AGREEMENT

THIS AGREEMENT, Contract Number 201842903-00, is made and entered into this 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 (the "City"), Party of the First Part and **CYBER COUNTRY SYSTEMS, LLC,** a limited liability company formed under the laws of the state of Colorado (the "Consultant"), Party of the Second Part. Each party may individually be referred to as a "Party" or collectively as the "Parties."

WHEREAS, the City owns, operates and maintains Denver International Airport, (hereinafter referred to as "DEN," or the "Airport"); and

WHEREAS, the City desires to contract for on-call professional IT consultants to perform software development and on-call maintenance and support for components of its security systems at DEN; and

WHEREAS, the Consultant is qualified and ready, willing and able to perform the services as set forth in this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. LINE OF AUTHORITY: The City's Chief Executive Officer of the Department of Aviation, her 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 Director of Airport Security (the "Director") as the CEO's authorized representative for the purpose of administering, coordinating and approving work performed by the Consultant under this Agreement. The Director'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 Director may rescind or amend any such designation of representatives or delegation of authority and the Director may from time to time designate a different individual to act as Project Manager, upon notice to the Consultant.

2. SCOPE OF SERVICES, ORDER; ADDITIONAL SERVICES:

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 Scope of Work for this Agreement is attached hereto as **Exhibit A, "Scope of Work"**. The City shall authorize specific engagements with the Consultant by placing a written order which will contain a description of the work to be performed and the rate to be charged (the "Order"). The Consultant agrees that during the term of this Agreement it shall fully coordinate its work under all Orders with any person or firm under contract with the City doing work or providing services which affect the Consultant's services. The Consultant shall faithfully perform the work described in any and all Orders in accordance with the standards of care, skill, training, diligence and judgment provided by highly competent individuals and entities that perform services of a similar nature to those described in an Order.

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 Director determines to be not described in the Scope of Work or in excess of the requirements of the Scope of Work. Task orders, work orders, 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 Director. 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.

3. TERM: The term of this Agreement shall commence on the January 1, 2019, and shall terminate on December 31, 2020, unless earlier terminated in accordance with the Agreement. The Term of this Agreement may be extended for one additional one (1) year period, by written notice provide by the CEO to the Consultant, delivered prior to the expiration of the original term of 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 hereby agrees to pay the Consultant, and the Consultant agrees to accept as its sole compensation for its services rendered under this Agreement, at a fee determined in accordance with **Exhibit A,** Scope of Work

B. Reimbursement Expenses: There are no reimbursable expenses allowed under this Agreement, unless clearly outlined, with specificity, in an Order and approved in writing, in advance, by the Director.

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 City shall pay any undisputed amounts in accordance with its obligations under the City's Prompt Payment Ordinance.

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 Seven Hundred Fifty-Thousand Dollars and No Cents ($750,000.00) (the "Maximum Contract Liability"). Payment under this Agreement shall be paid from the Airport System 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.

5. STATUS OF CONSULTANT: The parties agree 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 9.1.1E(x) of the Charter of the City. It is not intended, nor shall it be construed, that the Consultant or its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code or for any purpose whatsoever.

6. TERMINATION:

A. The City has the right to terminate this Agreement without cause on thirty (30) days prior written notice to the Consultant, and with cause on ten (10) days prior written notice to the Consultant. In the event of termination by the City for default hereunder, the Consultant shall be allowed five days to commence remedying its defective performance, and in the event the Consultant diligently cures its defective performance to the City's satisfaction, within a reasonable time as determined solely by the City, then this Agreement shall not terminate. 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. 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.

D. The Consultant has the right to terminate this contract with or without cause by giving not less than thirty (30) days prior written notice to the City.

7. INTELLECTUAL PROPERTY RIGHTS:

A. 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, ideas, inventions, and any other work or recorded information created by the Consultant 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.

B. The City shall, for any software developed, installed in or made part of the City's system by consultant pursuant to this Agreement (the "Agreement Software"), have the greater of 1) a perpetual, worldwide license to use, maintain and develop for its own purposes, or 2) the equal of the Consultant's license, intellectual property rights, copyright or any other right in that software. The City shall expressly not have any right to commercially market or sell the Agreement Software without prior written approval of the Consultant. Consultant shall take all commercially reasonable steps to assure it is able to convey a perpetual, worldwide license to use, maintain and develop for DEN's purposes for all of the Agreement Software, and shall inform DEN should it not be able to convey such a license.

8. CITY INFORMATION:

A. The Consultant acknowledges and accepts that, in performance of all work under the terms of this Agreement, the Consultant may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. The Consultant agrees that all Proprietary Data or confidential information provided or otherwise disclosed by the City to the Consultant shall be held in confidence and used only in the performance of its obligations under this Agreement. The Consultant shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent consultant would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential" and provided to or made available to the Consultant by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

B. Except as expressly provided by the terms of this Agreement, the Consultant agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish,

post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available the Proprietary Data or confidential information or any part thereof to any other person, party or entity in any form or media for any purpose other than performing its obligations under this Agreement. The Consultant further acknowledges that by providing this Proprietary Data of confidential information, the City is not granting to the Consultant any right or license to use such data except as provided in this Agreement. The Consultant further agrees not to disclose or distribute to any other party, in whole or in part, the Proprietary Data or confidential information without written authorization from the CEO.

C. The Consultant acknowledges and understands that the Proprietary Data may not be completely free of errors. The Proprietary Data should be used for reference only and should not be relied upon in any other way, and the Consultant is hereby advised to independently verify all work performed in reliance upon the Proprietary Data.

D. The Consultant agrees that any ideas, concepts, know-how, computer programs, or data processing techniques developed by the Consultant or provided by the City in connection with this Agreement, any Proprietary Data, or any confidential information shall be deemed to be the sole property of the City and all rights, including copyright, shall be deemed to be the sole property of the City and all rights, including copyright, shall be reserved to the City. The Consultant agrees, with respect to the Proprietary Data and confidential information, that: (1) the Consultant shall not copy, recreate, reverse, engineer or decompile such data, in whole or in part, unless authorized in writing by the CEO; (2) the Consultant shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; (3) the Consultant shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City.

E. The Consultant will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of the Consultant under this Agreement shall survive the expiration or earlier termination of this Agreement. The Consultant shall not disclose Proprietary Data or confidential information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at lease as strict as those contained in this Agreement.

F. Notwithstanding any other provision of this Agreement, the City is furnishing Proprietary Data and confidential information on an "as is" basis, without any support whatsoever, and without representation, warranty or guarantee, including but not in any manner limited to, fitness, merchantability or the accuracy and completeness of the Proprietary Data or confidential information. The Consultant is hereby advised to verify its work. The City assumes no liability for any errors or omissions herein. Specifically, the City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute program, claims by third parties, or for similar costs. If discrepancies are found, the Consultant agrees to contact the City immediately.

9. <u>CONSULTANT'S INFORMATION</u>: The Parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., §

24-72-201, *et seq*., 7B C.R.S. (2003), and that in the event of a request to the City for disclosure of such information, the City shall advise the Consultant of such request in order to give the Consultant the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Consultant agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. The Consultant further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Consultant's intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

10. EXAMINATION OF RECORDS:

A. The Consultant agrees that the City's duly authorized representatives, including 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 Consultants further agree that such records will contain information concerning the personnel, hours and specific tasks performed, along with the applicable federal project number.

11. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any action by a Party constitute or be construed to be a waiver by that party of any breach of covenant or default which may then exist on the part of the other Party. A Party's action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available to that Party 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 the Agreement shall be deemed or taken to be a waiver of any other breach.

12. INSURANCE:

A. The Contractor 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 B**, which is incorporated into this Agreement by this reference. The Contractor 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 Contractor 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 B**. All sub-contractors' certificates and endorsements must be received and approved by the Contractor 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, certified 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 Contractor 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. The insurance coverage forms specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor 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.

13. 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.

14. DEFENSE AND INDEMNIFICATION:

A. Consultant hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees 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 acts or omissions of Consultant or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

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 and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

C. Consultant will defend any and all 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, but not limited to, court costs and 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. 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.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

15. <u>INTELLECTUAL PROPERTY INDEMNIFICATION AND LIMITATION OF LIABILITY</u>: 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 a 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, or (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.

16. TAXES, CHARGES AND PENALTIES: The City shall not be liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq*. The Consultant shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against City property, including but not limited to land, facilities, improvements or equipment.

17. ASSIGNMENT AND SUBCONTRACTING:

A. The Consultant agrees that it will not assign or transfer any of its rights or obligations under this Agreement without first obtaining the written consent of the CEO. A transfer will include a merger, consolidation, liquidation or change of ownership by which fifty percent (50%) or more of the outstanding voting stock, equity or control is transferred. Any attempt by the Consultant to assign or transfer its rights or obligations without the prior written consent of the CEO shall, at the option of the CEO, be null and void and terminate this Agreement and all rights of the Consultant. Consent to the assignment may be granted or denied at the sole and absolute discretion of the CEO. If the City consents to an assignment, then any assignment will not become effective until the assignee unequivocally in a signed document satisfactory to the CEO (1) assumes the obligations under this Agreement; and (2) agrees to be bound by all of the terms, covenants and conditions of this Agreement. Any consent of the City pursuant to this provision must be executed with the same formality as this Agreement. The rights and obligations of the Parties under this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns permitted under this Agreement.

B. The Consultant agrees that it will not assign, appoint to a representative (or any other third party), or subcontract any of its obligations under this Agreement without first obtaining the written consent of the CEO, which consent may be withheld in the absolute discretion of the City. If the City consents to the assignment, appointment, or subcontract, such action shall not be construed to create any contractual relationship between the City and the Consultant's subcontractor. The Consultant shall remain fully responsible to the City for any assigned, appointed, or subcontracted work.

18. DSBO GOALS / SMALL BUSINESS ENTERPRISES: 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.

19. NO THIRD PARTY BENEFICIARY: The Parties agree that enforcement of the terms and conditions of this Agreement, and all rights of action relating to enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any claim or right of action to any third person. The Parties intend that any person other than the City or the Consultant receiving services or benefits pursuant to this Agreement shall be deemed to be an incidental beneficiary only.

20. 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 that obligate the City must be by the City, as required by Charter and ordinance.

21. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS: This Agreement is the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other modification related to the subject matter herein shall have any force or effect, unless embodied in this Agreement in writing. No subsequent novation, renewal, addition, deletion, or other amendment shall have any force or effect unless embodied in a written amendment to this Agreement properly executed by the Parties. No oral representation by any officer or employee of the City at variance with the terms and conditions of this Agreement or any written amendment to this Agreement shall have any force or effect nor bind the City. This Agreement and any amendments to it shall be binding upon the Parties and their successors and assigns.

22. SEVERABILITY: The Parties agree that if any provision of this Agreement or any portion thereof, except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected if the intent of the Parties can be fulfilled.

23. CONFLICT OF INTEREST:

A. The Parties agree that no employee of the City shall have any personal or beneficial interest in the services or property described in this Agreement; and the Consultant further agrees not to hire or contract for services any employee or officer of the City which would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, *et seq.* or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

B. The Consultant agrees that it will not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. 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 interests 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

in the event such a conflict exists after it has given the Consultant written notice which describes the conflict. The Consultant shall have thirty (30) days after the notice is received to eliminate or cure the conflict of interest in a manner that is acceptable to the City.

24. NOTICES: Notices, bills, invoices or reports required by this Agreement shall be sufficiently delivered if sent by the Parties in the United States mail, postage prepaid, to the Parties at the following addresses:

City: CEO of Aviation
Denver International Airport
Airport Office Building – 9th Floor
8500 Peña Boulevard
Denver, CO 80249-6340

Consultant: Cyber Country Systems, LLC
3055 Galena Way
Boulder, CO 80305

The addresses may be changed by the Parties by written notice.

25. DISPUTES: 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.

26. GOVERNING LAW; VENUE: This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted or promulgated pursuant to the Charter and Code, including any amendments. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

27. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of services under this Agreement, the Consultant agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation 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. The Consultant agrees to insert the foregoing provision in all subcontracts hereunder.

28. PROHIBITION AGAINST EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THIS 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.

29. <u>AUTHORITY TO ENTER INTO AGREEMENT</u>: Consultant represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of Consultant represents and warrants that he has been fully authorized by Consultant to execute this Agreement on behalf of Consultant and to validly and legally bind Consultant to all the terms, performances and provisions of this Agreement. The

City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either Consultant or the person signing the Agreement to enter into this Agreement.

30. NO CONSTRUCTION AGAINST DRAFTING PARTY: Each of the Parties acknowledge that they and their respective counsel have had the opportunity to review this Agreement and that this Agreement shall not be construed against any Party merely because this Agreement or any of its provisions were prepared by a particular Party.

31. AGREEMENT; ORDER OF PRECEDENCE: This Agreement consists of paragraphs 1 through 44 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Exhibit A	Scope of Work
Exhibit B	City and County of Denver Insurance Certificate
Appendix	Federal Aviation Administration Required Contract Provisions

In the event of an irreconcilable conflict between (i) a provision of paragraphs 1 through 44 and any of the listed attachments or (ii) 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:

Federal Aviation Administration Required Contract Provisions
Paragraphs 1 through 44 hereof
Exhibit A
Exhibit B

32. SURVIVAL OF CERTAIN PROVISIONS: The Parties agree that all terms and conditions of this Agreement, together with any exhibits and attachments, which by reasonable implication contemplate continued performance or compliance beyond the termination of this Agreement, by expiration of the term or otherwise, shall survive termination and shall continue to be enforceable. Without limiting the generality of this provision, the Consultant's obligations to provide insurance and to indemnify the City shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

33. COMPLIANCE WITH ALL LAWS: All of the services performed under this Agreement by the Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and State of Colorado and with the charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver, as amended; including but not limited to the City's Prevailing Wage Ordinance, D.R.M.C. §20-76.

34. 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 14, "Defense and Indemnification," and Paragraph 15, "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.

35. 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 DEN. The provisions of the attached Appendix **Federal Aviation Administration Required Contract Provisions** are incorporated herein by reference.

36. 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 Director of Airport Security 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.

37. SENSITIVE SECURITY INFORMATION: Consultant acknowledges that, in the course of performing its work under this Agreement, that it may be given access to Sensitive Security Information ("SSI"), as that material is described in federal regulations, 49 C.F.R. part 1520. Consultant specifically agrees to comply with all requirements of the applicable federal regulations and DEN Standard Policy and Procedure 10003. Consultant understands any questions it may have regarding its obligations with respect to SSI must be referred to the Director or his or her designated representative.

38. 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.

39. 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.

40. ADVERTISING AND PUBLIC DISCLOSURE: The Consultant shall not include any reference to this Agreement or to services performed pursuant to this Agreement in any of its advertising or public relations materials without first obtaining the written approval of the CEO, which will not be unreasonably withheld. Any oral presentation or written materials related to services performed under this Agreement shall include only services that have been accepted by the City. The CEO shall be notified in advance of the date and time of any such presentation. Nothing in this provision shall preclude the transmittal of any information to officials of the City, including without limitation the Mayor, the CEO, City Council or the Auditor.

41. TIME IS OF THE ESSENCE: The Parties agree that in the performance of the terms, conditions, and requirements of this Agreement and any Order, time is of the essence.

42. COUNTERPARTS OF THIS AGREEMENT: This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement.

43. 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 by 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.

44. CITY EXECUTION OF AGREEMENT: This Agreement shall not be effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

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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-201842903-00

Contractor Name: CYBER COUNTRY SYSTEMS LLC

By: [signature]

Name: MERWIN LARSEN
(please print)

Title: MANAGER
(please print)

ATTEST: [if required]

By: ______________________________

Name: ______________________________
(please print)

Title: ______________________________
(please print)

APPENDIX

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 PLANE201842903.

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.

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);

- 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

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

Airport Security System Support Agreement

Scope of Work

1. GENERAL PROVISIONS

This section defines the technical requirements of this System Support Agreement, which will be required of Cyber Country Systems, Inc. (hereinafter referred to as "CCS") in the day-to-day performance and execution of the work outlined in this Agreement in support of those Card Access Control systems owned and operated by Denver International Airport ("DIA").

2. TECHNICAL PROVISIONS

A. Duration of Support:

January 1, 2019 through December 31, 2020, with options to extend as set forth in Contract Number PLANE201842903 between Cyber Country Systems, Inc and the City and County of Denver.

B. Definitions:

For the purpose of interpreting the requirements of this Agreement, the following definitions are provided for key terms used in this document. Where reference is made to a defined item it shall include all materials, labor and know-how to satisfy the corrective or support requirements aspects of the specific item.

(1). ***Scope***. The Scope of Work is defined as all services required of CCS in the successful execution of the requirements outlined within this specification.

(2). ***Software.*** Software is defined as any and all operating or application software and firmware installed on the DIA Computerized Airport Integrated Security System ("CAISS"), including any software installed by this Contractor over the duration of this Agreement.

This shall include but not be limited to:

a. Windows Operating Systems
b. DB2 v7.2 and v.9.2 Workgroup Editions (and later versions)
c. SQL Server 2005, SQL Server 2008 (and later versions)
d. Crystal Reports v9.0, v.9.5 (and later versions)
e. MaxxNet NT (and later versions) Computerized Airport Integrated Security System (CAISS) application software as developed or modified by CCS or any other entity or individual under direction by DIA, including, but not limited to:
    1. Alarm Workstation (AWS)
    2. Management Workstation (MWS)
    3. Graphics Workstation (GWS)
    4. ACC (Area Control Computer)
    5. MAPS and eMaps applications

f. Relay Ladder Logic programs (both RLLs and RLYs, produced under site licensing purchased and furnished by Denver International Airport for use at DIA.)
g. PROMS and firmware
h. All third party software used in the system including compilers, linking software, network software or in effect any software product, which is required for the normal and complete operation, maintenance and support of the system.
i. Any and all new or updated software used in any part of the system, including operating systems, database systems, and network software.

(3). ***Hardware***: Hardware is defined as any and all system components that are not software. This includes all of the components and subassemblies of the following elements but not limited to:

a.. Area Control Computers "ACC"
b. Database and File Servers (DBS/FS)
c. Intelligent Door Controller (IDC)
d. Network switches and interfaces
e. Fan-out Couplers (FOC) and Transceivers
f. Biometric Fingerprint Readers
g. Digital Video Recording Equipment and Interfaces
h. Audio/Video Portal Assemblies
i. Printers

(4). ***Network:*** Network is defined as any and all hardware and software required to transport Computerized Airport Integrated Security System "CAISS", EPCAS, to any and all distributed components of the systems.

(5). ***On-Call:*** On-Call is defined as the availability of CCS, 7 days per week / 24 hours per day in the execution of this Agreement for Levels 1 and 2 (CAISS Malfunction and CAISS Failure) events. On-Call status is a non-site presence with the ability to respond to the site with qualified personnel as necessary and defined in this specification to provide services as defined in this Scope of Work.

(6). ***On Site:*** On Site is defined as the presence of CCS at Denver International Airport.

(7). ***Support:*** Support is defined as those duties described in Section 5, Scope of Work and otherwise enumerated in this Specification.

(8). ***Normal CAISS Operation:*** Normal operation is defined as the system operating within the parameters as specified and put forth in the operation manuals provided to DIA in support of all system elements.

(9). ***CAISS System Major Failure:*** CAISS System Major Failure is defined as a system state where the operator is unable to control the CAISS system from the DIA Communications Center, or Alternate Communications Center, and default operation is implemented where HSS guards are deployed to compensate for the system malfunction. In terms of Contractor performance response times to this condition is considered a Level 1 event.

(10). ***CAISS System Malfunction:*** CAISS System Malfunction is defined as any condition where System operational and performance characteristics fall outside of normal operation or a problem that impacts the normal specified

system throughput or functionality, or causes erroneous data creation or data loss. In terms of Contractor performance response times, this condition is considered a Level 2 event.

(11). ***Minor Abnormal CAISS Operation:*** Minor abnormal operation (Minor CAISS Failure) is defined as all other system anomalies that do not fall into the category of CAISS Major System Failure or CAISS System Malfunction. In terms of Contractor performance response times this condition is considered a Level 3 event.

(12). ***Systems:*** Systems are defined as the Computerized Airport Integrated Security System ("CAISS") installed and operating at Denver International Airport (DIA) as defined in Section 3, System Configuration.

(13). ***CCS:*** Is defined as including all of the firm's employees, agents and any assignees licensed by CCS to perform portions of this work and previously approved by DIA, providing the services required to successfully execute the work specified in this Agreement.

3. SYSTEM CONFIGURATION

The system configuration for which this Agreement is specified and applies to include the system components enumerated in Section 5 below. Further, any hardware or software additions implemented in the system by CCS or DIA and its Contractors during the duration of this specification shall be considered part of the system configuration. Where additions or modifications to the system by DIA and its Contractors are performed, CCS shall review the addition or modification for the purpose of ensuring correct system functionality. Should CCS after review of a system addition or modification advise in writing against its implementation and DIA chooses to implement the addition or modification, those components or resulting functionality shall not be considered within the scope of this specification.

4. CCS – REQUIRED QUALIFICATIONS

CCS representatives, agents, or assignees performing the work as specified in this Scope of Work shall be fully trained in the complexities of repair and maintenance for all hardware elements of the system other than those elements covered in the existing DIA PC maintenance specification, which shall be kept in force for the duration of this specification. In addition, CCS shall be fully proficient in the creation, modification and support of all system application software and in the use and configuration of all third party or "other" software programs utilized in the normal operation and support and maintenance of the system.

5. SCOPE OF WORK

CCS shall provide the following services as part of this Agreement, for the CAISS Security System on a continuing basis, and provide on-site and on-call capabilities in support of the following items.

A. Software

(1). Software support is defined as CCS's best efforts to address, resolve, and restore the Systems to normal working order as a result of any software anomalies that interfere with the normal operation of these systems. These anomalies shall be classified as System Failures that are identified and defined in Section 2, Definitions.

a. Participation in the resolution of Major Failures is not limited to availability or to a specific time frame. CCS shall have qualified personnel available 24 hours a day, 7 days a week by pager and/or telephone to support resolution of Major System Failures. The designated contact number(s) and procedure are defined in Attachment 1 to this Scope of Work. This specification requires that upon notification of any Major Failure by DIA, CCS shall depart immediately for the Airport, and respond to the problem by telephone while en route, if possible (Ref. Section 6, B for response times).

b. Assistance rendered by CCS in the resolution of Minor Failures shall occur during CCS's normal business hours between 8:00 am and 5:00 pm Monday through Friday. The Department of Aviation shall implement and maintain event logs to document occurrences, and permit CCS to implement software measures (traps) to enhance the diagnostic process.

(2). Software support shall include delivery, installation and debugging of any and all new software installed as required, including but not limited to, new releases and versions of software installed by CCS as part of this Scope of Work that may be necessary to resolve system anomalies identified in Section 6. B. (below).

(3). Software support shall include upgrades to installed releases, and all modifications developed in the normal development of the product, including, but not limited to, evolutions of the software to other operating systems, or those software upgrades or modifications developed specifically for DIA.

(4). As part of software support, CCS shall provide reasonable cooperation with third party technical support organizations in their effort to modify third party software products for utilization in the DIA systems. CCS will notify DIA, in writing, of any cost impacts involved with any third party technical support organizations. CCS will commence work following approval by DIA in accordance with Section 9. C. (below).

(5). Where the installation of new, modified or additional software installed on the CAISS system by CCS in the resolution of Major and Minor Failures causes malfunction of systems interfacing to the CAISS system, (specifically the Badgeze Badging, DVR/CCTV or Life Safety systems interfaces) it shall be the responsibility of CCS to restore proper interface operation through manipulation of application or third-party software (refer to §2.05 d.) reconfiguration. When proper operation cannot be restored, CCS shall, at the Department of Aviation's option, restore the previous software version or configuration and provide alternate options of resolution to the Department of Aviation. The ultimate decision shall be the responsibility of the Department of Aviation.

(6). Should the installation of a new software release, upgrade or modification cause the system to exhibit abnormal or unstable operation after installation, CCS shall be prepared at anytime as determined by the DIA CAISS Administrator or Director of Security to revert immediately to the previous installed release and configuration. CCS will be on site if necessary to accomplish the reversion to the previously installed release and

configuration within (2) two hours of a specific request to do so by the DIA CAISS Administrator or Director of Security.

(7). Any and all modifications and upgrades implemented as part of this Scope of Work shall be fully debugged and compatible with all third party software programs installed on the system. Where a malfunction is encountered as a result of incompatibility between software elements installed on the system, CCS shall make every reasonable effort to correct the situation by either upgrading or replacing the third party software elements to achieve compatibility, or further debug and correct the modification to the application software. This requirement shall hold true to version upgrades of third party software where it impacts the performance of the application software.

(8). Installation of all software shall be coordinated with DIA Security and normally occur after 10:00 PM only on weekdays and at times on weekends as directed by the CAISS Administrator or Director of Security. All software loads will be conducted in the presence of the DIA CAISS Administrator or person as designated by the Director of Security. Written documentation of all software added or altered shall be provided to the DIA CAISS Administrator or Director of Security at least 72 hours in advance of installing such software.

(9). Where implementation of a software release, upgrade or modification is implemented on the system to satisfy the requirements of the software support portion of this specification alters the system operational functionality, CCS shall provide the necessary training and documentation to the system users. Training shall conclude when users are deemed fully informed and competent as determined jointly between CCS and the DIA CAISS Administrator or Director of Security. Documentation will be provided 72 hours in advance of the installation of such software release, upgrade, or modification.

(10). Understanding that CCS does not have an access control system in their place of business which is of similar size, scope and complexity as the installed system at DIA, CCS shall dispatch personnel to the site as necessary to support the resolution of Major and Minor Failures utilizing the installed system. DIA shall designate a network computer that CCS can use to install diagnostic software. All diagnostic software shall be provided or created by CCS and installed on the DIA system only after review and approval by the DIA CAISS Administrator. Any diagnostic software installed as part of this specification shall become property of DIA. This review as requested by the DIA CAISS Administrator may include review of application software source code. Where, as determined jointly between CCS and the DIA CAISS Administrator, this level of review is necessary, CCS shall provide all application source code, methods and tools necessary to achieve this review. When performing diagnostic routines on the installed system, all activities and procedures shall be fully coordinated with the DIA CAISS Administrator.

(11). Where CCS identifies a software bug and it is resident in a third party software package, CCS shall make every attempt to resolve the bug with the third party software vendor. When this is not possible, CCS shall make

every reasonable attempt to circumvent the bug through alternate code or other means as coordinated with and agreed to by the DIA CAISS Administrator or Director of Security.

(12). Integration of Modified, Developed or Added Software

Any modification, development, or addition to the software described in paragraph 5 of this Scope of Work shall become part of the software.

B. Technical Support

(1). CCS shall provide technical support services in the execution of this specification. Technical support will be conducted during CCS's normal working hours. CCS shall be available via telephone or CCS's place of business to assist DIA Staff in the resolution of technical questions.

Typical technical support activities shall include but not be limited to:

a. Defining queries / reports

b. Diagnostic procedures and methods

c. Resolving Windows 2003, 2008, and 2012 Servers, Windows XP and Windows 7 Workstations, network services configuration and operational questions

d. Resolving DB2 and/or SQL Server configuration and operational questions

e. Resolving Crystal Reports configuration and questions

f. Resolving application software configuration & operational issues

g. IDC problem resolution / support

h. Resolving other hardware issues

i. Developing, Integrating with and/or Interfacing to other software and hardware applications and equipment, as directed by the DIA CAISS Administrator or Director of Security.

C. Hardware support

(1). Hardware support shall ordinarily be limited to diagnostic and technical assistance for the hardware elements of the DIA CAISS, including network components and peripherals, except in those cases where the hardware elements have been provided by CCS and are under warranty. In support of the resolution of Major Failures/anomalous events, CCS shall respond if requested to the site to provide hardware support. Should the cause of the major abnormal system operation be determined to be the result of a hardware failure or instability, CCS shall assist DIA technical staff in the identification and repair of failed hardware. This shall include configuring and connecting alternate or spare equipment furnished by DIA and making general repairs.

D. System Documentation

(1). Where a modification to DIA's systems is implemented as a result of any action by CCS, that work shall be documented in full. This includes all operations and maintenance manuals affected and shall be submitted 72 hours in advance of the implementation of modification. This requirement does not include as-built CAD drawings of physical changes, except when CCS are responsible for construction of such changes. CCS shall assist in answering DIA questions regarding as-built conditions as part of the on-call technical support.

(2). DIA will make available to CCS a full set of the system as-built drawings for their use in the execution of this Agreement and shall include all of those drawings provided to DIA as part of the F-205A contract as-built deliverables and subsequent additions and modifications. Any changes to the system required by CCS that are not depicted on the current as-built drawings provided shall be documented by CCS in red-line form to DIA Engineering for incorporation into the as-built drawings.

6. AVAILABILITY AND RESPONSE TIME

A. The requirements of this Agreement mandate that qualified personnel be available on an on-call basis, (24) twenty-four hours per day (7) seven days per week to provide support for different event types. The airport operator will notify CCS through a number provided by CCS. CCS shall be notified only after a reasonable effort has been made by DIA technical staff to resolve the problem, and advice CCS of the problem, symptoms and severity as well as the time the event occurred. Those persons authorized by DIA to request the assistance of CCS shall include:

(1). DIA CAISS Administrator

(2). DIA CAISS Coordinators

(3). Director of Security

Refer to Attachment 1 to these Technical Provisions for the names and contact numbers of those individuals authorized as indicated above, who have the authority to contact and mobilize CCS in the resolution of an event.

B. Response times by this Contractor to events shall be proportionate to the severity of the event. Contractor response times and involvement requirements in supporting DIA are based on the severity of the reported problem and shall be as indicated below. CCS shall furnish and maintain a list of employees who will respond on CCS's behalf to Level 1, 2 and 3 events.

(1). Level 1 event: Computerized Airport Integrated Security System "CAISS" completely non-dysfunctional (off-line): This is a CAISS System Major Failure where malfunction of affected system elements results in an inability of the CAISS system to control and monitor access to restricted areas of the facility.

Response by telephone to a Level 1 event shall be as soon as possible and, in any case, no greater than thirty (30) minutes after report of a problem by DIA. If requested by authorized DIA contacts, CCS is required to be at the site to assist in resolving the problem within one (1) hour.

(2). Level 2 event: CAISS System Malfunction not resulting in a system off-line state but exhibiting "Major Abnormal Operation:"

Response by telephone to a Level 2 event shall be no greater than two (2) hours after report of problem by DIA. If requested by authorized DIA contacts, CCS will be required to be available at the site within two (2) hours of the request to assist in the resolution of the problem.

(3). Level 3 event: Minor Abnormal CAISS Operation not resulting in instability of the system, but one or more components exhibiting abnormal operation.

Upon notification by DIA of a system state exhibiting Minor Abnormal Operations, CCS shall respond via telephone within eight (8) business hours. Resolution of minor abnormal operation problems by CCS may be conducted via the telephone. CCS shall not be required to be present at the site to resolve Level 3 problems.

7. PENALITES

CCS shall be subject to financial penalties for failure to meet the response times and performance requirements specified in this Scope of Work. Penalties incurred by CCS shall be deducted from the monthly invoice and be assessed as follows:

A. Failure to respond to a Level 1 event request for support: $500.00 for not responding by telephone within the specified period, and $250.00 for each subsequent hour.

B. Failure to respond to a Level 2 event request for support: $200.00 for not responding by telephone within the specified period, and $100.00 for each subsequent hour.

C. Failure to respond to a Level 3 event request for support: $100.00 for not responding by telephone within the specified eight hour period (during normal working hours), and $ 50.00 for each subsequent 8 hour period.

D. Failure to resolve minor failures within the specified 60-day time frame: $100.00 per day until corrected.

8. RESERVED

9. COMPENSATION

The compensation under this Agreement is:

A. $ <u>90,000.00</u> allocated annually for execution of:

7/24 On Call support of the DIA CAISS system. On-Call support shall include production and/or modification of system RLY's and RLL's as necessary to implement replacement changes and upgrades to the IDC hardware.

B. $ <u>75,000.00</u> allocated annually for modification of the Maxx-Net application programs, and development of 3rd party software interfaces as may be

requested by DIA to support required system changes, software development and all other types of work. Specifications for the changes and/or development requested shall be made in writing by DIA, and estimates shall be provided by Cyber Country Systems of the cost and schedule for accomplishing such changes. A written Work Order may then be issued by DIA, authorizing the specified work.

C. Where DIA has requested cooperation of CCS with third-party vendors resulting in costs to CCS, a written estimate of such costs shall be submitted to DIA for authorization prior to commencement of any associated work. Authorized work may be invoiced upon completion of the associated work by CCS, exclusive of completion of any work by such third-party vendor.

10. INVOICING

A. It is in the interest of DIA that any compensation due CCS as a result of work authorized under the terms of this Agreement be properly paid in a timely fashion. It is DIA's intention to prevent the accumulation of receivables, as claims from one party of the Agreement against another, arising out of performance of authorized work under this Agreement. CCS will consequently provide the DIA CAISS Administrator a quarterly summary of payments received for work performed under this Agreement.

B. The compensation due under item Section 9. A. above, may be invoiced upon execution of this Support Agreement and annually thereafter for the term of this Agreement.

C. Compensation due as a result of system modifications under Section 9. B. above, shall be invoiced following completion of work authorized by Work Order.

D. Compensation due as a result of system modifications under Section 9. C. above, shall be invoiced following completion of the work authorized.

E. Where CCS has been authorized to perform work by DIA at an hourly rate, such invoiced rate shall not exceed $125.00 per hour for software development work or $95.00 for all other types of work unless specifically presented in a quotation and accepted by DIA as approved work.

11. ESCROW OF MATERIALS AND REMEDIES IN DEFAULT OF AGREEMENT

A. In order to protect DIA against non-performance of these requirements by the parties to this agreement, copies of all source code materials and engineering drawings of all elements of the systems in use at DIA, shall be escrowed; deposited with the DIA Airport Security management staff and maintained at Denver International Airport and at its designated Disaster Recovery site. These materials shall be updated, as necessary, to incorporate all additions and modifications to software and hardware system elements over the term of this and subsequent Agreements.

B. In the event of failure to perform as described in §11.C through E below, it shall be the right of DIA to use these materials and contract with any party it may select to maintain and develop the system owned and used by DIA. CCS explicitly agrees to inform all of its normal material suppliers that DIA shall have the right to continue to order component materials used in its normal

course of business to continue operation and development of the system. CCS further agrees to provide DIA with a list of those suppliers and manufacturers and their respective products as used at DIA to further facilitate this activity should CCS discontinue normal business operations for any reason. It shall not be the right of DIA to commercialize these materials in competition with CCS. DIA shall not distribute any materials escrowed under the terms of the Agreement except as herein provided for rightful maintenance and development of DIA's systems.

C. Should CCS, during the term of this Agreement, discontinue normal business operations due to liquidation, business failure, or any other reason, CCS shall be considered in default of this Agreement and DIA shall have the rights specified in §11 A through B, above.

D. Should CCS, Inc. refuse or be unable to perform the requirements of this Agreement, CCS shall be considered in default of this Agreement and DIA shall have the rights specified in §11 A through B, above, unless the default is cured as provided in §11 F, below.

E. Should DIA allege that CCS is in default of this agreement, it shall notify, in writing, CCS of the default condition(s). CCS shall have thirty (30) days to cure the condition(s) comprising the default. CCS shall notify DIA, in writing, or the intent to cure the condition(s) and the steps taken to cure them.

12. EXCLUSIONS

CCS shall be held harmless, and any work required in corrective measures shall not be considered within this Agreement, under the following conditions:

A. Damages resulting from any causes beyond the reasonable control of CCS such as but not limited to:

(1). Improper operation of said equipment or due to attack, civil commotion, storms, theft, fire, flood, lightning, war or other acts of God,

(2). Settling of walls or foundations, abuse or usage of equipment other than as designated or intended.

(3). Malfunctions caused by work performed by other than a CCS representative, agent or assignee or DIA technical staff trained by a CCS representative, or malfunction

(4). Failure resulting from interconnection of foreign equipment not previously approved by CCS (present configuration understood to include all third party interfaces presently connected to the system).

(2). Damage resulting from the movement of the equipment after its initial installation by other than a CCS representative, agent or assignee or DIA technical staff trained by CCS.

(3). Malfunctions or breakdowns of equipment not installed to the manufacturer's specifications, or of equipment which utilizes supplies or expendable items such as but not limited to: cards (punch), ribbons or journal paper which do not meet manufacturer's specifications.

13. SENSITIVE SECURITY INFORMATION

A. All elements of the systems owned and operated by DIA covered under this Agreement are considered Sensitive Security Information ("SSI") under 49 CFR Parts 15 and 1520. All documents referencing any element of the systems covered under this Agreement are subject to SSI control and must be marked at the top of the page with the banner "SENSITIVE SECURITY INFORMATION" and at the bottom of each page with the following SSI statement:

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR Parts 15 and 1520. No part of this document may be disclosed to persons without a "need to know," as defined in 49 CFR 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. Government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR Parts 15 and 1520.

ATTACHMENT 1

Airport Security System Support Agreement

Scope of Work ; Authorized Contacts

Authorized representatives of DIA/Department of Aviation/Airport Security:

DIA CAISS Administrator

Ed Ahr
Tel (303) 342-2923 Cell (720) 434-0071

DIA CAISS Coordinator

Chris Reither
Tel (303) 342-4316 Cell (303) 591-5842

Jon Rodan
Tel (303) 342-2779 Cell (303) 359-4536

DIA Director of Security

Adam Steffl
Tel (303) 342-4123

Assistant Security Directors

Mark Inzana
Tel (303) 342-2839

John Smithwick
Tel (303) 342-4312

Airport Security Managers

Rick Graves
Tel (303) 342-4302

Alisha Lopez
Tel (303 342-4344

Joe Sinisi
Tel (303) 342-4353

Marcus Doyle
Tel (303) 342-4328

Alex Jackson
Tel (303) 342-4339

Marie Surratt
Tel (303) 342-2023

Fax number for Airport Security is (303) 342-4319

Upon notification of a Major or Minor Failure in these systems, CCS shall contact, in order, one of the above persons to coordinate resolution of the failure.

The Airport Communications Center is available to contact any of the above at (303) 342-4210.

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, Room 8810
Denver CO 80249

CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: 201842903 – Airport Security System Support

I. MANDATORY COVERAGE

Colorado Workers' Compensation and Employer Liability Coverage

Coverage: COLORADO Workers' Compensation

Minimum Limits of Liability (In Thousands)

WC Limits: $100, $500, $100

And Employer's Liability Limits:

Any Policy issued under this section must contain, include or provide for the following:

1. All States Coverage or Colorado listed as a covered state for the Workers' Compensation
2. Waiver of Subrogation and Rights of Recovery against the City and County of Denver (the "City"), its officers, officials and employees.
3. State Of Colorado law states that if a contractor is a sole proprietor, they are not required to have Workers Compensation coverage.

Commercial General Liability Coverage

Coverage: Commercial General Liability (coverage at least as broad as that provided by ISO form CG0001 or equivalent)

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

Any Policy issued under this section must contain, include or provide for the following:

1. City, its officers, officials and employees as additional insureds, per ISO form CG2010 and CG 2037 or equivalents.
2. Coverage for defense costs of additional insureds outside the limits of insurance, per CG0001.
3. Liability assumed under an Insured Contract (Contractual Liability).
4. The full limits of coverage must be dedicated to apply to this project/location, per ISO form CG2503 or equivalent.
5. Waiver of Subrogation and Rights of Recovery, per ISO form CG2404 or equivalent.
6. Separation of Insureds Provision required
7. General Aggregate Limit Applies Per: Policy ___Project ____Location_____, if applicable

Business Automobile Liability Coverage

Coverage: Business Automobile Liability (coverage at least as broad as ISO form CA0001)

Minimum Limits of Liability (In Thousands): Combined Single Limit $1,000

Any Policy issued under this section must contain, include or provide for the following:

1. Symbol 1, coverage for any auto. If no autos are owned, Symbols 8 & 9, (Hired and Non-owned) auto liability.
2. If this contract involves the transport of hazardous cargo such as fuel, solvents or other hazardous materials may occur, then Broadened Pollution Endorsement, per ISO form CA 9948 or equivalent and MCS 90 are required.

II. ADDITIONAL COVERAGE

Umbrella Liability

Coverage:

Umbrella Liability, Non Restricted Area
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

Any Policy issued under this section must contain, include or provide for the following:

1. City, its officers, officials and employees as additional insureds.
2. Coverage in excess of, and at least as broad as, the primary policies in sections WC-1, CGL-1, and BAL-1.
3. **If operations include unescorted airside access at DIA, then a $9 million Umbrella Limit is required.**

Professional Liability Information Technology Contracts

Coverage: Professional Liability including Cyber Liability for Errors and Omissions
(If contract involves software development, computer consulting, website design/programming, multi-media designers, integrated computer system design, data management, and other computer service providers.)

Minimum Limits of Liability (In Thousands) Per Claim $1,000

Any Policy issued under this section must contain, include or provide for the following:

1. The insurance shall provide coverage for the following risks:
   a. Liability arising from theft, dissemination and / or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form
   b. Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party, to gain access to your services including denial of service, unless caused by a mechanical or electrical failure
   c. 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.
2. 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 two (2) years beginning at the time work under the Contract is completed.

3 Any cancellation notice required herein may be provided by either certified or regular mail.

4. The policy shall be endorsed to include the City, its elected officials, officers and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of the Insured
5. Coverage must include advertising injury, personal injury (including invasion of privacy) and 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

- All coverage provided herein shall be primary and any insurance maintained by the City shall be considered excess.
- With the exception of professional liability and auto liability, a Waiver of Subrogation and Rights of Recovery against the City, its officers, officials and employees is required for each coverage period.
- 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.
- Advice of renewal is required.
- With the exception of Workers Compensation, all insurance companies issuing policies hereunder must carry at least an A -VI rating from A.M. Best Company or obtain a written waiver of this requirement from the City's Risk Administrator.
- Compliance with coverage requirement by equivalent herein must be approved in writing by the City's Risk Administrator prior to contract execution.
- 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.