that impacts or produces an emergency situation in which the Covered Software is inoperable and results in significant loss of revenue, the Covered Software catastrophically fails, there is a service impact that limits the ability to access an enterprise service for multiple business units or a large number of customers, clients, or users.

- **RESPONSE**: TransCore shall respond immediately by assigning a qualified staff member to diagnose and correct a Severity 1 problem as soon as reasonably possible, but in any event, a response via phone will be provided within one (1) hour. TransCore shall exercise due diligence to resolve Severity 1 problems in less than four (4) hours. TransCore shall be in constant contact with the System Owner or the System Owner's designee informing the System Owner or the System Owner's designee about the incident and the progress in resolving the Severity 1 issue. The resolution will be delivered to DIA as a work-around or as an emergency software fix. If, according to the sole discretion of the System Owner or the System Owner's designee decides that TransCore delivered an acceptable work-around for a Severity 1 incident, the severity classification will drop to a Severity 2. At the conclusion of a Severity 1 incident, TransCore will document and provide a Root Cause Analysis to DIA. TransCore shall provide DIA the Root Cause Analysis within 10 business days of the incident.

- **Severity 2**: A Severity 2 incident is an incident that produces a detrimental situation in which performance (throughput or response) of the Covered Software degrades substantially under reasonable loads that there is a severe impact on use; the Covered Software is usable, but materially incomplete; one or more mainline functions or commands is inoperable; or DIA staff are unable to conduct their job properly, DIA patrons are inconvenienced in a significant way and this perception is common place.

- **RESPONSE**: TransCore shall respond immediately by assigning a qualified member of its staff to diagnose and correct a Severity 2 problem as soon as reasonably possible, but in any event, a response via phone will be provided within four (4) hours. TransCore will exercise due diligence to resolve Severity 2 incident within three (3) days. The resolution will be delivered to DIA in the same format as a Severity 1 incident. If, according to the sole discretion of the System Owner or the System Owner's designee it is decided, that TransCore delivered an acceptable work-around for a Severity 2 incident, the severity classification will drop to a Severity 3. At the

conclusion of a Severity 2 incident, TransCore will document and provide a Root Cause Analysis to DIA. TransCore shall provide DIA the Root Cause Analysis within 10 business days of the incident.

- **Severity 3**: A Severity 3 incident is an incident that produces an inconvenient situation in which the Covered Software is usable for DIA staff or patrons, but does not provide a function in the most convenient or expeditious manner, and the user suffers little or no significant impact.

- **RESPONSE**: TransCore shall respond immediately by assigning a qualified member of its staff to diagnose and correct a Severity 3 problem as soon as reasonable possible, but in any event, TransCore will respond within one business day. TransCore will exercise due diligence to resolve a Severity 3 incident. If, according to the sole discretion of the System Owner or the System Owner's designee it is decided, that TransCore delivered an acceptable work-around for a Severity 3 incident, the severity classification will drop to a Severity 4.

- **Severity 4**: A Severity 4 incident is an incident that produces a noticeable situation in which the Covered Software is affected in some way that is reasonably correctable by a documentation change or by a future, regular release from TransCore.

- **RESPONSE**: TransCore will provide, as agreed by the parties, a fix or fixes for Severity 4 problems in future maintenance releases. TransCore shall provide DIA a written report about any fixes or maintenance

VII. Maintenance Services

During the term of this Agreement, TransCore shall maintain the Covered Software by providing software updates. Any updates shall follow DIA established change and configuration management processes and applicable procedures (see Exhibit B). This requires that all changes be communicated to applicable DIA personnel in writing prior to any maintenance or configuration changes being performed.

Reasonable attempts shall be taken to utilize DIA incident and change request tools whether in replacement of or in addition to service provider systems for such activities. DIA personnel will utilize Service Now for tracking, reporting, and communicating status for any and all maintenance services either initiated by DIA or service provider.

Maintenance Services shall include the following:

- Fix/repair all CVM system problems.

- 24/7 telephone support number that is always monitored and answered.

- Bi-weekly teleconference support meetings.

- Assisting DIA in organizing an efficient monitoring approach for the system, including Servers Alive alerts, Support Query components, and automated utilities.

- Providing analysis of system changes being considered or implemented by DIA, e.g. routine configuration changes, reader/lane controller configuration, etc.

- Repairs, modifications to system operation and configuration settings.

- Diagnostic analysis as required by DIA staff on the cause of system behavior.

- Updating document of system events, support activities, root cause analysis, etc.

- Coordination of stakeholders response to system problems.

- Attendance at two system review meetings at DIA.

- **Hardware Preventative Maintenance:** .Two separate one week visits will be conducted to review the field hardware and confirm the operation of the TransCore furnished equipment. Tasks to be performed include:
    - Check the reader for error lights. Reset if needed
    - Check reader voltages.
    - Inspect antenna for damage and alignment. Adjust if needed.
    - Inspect cabinet condition.
    - Monitor traffic and reader operation. Tune lane if needed.
    - Check reader output operation (gates and lights).
    - Check with Landside for AVI issues and address.

- **Software Bugs or Software Patches:** TransCore shall provide any and all software bug fixes or software patches to the current installed version of the Covered Software. Bugs and patches shall be deployed in a development/test environment prior to being applied to production environments and follow best practices.

- **Software Modifications:** TransCore shall provide any and all modifications to keep the Covered Software compatible with the version of the operating system installed on the system servers. TransCore shall perform compatibility testing on any new Service Packs, patches, or hotfixes issued by the Operating System (OS) manufacturer and notify DIA when the software is ready for service pack, patch, or hotfix installation. DIA shall install Critical Updates at their discretion using industry best practices including creating backups.

- **Software Configuration:** TransCore shall make routine configuration changes to the system as needed by DIA for items such as, but not limited to, routine Trip Configuration, Trip Rates, Operator Types, Services Types, Readers, Lane Controllers, or any other type of routine configurations needed to properly operate, the Covered Software for performance under this Agreement.

- **Upgrade:** Over the 3 year term of this contract, TransCore will provide one upgrade of the GateKeeper Commercial Vehicle Management (CVM) and Vendor Website software at no cost. A second upgrade will occur in the extension years,

if the contract is extended at no cost. The upgrades will be the latest production release of the software and do not include any changes to the server environment, operating systems, lane equipment, or other modifications unless covered under a separate proposal. The upgrade schedule will be developed jointly between GateKeeper and DIA Ground Transportation and IT Departments.

- **Spares:** TransCore shall provide and keep a current and complete parts list and the breakdowns that identify each hardware component as well as ordering information for these parts. TransCore shall furnish a recommended inventory of parts list for system maintenance. In the event a component is no longer available, TransCore shall identify a compatible replacement solution that shall fulfill the overall functionality of the affected item.

- **As-Built Documentation:** TransCore shall provide and keep current the reader check-list throughout the term of the contract. These as-built documents should address both associated AVI hardware and software aspects of the system. Any changes to the system shall be updated and provided to DIA as part of the change management process.

VIII. Software Version License

Throughout the term of this Agreement, DIA shall receive a fully paid perpetual license for all new versions of the TransCore CVM software without additional costs.

- TransCore Software warrants that any of its software distributed to DIA are "backward compatible," which means DIA does not need to purchase a new version of TransCore's software once a new version is implemented.

- TransCore covenants to provide support services for previous releases of TransCore software for a minimum period of twenty-four (24) months following the general availability of a new software release or software update. After written notice is provided to DIA after 24 months, TransCore shall have no further responsibility for supporting and maintaining the prior releases.

IX. Services Not Included

This SOW shall not include any of the following:

- Custom programming services.
- Hardware.
- Training other than what is specifically covered in this Agreement.
- Implementation of new servers; reconfiguration of the existing server environment, including operating system and SQL Server upgrades. (Unless software versions have been deemed end of life by manufacturer. If they have, then TransCore will include these services related to Microsoft products as part of one of the included upgrades as scheduled and mutually agreed to with DEN.

- Repair of Owner provided LAN/WAN equipment.
- Repair of Owner provided servers.
- On-site support not required under the terms of this agreement.
- Support for software not defined as Covered Software

X. Additional Services

If deemed necessary by DIA for additional services, TransCore will provide a technical and cost proposal describing the additional services, how they will be provided, a schedule for completion, a firm fixed price, or the time and materials cost estimate for those services. Any and all additional services shall be made in writing and the parties shall agree to execute an Additional Services Authorization.

XI. Access and Security Requirements

TransCore covenants to provide stringent cyber security regarding, but not limited to passwords, system data, file transfer capabilities, and remote log-in-capabilities. TransCore will maintain stringent security practices to ensure access to DIA's network system only for the purposes of this Agreement and will comply with DIA's standard security procedures. Information accessed by TransCore employees as a result of accessing DIA's network, software, programs, passwords, or any other technical program shall be deemed confidential information pursuant to the terms of the Software License Agreement executed concurrently between the parties hereto.

TransCore, GateKeeper, their respective agents, personnel, subcontractors, or assignees shall be required to adhere to and completed the following security requirements prior to accessing DIA systems:

- Acceptable Use Policy
- Account and Password Management Standard
- Change Management Process
- IT User Agreement
- Remote Access Security Standard
- System Administrator Security Standard
- Confidentiality Agreement
- Airport Security Agreement

TransCore, GateKeeper, their respective agents, personnel, assignees, or subcontractors consent and agree to these listed security requirements or any other type of security or employee requirement deemed necessary by DIA. DIA shall provide all necessary security or employment forms to TransCore and GateKeeper. TransCore, GateKeeper, their respective agents, personnel, assignees, or subcontractors consent and agree these listed security or employee requirements are subject to change at will by DIA.

XII. Owner Responsibilities

DIA agrees to and consents that DIA personnel making a request for assistance shall provide sufficient information regarding the software problem experienced, adequately describe the problem, and the current operating condition of the software. In addition, DIA agrees to provide, at its expense, remote access to the system by high speed network connection for diagnosis and/or software modifications to the system. After system changes, DIA shall verify proper operation.

XIII. Non-Performance or Substandard Performance

The specific criteria in which TransCore's performance and any associated deductions for non-performance or substandard performance under the Agreement will be determined are on page 9 of this SOW in Table 1 Non-Performance or Substandard Performance.

TABLE 1 – NON-PERFORMANCE OR SUBSTANDARD PERFORMANCE

Criteria	Measurement	Damage Amount (See Note)
TransCore shall provide staff member(s) for an Emergency Response or a Major Incident.	TransCore shall respond within 24 hours of an Emergency Response or a Major Incident by providing written notice to the appropriate DIA staff member.	TransCore shall be charged $1,000.00 per day in which there is no response to the emergency or major incident.
TransCore shall conduct weekly remote checks and provide written weekly reports that the software is operating normally.	TransCore shall provide a written weekly report that the Covered Software is operating normally and identifies any Covered Software maintenance tasks that need to be completed ,	DIA shall withhold payment if the report is not provided and shall charge TransCore $500.00 every day until the report is provided.
TransCore shall complete the repair or replacement of defective Covered Software or any defect within the CVM or any other program associated with this Agreement.	TransCore shall provide a monthly report of all services calls closed during the previous month showing, for each priority, the actual service level achieved.	DIA shall withhold payment if the report is not provided and shall charge TransCore $500.00 every day until the report is provided.
Loss of and/or inability to collect revenue by DIA resulting from inoperable, defective or damaged covered software and/or hardware associated with this Agreement.	Any loss of revenue and/or inability of DIA to collect revenue resulting from a failure of any software or hardware associated with this agreement, resulting from i) any negligent or intentional act or omission by TransCore and/or any subcontractor to TransCore, or 2) nonperformance or substandard performance by TransCore or any subcontractor to TransCore of any obligation under this Agreement and Scope of Work.	Actual damages and/or damages in an amount otherwise agreed to by the parties.
Note: Cumulative damages shall not exceed 3 x contract value. Any damages shall be proportional to TransCore's responsibility for issue, as negotiated between the Airport and TransCore.		

End Scope of Work

Exhibit B

RATES AND CHARGES

Annual Maintenance Fee

Year	Term	Annual Maintenance Fees
1	x/x/2017 – y/y/2018	$314,889.00
2	x/x/2018 – y/y/2019	$314,889.00[1]
3	x/x/2019– y/y/2020	$314,889.00[1]
4	x/x/2020 – y/y/2021	$314,889.00[1]
5	x/x/2021 – y/y/2022	$314,889.00[1]

Footnotes:

[1]The annual maintenance fees for Years 2 through 5 shall have a CPI adjustment to the prior year in accordance with Section 4E of this Agreement.

Preventative Maintenance Trip

The cost of each 5 day Preventative Maintenance Trip in Year 1 is **$12,042.00**, the price for Year 2 through 5 will be $12,042.00 with an appropriate CPI adjustment. No equipment cost is included; it is assumed that any necessary equipment will be provided by the DIA.The cost for two preventative maintenance trips is included in the annual maintenance fee provided above.

Emergency Response Trip

The cost of each 5 day Emergency Response Trip is **$13,851.00**, the price for Year 2 through 5 will be $13,851.00 with an appropriate CPI adjustment. No equipment cost is included; it is assumed that any necessary equipment will be provided by DIA. The cost for emergency response trips are not included in the annual maintenance fee provided above.

EXHIBIT C

CITY AND COUNTY OF DENVER
INSURANCE REQUIREMENTS FOR THE DEPARTMENT OF AVIATION

Certificate Holder Information:

CITY AND COUNTY OF DENVER
Attn: Risk Management, Suite 8810
Manager of Aviation
Denver International Airport
8500 Peña Boulevard
Denver CO 80249

CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: Transcore Software Maintenance Agreement

I. MANDATORY COVERAGE

Colorado Workers' Compensation and Employer Liability

Minimum Limits of Liability (In Thousands) $100, $500, $100

1. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement. Any such rejections previously effected, must have been revoked as of the date Contractor executes this Agreement.

2. If the contractor/consultant is a sole proprietor, Workers' Compensation is waived per State of Colorado law.

Commercial General Liability

Minimum Limits of Liability (In Thousands):

Each Occurrence:	$1,000
General Aggregate Limit:	$2,000
Products-Completed Operations Aggregate Limit:	$2,000
Personal & Advertising Injury:	$1,000

The policy must provide the following:

1. That this Agreement is an Insured Contract under the policy.
2. Defense costs are outside the limits of liability.
3. A severability of interests or separation of insureds provision (no insured vs. insured exclusion).
4. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
5. The full limits of coverage must be dedicated to apply to each project/location.
6. If liquor is to be sold or distributed, then Liquor Liability, ($1,000,000 per claim and $1,000,000 policy aggregate limit) with the City as an additional insured is required.

Business Automobile Liability

Minimum Limits of Liability (In Thousands):

Combined Single Limit $1,000

The policy must provide the following:

1. Coverage applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.
2. If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy.

II. ADDITIONAL COVERAGE

Excess/Umbrella Liability

Minimum Limits of Liability (In Thousands):

Umbrella Liability Controlled Area	Each Occurrence and aggregate	$9,000
Umbrella Liability Non-Controlled Area	Each Occurrence and aggregate	$1,000

The policy must provide the following:

1. Coverage must be written on a "follow form" or broader basis.
2. Any combination of primary and excess coverage may be used to achieve required limits.
3. If operations include unescorted airside access at DIA, then a $9 million Umbrella Limit is required.

Technology Errors & Omissions

Minimum Limits of Liability (In Thousands)

Per Occurrence	$1,000
Aggregate	$1,000

The policy must provide the following:

1. Liability arising from loss of customer personal or payment information caused by any act or omission of Consultant in the performance of its obligations under this Agreement.
2. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.
3. Policies written on a claims made basis must remain in full force and effect in accordance with CRS 13-80-104. The Insured warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under the Contract is completed.
4. Coverage for intellectual property offenses related to internet.

III. ADDITIONAL CONDITIONS

It is understood and agreed, for the benefit of the City, that the following additional conditions shall apply to all coverage specified herein:

1. For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
2. All coverage provided herein shall be the insurance to first respond to an incident while any insurance maintained by the City shall be considered secondary.
3. For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.
4. The City shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein, and the insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
5. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better.
6. For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
7. No changes, modifications or interlineations on this document shall be allowed without the review and approval of the Risk Administrator prior to contract execution.

NOTICE OF CANCELLATION

It is understood and agreed that should any Policy issued hereunder be cancelled or non-renewed before the expiration date thereof, or sustain a material change in coverage adverse to the City, the issuing company or its authorized Agent shall give notice to the Department of Aviation in accordance with policy provisions.

EXHIBIT D – LICENSE AGREEMENT

SOFTWARE LICENSE AGREEMENT

THIS AGREEMENT (the "Agreement") dated as of _____, is by and between **Gatekeeper Systems, Inc.** ("GSI") and (AIRPORT ("Licensee").

A. GSI has developed certain Parking computer software ("Software") and the accompanying documentation ("User Manuals"), which Software and User Manuals together are the "Licensed Products

B. Licensee desires to obtain from GSI a license to use the Licensed Products at Licensee's airport facility.

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained herein, the parties agree as follows:

1. GRANT OF SOFTWARE LICENSE. GSI hereby grants to Licensee a nonexclusive, perpetual, fully paid license to use the Licensed Products in the operation of Licensee's airport facility. Licensee may not use the Software in a service bureau environment, or distribute, rent, lease, transfer, or sublicense the Licensed Products.

2. DELIVERABLES. Upon execution of this Agreement GSI will deliver to Licensee the Licensed Products in object code formats, together with all related User Manuals.

3. MAINTENANCE AND SUPPORT. GSI may choose to offer maintenance and support services ("Maintenance") for the Licensed Products. If Maintenance is offered by GSI, Licensee may, but is not obligated to, purchase Maintenance at GSI's prevailing price.

4. OWNERSHIP.

Ownership of the Licensed Products and associated patents, copyrights, and applications therefore will remain with GSI.

5. LIMITED WARRANTY, WARRANTY DISCLAIMERS, LIMITATIONS OF LIABILITY, AND INDEMNIFICATION.

(a) GSI warrants that for a period of twelve (12 months from the date of delivery and thereafter for as long as Licensee maintains paid up annual Maintenance, the Software will substantially meet its specifications as described in the User Manuals. As sole remedy for any breach of this limited warranty, GSI shall promptly correct material errors or replace any defective media. GSI does not warrant that operation of the Licensed Products will be uninterrupted or error free. EXCEPT AS EXPRESSLY SET FORTH ABOVE, GSI MAKES NO WARRANTY WITH RESPECT TO THE LICENSED PRODUCTS, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(b) GSI will indemnify, defend, and hold Licensee harmless from and against all loss, cost and expense, including court costs and attorneys fees, resulting from claims that the Licensed Products or the use thereof permitted hereunder infringes upon any third party patent, trademark,

copyright, trade secret or other statutory or non-statutory proprietary right, exclusive of any such claim based upon enhancements and/or modifications thereto by Licensee or any third party other than GSI, provided, however, that (i) Licensee shall have given GSI prompt written notification of such claim, suit, demand, or action; (ii) Licensee shall cooperate with GSI in the defense and settlement thereof; and (iii) GSI shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof. In the event any portion of the Licensed Products is determined to be so infringing, GSI shall at its option, either procure for Licensee a license to use the infringing portion or substitute a non-infringing portion which performs in substantially the same function and manner as the infringing portion. GSI will also extend such indemnification for any personal injury, death, or damage to tangible personal property (which tangible personal property does not include computer files), caused solely by GSI's employees who may be on Licensee's premises performing work under this Agreement, not to exceed the amount of GSI's available insurance coverage.

6. **CONFIDENTIALITY**. "Confidential Information" means all information and material to which the party hereto has access in connection with this Agreement including, but not limited to, all Software (in both source code and object code format), documentation, User

EXHIBIT D – LICENSE AGREEMENT

> Manuals, financial, marketing and customer data and information, technical information, and any other material or information that is either marked as confidential or is disclosed under circumstances that one would reasonably expect it to be confidential. Confidential Information shall not include information which: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; (d) is independently developed by the other party; or (e) is disclosed by operation or requirement of law, including as may be required under the provisions of the Colorado Open Records Act (CORA), C.R.S. § 24-72-201, *et seq*.

During the term of this Agreement and thereafter, each party shall use the same degree of care that it uses to protect its own confidential information of a like nature, but in no case less than a reasonable degree of care, to protect the confidentiality of the other's Confidential Information and avoid unauthorized disclosure of such Confidential Information to third parties. Neither party acquires any rights in the other's Confidential Information other than a limited right to use such Confidential Information solely for the purposes contemplated by this Agreement. Each party represents that it has, and agrees to maintain, an appropriate agreement with each of its employees who may have access to any Confidential Information, or that its employees are

bound by confidentiality obligations, sufficient to enable each party to comply with all of the terms of this Agreement.

7. RIGHT TO COPY. The Licensed Products are licensed, not sold. Title and copyrights in and to the Licensed Products, accompanying printed materials, and any copies Licensee is permitted to make herein are owned by GSI or its suppliers and are protected by United States copyright laws and international treaty provisions. Therefore, Licensee must treat the licensed Products like any other copyrighted material except that Licensee may copy the Software for the purpose of replacing worn or deteriorated copies, archive, or emergency restart and security purposes only. Licensee will reproduce GSI's copyright notice and proprietary and restrictive legends on all copies of the Software and any modifications thereof. Copies of User Manuals may be made for internal use only.

8. TAXES. Licensee shall be responsible for all taxes on the Licensed Products, exclusive of taxes based solely on GSI's net income. Licensee will reimburse GSI for all sales, use, or excise taxes assessed by any taxing authority, whether such taxes are invoiced initially to Licensee or assessed retroactively based upon audits by any governmental taxing authority.

9. DEFAULT AND TERMINATION. If either party defaults in the performance of any of its obligations hereunder, and such default continues for thirty (30) days after receipt of notice from the non-defaulting party, the non-defaulting party shall have the right to terminate this License. Upon termination of the License granted in this Agreement, Licensee shall, at GSI's request, either return all copies of the Licensed Products to GSI, or demonstrate to GSI that

such copies have been destroyed.

10. DISPUTE RESOLUTION. - Intentionally Deleted.

11. MISCELLANEOUS.

(a) This Agreement and the rights and licenses granted hereunder may be assigned by either party to a successor in interest. This Agreement and the rights and license hereunder may not otherwise be assigned by a party without the prior express written permission of the other party, which consent will not be unreasonably withheld. Subject to the preceding sentence, this Agreement will be binding upon and inure to the benefit of the parties and their successors and assigns.

(b) This Agreement will be governed by and construed in accordance with the internal laws of the State of Colorado without application of principles of choice of laws.

(c) All notices which either party is required or may desire to give the other party hereunder shall be given by addressing the communication to the party's last known business address and sent by United States Certified Mail, return receipt requested, or by commercial delivery service. Such notices shall be deemed given on the date of receipt (or refusal) of delivery.

(d) Neither GSI nor Licensee shall be responsibility to the other for failure to fulfill their obligations under this Agreement due to acts of God, acts of

nature, strikes, walkouts, lockouts, or any other causes beyond its control.

(e) The parties are and shall be independent contractors to one another, and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between GSI and either Licensee or any employee or agent of either party. GSI shall bear sole responsibility for payment of compensation, personnel related taxes and benefits to its personnel.

(f) If any provision of this Agreement is or becomes or is deemed invalid, illegal, or unenforceable in any jurisdiction, (i) such provision will be deemed amended to conform to the applicable laws of such jurisdiction so as to be valid and enforceable or, if it cannot be so amended without materially altering the intention of the parties, it will be stricken, (ii) the validity, legality and enforceability of such provision will not in any way be affected or impaired thereby in any other jurisdiction, and (iii) the remainder of this Agreement will remain in full force and effect.

(g) No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will

be effective unless given in a signed writing. No waiver of any such right will be deemed a waiver of any other right hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date first above written.

Gatekeeper Systems, Inc.	**Airport**
By:_____	**By:**_____
Its:_____	**Its:**_____