

**AGREEMENT FOR OPERATION AND MAINTENANCE OF SOUTH CAMPUS DATA
CENTER**

BETWEEN

CITY AND COUNTY OF DENVER

AND

JOHNSON CONTROLS, INC.

**AT
DENVER INTERNATIONAL AIRPORT**

AGREEMENT

THIS AGREEMENT FOR OPERATION AND MAINTENANCE (Contract Number PLANE-201416952-00) ('Agreement'), made and entered into as of the date set forth on the signature page below (the "Effective Date") by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("City"), Party of the First Part, and **JOHNSON CONTROLS, INC.**, a corporation organized under the laws of Wisconsin and authorized to do business in Colorado ("Consultant"), Party of the Second Part;

WITNESSETH:

WHEREAS, the City owns and operates Denver International Airport ("DIA" or the "Airport"), and desires to purchase operation and maintenance services and related equipment for the Denver International Airport Modular Data Center, at Denver International Airport; and

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

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

1. LINE OF AUTHORITY:

The City's Chief Executive Officer of Aviation (CEO), her designee or successor in function (the "CEO of Aviation" or the "CEO") authorizes all work performed under this Agreement. The CEO hereby delegates her authority over the work described herein to the Airport's Senior Vice President of Technologies (the "SVP of Technologies") as the CEO's authorized representative for the purpose of administering, coordinating and approving work performed by the Consultant under this Agreement. The SVP of Technologies' 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 SVP of Technologies may rescind or amend any such designation of representatives or delegation of authority and the SVP of Technologies may from time to time designate a different individual to act as Project Manager, upon notice to the Consultant.

2. SCOPE OF WORK:

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

B. Additional Services: The Consultant may also perform services, hereinafter referred to as "Additional Services," which relate to the subject matter of this Agreement, but

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

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

3. TERM:

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

4. COMPENSATION AND PAYMENT:

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

B. Reimbursement Expenses: There are no reimbursable expenses allowed under this Agreement, unless approved in writing, in advance, by the SVP of Technologies.

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 Nine Hundred Seventy Eight Thousand

Seventy Five Dollars and 00 Cents (\$978,075) (the “Maximum Contract Liability”). Funding under the provisions of this paragraph 4.D. may be payable from the City’s Airport System Capital Replacement Fund and/or Airport Operations and Maintenance Fund. The Consultant acknowledges that the City is not obligated to execute an Order, agreement or an amendment to this Agreement for any services and that any services performed by Consultant beyond that specifically described in an Order are performed at Consultant’s risk and without authorization under this Agreement.

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

5. TAXES AND COSTS:

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

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

C. The City affirms that it is a tax-exempt entity under the Laws of the State of Colorado and this purchase qualifies for the Denver and Colorado sales tax exemption for sales to the United States government, the State of Colorado, its departments and institutions, and its political subdivisions (county and local governmental, school districts and special districts); is a government purchase used only in an official governmental capacity; and will be paid directly by a government agency. Taking into account the City’s status, Consultant confirms that all Charges are inclusive of all taxes, levies, duties and assessments (“Taxes”) of every nature in effect as of the Effective Date and due in connection with its performance of its obligations under this Agreement. Consultant is responsible for payment of such Taxes to the appropriate governmental authority.

6. STATUS OF CONSULTANT:

It is agreed and understood by and between the parties hereto that the status of the Consultant shall be that of an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.1(E)(x) of the Charter of the City and County of Denver, and it is not intended, nor shall it be construed, that

the Consultant or its personnel are employees or officers of the City under Chapter 18 of the Revised Municipal Code for any purpose whatsoever.

7. NO AUTHORITY TO BIND CITY TO CONTRACTS:

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

8. PERSONNEL ASSIGNMENTS:

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

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

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

D. All key professional personnel identified by the Consultant will be assigned by the Consultant or subcontractors to perform work under the Work. The SVP of Technologies must approve additional personnel in writing. It is the intent of the parties hereto that all key professional personnel be engaged to perform their specialty for all such services required by the Work, and that the Consultant's and the sub-consultant's key professional personnel be retained for the life of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed hereunder.

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

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

9. SUBCONTRACTORS:

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

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

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

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

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

B. The Consultant certifies that:

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

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

C. The Consultant also agrees and represents that:

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

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

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

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

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

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

11. NO DISCRIMINATION IN EMPLOYMENT:

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

12. DSBO GOALS:

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

13. PREVAILING WAGES:

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

14. PROMPT PAY:

The Consultant is subject to D.R.M.C. Section 20-112 wherein the Consultant is to pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven days after receipt of any payment from City. Any late payments are subject to a late payment penalty as provided for in the prompt pay ordinance (Section 20-107 through 20-118).

15. CITY REVIEW OF PROCEDURES:

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

16. COORDINATION OF SERVICES:

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

17. INSURANCE:

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

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

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

D. The City's acceptance of any submitted insurance certificate is subject to the approval of the City's Risk Management Administrator. All coverage requirements specified in the certificate shall be enforced unless waived or otherwise modified in writing by the City's Risk Management Administrator.

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

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

18. DEFENSE AND INDEMNIFICATION:

A. Consultant hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees 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.

19. COLORADO GOVERNMENTAL IMMUNITY ACT:

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

20. INTELLECTUAL PROPERTY INDEMNIFICATION AND LIMITATION OF LIABILITY:

Consultant shall (i) defend City against any third party claim that the Work, or materials provided by Consultant to City infringe a patent, copyright or other intellectual property right, and (ii) pay the resulting costs and damages finally awarded against City by a court of competent jurisdiction or the amounts stated in a written settlement signed by Consultant. The foregoing obligations are subject to the following: the City (a) notifies the Consultant promptly in writing of such claim, (b) grants the Consultant sole control over the defense and settlement thereof subject to the final approval of the City Attorney, and (c) reasonably cooperates in response to request for assistance. Should such a claim be made, or in the Consultant's opinion be likely to be made, the

Consultant may, at its option and expense, (1) procure for the City the right to make continued use thereof, or (2) replace or modify such so that it becomes non-infringing. If the preceding two options are commercially unreasonable, then Consultant shall refund the portion of any fee for the affected Work. The Consultant shall have no indemnification obligation to the extent that the infringement arises out of or relates to: (a) the use or combination of the subject Work and/or materials with third party products or services, (b) use for a purpose or in a manner for which the subject Work and/or materials were not designed in accordance with Consultant's standard documentation; (c) any modification to the subject Work and/or materials made by anyone other than the Consultant or its authorized representatives, if the infringement claim could have been avoided by using the unaltered version of the Work and/or materials, (d) any modifications to the subject Work and/or materials made by the Consultant pursuant to the City's specific instructions, or (e) any technology owned or licensed by the indemnitee from third parties. THIS SECTION STATES THE INDEMNITEE'S SOLE AND EXCLUSIVE REMEDY AND THE INDEMNITOR'S ENTIRE LIABILITY FOR THIRD PARTY INFRINGEMENT CLAIMS.

21. OWNERSHIP OF WORK PRODUCT:

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

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

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

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

23. ADVERTISING AND PUBLIC DISCLOSURES:

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

24. COLORADO OPEN RECORDS ACT:

The Consultant acknowledges that the City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes §24-72-201 et seq., and the Consultant agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such act for the disclosure of any materials or information which the Consultant asserts is confidential and exempt from disclosure. Any other provision of this Agreement notwithstanding, including exhibits, attachments and other documents incorporated into this Agreement by reference, all materials, records and information provided by the Consultant to the City shall be considered confidential by the City only to the extent provided in the Open Records Act, and the Consultant agrees that any disclosure of information by the City consistent with the provisions of the Open Records Act shall result in no liability of the City.

25. DATA CONFIDENTIALITY:

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

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

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

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

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

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

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

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

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

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

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

26. EXAMINATION OF RECORDS:

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

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

27. INFORMATION FURNISHED BY CITY:

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

28. TERMINATION:

A. The City has the right to terminate this Agreement without cause on thirty (30) days written notice to the Consultant, and with cause on ten (10) days written notice to the Consultant. In the event of a termination for cause, the written notice to the Consultant shall identify the cause or breach which gave rise to the notice and Consultant shall be entitled to cure any breach or correct any cause within such ten (10) day period. However, nothing herein shall be construed as giving the Consultant the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the CEO.

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

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

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

E. In no event, whether in contract, tort or otherwise (including breach of warranty, negligence and strict liability in tort), will a party be liable for exemplary or punitive damages, even if such party has been advised of the possibility of such damages in advance and even if a remedy set forth herein is found to have failed of its essential purpose.

F. UNDER NO CIRCUMSTANCES WILL THE AMOUNT OF EACH PARTY'S DAMAGES OR LIABILITY UNDER THIS AGREEMENT EXCEED three times (3x) the Maximum Contract Liability of the Agreement set forth in paragraph 4.D, above.

29. RIGHTS AND REMEDIES NOT WAIVED:

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

30. SURVIVAL OF CERTAIN CONTRACT PROVISIONS:

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

31. NOTICES:

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

by Consultant to: CEO of Aviation
 Denver International Airport
 8500 Peña Boulevard, 9th Floor
 Denver, Colorado 80249-6340

And by City to: Johnson Controls, Inc.
 10289 W. Centennial Rd.
 Littleton, CO 80127

Said notices shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification thereof.

32. NO THIRD PARTY BENEFICIARIES:

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

33. ASSIGNMENT:

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

34. CONFLICT OF INTEREST:

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

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

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

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

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

36. COMPLIANCE WITH ALL LAWS AND REGULATIONS:

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

37. FEDERAL PROVISIONS:

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes and the expenditure of federal funds for the extension, expansion or development of the Denver Municipal Airport System, including DIA. The provisions of the attached Appendices Nos. 1 and 3 are incorporated herein by reference.

38. AIRPORT SECURITY:

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

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

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

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

39. 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.

40. 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.

41. PARAGRAPH HEADINGS:

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

42. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:

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

- Appendix No. 1: Standard Federal Assurances
- Appendix No. 3: Nondiscrimination in Airport Employment Opportunities
- Exhibit A: Scope of Work
- Exhibit B: Certificate of Insurance

In the event of an irreconcilable conflict between a provision of Sections 1 through 53 and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

- Appendices No. 1 and 3
- Sections 1 through 53 hereof
- Exhibit A
- Exhibit B

43. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS:

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

44. INUREMENT:

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

45. FORCE MAJEURE:

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

46. SEVERABILITY; ENTIRE AGREEMENT:

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

47. COUNTERPARTS OF THIS AGREEMENT:

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

48. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:

Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically the City in the

manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

49. CITY EXECUTION OF AGREEMENT:

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

50. WARRANTY.

Consultant warrants that materials and equipment furnished by Consultant will be of good quality and new; that the Work will be free from defects not inherent in the quality required or permitted; and that the Work and Services will conform to the requirements of the Agreement Documents. Consultant warrants that the Work shall be free from defects in material and workmanship arising from normal usage for a period of one year from the date of substantial completion and that its Services will be free from defects in workmanship, design and material from the date that the Services are performed, or for one year. Upon written notice from the City, Consultant shall, at its option, repair or replace the defective Work or re-perform defective Services. These warranties do not extend to any Work or Services that have been abused, altered, misused, or repaired by the City or third parties without the supervision of and prior written approval of Consultant; or if Consultant serial numbers or warranty date decals have been removed or altered. The City must promptly report any failure of the Equipment to Consultant in writing.

THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE. If JCI installs or furnishes a piece of equipment under this Agreement, and that equipment is covered by a warranty from the manufacturer, JCI will transfer the benefits of that manufacturer's warranty to City if this Agreement with City terminates before the equipment manufacturer's warranty expires.

51. ASBESTOS CONTAINING MATERIALS.

Consultant does not desire to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal, or disposal of asbestos-containing materials ("ACM"). Consistent with applicable laws, City shall supply CONSULTANT with any information in its possession relating to the presence of ACM at any of its facilities where CONSULTANT undertakes any Work or Services that may result in the disturbance of ACM. It is CONSULTANT's policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and City shall provide such certification for buildings it owns, or aid

CONSULTANT in receiving such certification from facility owners in the case of buildings that it does not own, if CONSULTANT will undertake Work or Services in the facility that could disturb ACM. If either City or CONSULTANT becomes aware of or suspects the presence of ACM that may be disturbed by CONSULTANT's Work or Services, it shall immediately stop the Work or Services in the affected area and notify the other's contacts. As between City and CONSULTANT, City shall be responsible at its sole expense for addressing the potential for or the presence of ACM in conformance with all applicable laws and addressing the impact of its disturbance before CONSULTANT continues with its Work or Services, unless CONSULTANT had actual knowledge that ACM was present and acted in disregard of that knowledge, in which case (i) CONSULTANT shall be responsible at its sole expense for remediating areas impacted by the disturbance of the ACM, and (ii) City shall resume its responsibilities for the ACM after CONSULTANT's remediation has been completed.

"Other Hazardous Materials: CONSULTANT shall be responsible for removing or disposing of any Hazardous Materials that it uses in providing Work or Services ("CONSULTANT Hazardous Materials") and for the remediation of any areas impacted by the release of CONSULTANT Hazardous Materials. For other Hazardous Materials that may be otherwise present at its facilities ("Non-CONSULTANT Hazardous Materials"), City shall supply CONSULTANT with any information in its possession relating to the presence of such materials if their presence may affect CONSULTANT's performance of the Work or Services. If either City or CONSULTANT becomes aware of or suspects the presence of Non-CONSULTANT Hazardous Materials that may interfere with CONSULTANT's Work or Services, it shall immediately stop the Work or Services in the affected area and notify the other's contacts. As between City and CONSULTANT, City shall be responsible at its sole expense for removing and disposing of Non-CONSULTANT Hazardous Materials from its facilities and the remediation of any areas impacted by the release of the Non-CONSULTANT Hazardous Materials, unless CONSULTANT had actual knowledge that Non-CONSULTANT Hazardous Materials were present and acted in disregard of that knowledge, in which case (i) CONSULTANT shall be responsible at its sole expense for the remediation of any areas impacted by its release of such Hazardous Materials, and (ii) City shall remain responsible at its sole expense for the removal of Hazardous Materials that have not been released and for releases not resulting from CONSULTANT's performance of the Work or Services.

"Environmental Indemnity: Notwithstanding any other provision of the Agreement, and to the fullest extent permitted by law, City shall indemnify and hold harmless the CONSULTANT and CONSULTANT's subcontractors, and their respective directors, officers, employees, agents, representatives, successors and assigns from and against any and all losses, costs, damages, expenses (including reasonable legal fees and costs of defense), claims, causes of action or liability, directly or indirectly, relating to or arising from the City's use, or the storage, release, discharge, handling or presence of ACM, mold (actual or alleged and regardless of the cause of such condition) or Non-CONSULTANT Hazardous Materials on, under or about the facility, or the noncompliance with this Section.

[SIGNATURE PAGE FOLLOWS]

Contract Control Number:

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

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



APPENDIX NO. 1
STANDARD FEDERAL ASSURANCES

NOTE: As used below the term "contractor" shall mean and include the "Party of the Second Part," and the term "sponsor" shall mean the "City".

During the term 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 shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, creed or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontractors, 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall 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 (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor of the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX NO. 3

NONDISCRIMINATION IN AIRPORT EMPLOYMENT OPPORTUNITIES

The Party of the Second Part assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision obligates the Party of the Second Part or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide or is in the form of personal property or real property or an interest therein or structures or improvements thereon. In these cases, this Provision obligates the Party of the Second Part or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this Provision binds the contractors from the bid solicitation period through the completion of the contract.

It is unlawful for airport operators and their lessees, tenants, concessionaires and contractors to discriminate against any person because of race, color, national origin, sex, creed, or handicap in public services and employment opportunities.

Planned Service and Operations Proposal

Partnering with you to

CUSTOMER

Denver International Airport
South Campus Data Center
Operations and Maintenance Agreement
Contract Exhibit A

LOCAL JOHNSON CONTROLS OFFICE

10289 W CENTENNIAL RD
LITTLETON , CO 80127-4216

DATE

6/24/2015



deliver value-driven solutions

A Planned Service Agreement with Johnson Controls provides you with a customized service strategy designed around the needs of your facility. Our approach features a combination of scheduled, predictive and preventative maintenance services that focus on your goals

As your building technology services partner, Johnson Controls can help ensure your building is performing at optimum levels. By integrating our service expertise with innovative processes and technologies, our value-driven planned service solutions deliver sustainable results, minimize equipment downtime and maximize occupant comfort.

Executive Summary

**JOHNSON CONTROLS PLANNED SERVICE PROPOSAL
DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER**

**PLANNED SERVICE AND OPERATION PROPOSAL FOR DENVER INTERNATIONAL
AIRPORT SOUTH DATA CENTER**

We value and appreciate your interest in Johnson Controls as a service provider for your building systems and are pleased to provide a value-driven maintenance solution for your facility. The enclosed proposal outlines the Planned Service Agreement we have developed on your facility.

Details are included in the Planned Service Agreement, but highlights are as follows:

- In this proposal we are offering a service agreement for 3 years
With estimated start date of 10/01/2015 and ending 09/30/2018.
- The agreement price for first year is \$316,825; see Schedule A, Supplemental Price, Terms and Conditions, for pricing in subsequent years.
- The service scope of work being provided for the project are described in Attachment A, Scope of Work.

As a manufacturer of both mechanical and controls systems, Johnson Controls has the expertise and resources to provide proper maintenance and repair services for your facility.

Again, thank you for your interest in Johnson Controls and we look forward to becoming your building technology services partner.

Please contact me if you have any questions.

Sincerely,

Steve Nixon

Steve R. Nixon
Account Executive
303 868-5587

Benefits of Planned Service

A Planned Service Agreement with Johnson Controls will allow you to optimize your building's facility performance, providing dependability, sustainability and energy efficiency. You'll get a value-driven solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.



With this Planned Service Agreement, Johnson Controls can help you achieve the following five objectives:

1. Identify Energy Savings Opportunities

Since HVAC equipment accounts for a major portion of a building's energy usage, keeping your system performing at optimum levels may lead to a significant reduction in energy costs.

2. Reduce Future Repair Costs

Routine maintenance may maximize the life of your equipment and may reduce equipment breakdowns.

3. Ensure Occupant Comfort

A comfortable working environment enables employees to work more productively and may lead to increased job satisfaction.

4. Health and Safety

When proper indoor conditions and plant requirements are maintained, business results may be improved by minimizing sick leave and reducing accidents.

5. Protect the Environment

Greenhouse gas emissions can be minimized by maintaining equipment at peak efficiency, inspecting for refrigerant leaks and managing refrigerant charges.

All of the services we perform on your equipment are aligned with "The 5 Values of Planned Maintenance" and our technicians understand how the work they perform can help you accomplish your business objectives.

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Personalized Account Management

A Planned Service Agreement also provides you with the support of an entire team that knows your site and can closely work with you on budget planning and asset management. Your local Johnson Controls account management team can help guide planned replacement, energy retrofits and other building improvement projects. You'll have peace of mind that an entire team of skilled professionals will be looking out for what is best for your facility and budget.

A Culture of Safety

Johnson Controls technicians take safety seriously and personally, and integrate it into everything they do. All of our technicians participate in regular and thorough safety training. Because of their personal commitment, we are a leader in the HVAC service industry for workplace safety performance. This means that you do not have to worry about us when we are on your site.



Commitment to Customer Satisfaction

Throughout the term of your Planned Service Agreement, we will periodically survey you and use your feedback to continue to make improvements to our service processes and products. Our goal is to deliver the most consistent and complete service experience possible. To meet this goal, we've developed and implemented standards and procedures to ensure you receive the ultimate service experience – every time.

Energy & Sustainability

A more sustainable world one building at a time – Johnson Controls is a company that started more than 125 years ago with a product that reduced energy use in buildings. We've been saving energy for customers ever since. Today, Johnson Controls is a global leader in creating smart environments where people live, work and play, helping to create a more comfortable, safe and sustainable world.

The Value of Integrity

Johnson Controls has a long, proud history of integrity. We do what we say we will do and stand behind our commitments. Our good reputation builds trust and loyalty. In recognition for our commitment to ethics across our global operations, we are honored to be named one of the World's Most Ethical Companies for the fourth year in a row by Ethisphere Institute, a leading think tank dedicated to business ethics and corporate social responsibility. In addition, *Corporate Responsibility Magazine* recently recognized Johnson Controls as the #1 company in its annual "100 Best Corporate Citizens" list.



JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Service Plan Methodology

As part of the delivery of this Planned Service Agreement, Johnson Controls will dedicate a local customer service agent responsible for having a clear understanding of the agreement scope, and your facility procedures and protocols.

A high-level overview around our service delivery process is outlined below including scheduling, emergency service, on-site paperwork, communication and performing repairs outside of the agreement scope.

Scheduling

JCI HVAC Preventative maintenance service will be scheduled using our automated service management system. In advance of the scheduled service visit, our technician is sent a notice of service through a hand-held wireless device. Once the technician acknowledges the request, your customer service agent will call or e-mail your on-site contact to let you know the start date and type of service scheduled.

The technician checks in, wears personal protective equipment, performs the task(s) as assigned, checks out with you and asks for a screen capture signature on our hand-held device. A work order is then e-mailed, faxed or printed for your records.

Emergency Services

Emergency service can be provided 7 days a week, 24 hours a day, 365 days a year. During normal business hours, emergency service will be coordinated by the customer service agent. After hours, weekends and holidays, the emergency service number transfers to the Johnson Controls after-hours call center and on-call technicians are dispatched as needed.

Johnson Controls is committed to dispatching a technician within hours of receiving your call through the service line. A work order is e-mailed, faxed or printed for your records. Depending on the terms of your agreement, you may incur charges for after hour services.

Communication

A detailed communication plan will be provided to you so you know how often we will provide information to you regarding your Planned Service Agreement. The communication plan will also provide you with your main contacts at Johnson Controls.

Approval Process for Non-Covered Items

Johnson Controls will adhere to your procurement process. No work will be performed outside of the agreement scope without prior approval. Johnson Controls will work with you closely to ensure your procurement process is followed before any non-covered item work is started.

Summary of Services and Options

Comprehensive and Operational Inspections

During comprehensive and operational inspections, Johnson Controls will perform routine checks of the equipment for common issues caused by normal wear and tear on the equipment. Additional tests can be run to confirm the equipment's performance. Routine maintenance such as lubrication, cleaning and tightening connections, can be performed depending on the type of equipment being serviced. Routine maintenance is one of the keys to the five values of maintenance – it can help identify energy saving opportunities, reduce future repair costs, ensure occupant comfort, protect the environment and improve the health and safety of the building.

Summary

Thank you for considering Johnson Controls as your building technology services partner. The following agreement document includes all the details surrounding your planned service agreement.

With planned service from Johnson Controls, you'll get a value-driven solution that can help optimize your building controls and equipment performance, providing dependability, sustainability and energy efficiency. You'll get a solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

We'll be your building technology services partner

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Data Center Facilities Management

Data Center Management Philosophy

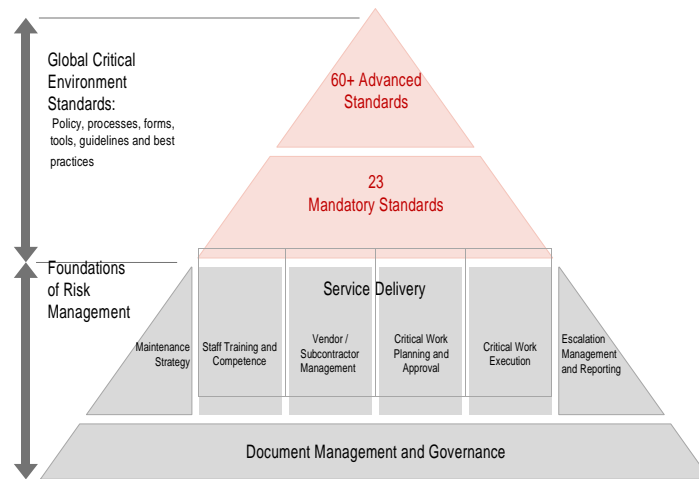
Johnson Controls understands the importance of maintaining the uptime of our customer's critical environments. We have proven strategies to manage and minimize the risk of change and to deploy best practice standards across all critical environments which we manage during transition and beyond.

- Our Global Center of Excellence for Critical Environments regularly convenes to share and agree the global standards and tools which will be adopted and deployed at the critical sites we manage. With over 750 highly critical environments managed for our customers across the globe – from large data centers and manufacturing facilities through to smaller critical server rooms and labs – we appreciate the importance of zero unplanned downtime and deliver this on a daily basis. In fact, the global critical environments program management standards we have put in place at our large global accounts have been reviewed by the Uptime Institute as the basis for a Johnson Controls best practice/standard for all global critical facilities management programs. Our critical environments expertise means we have the programs, processes, tools, technology and staffing to guarantee consistency and ensure uptime.
- We have highly skilled employees dedicated to providing services to mission critical facilities
- We have been in business since 1885 and we have been providing services to mission critical facilities since our first facilities contract in 1953.
- Our experience in maintaining critical facilities on a 24x7x365 basis – includes an impressive portfolio of large U.S. companies including Agilent, BNSF, CSC, Ericsson, ExxonMobil, IBM, Key Bank, GSK and others.

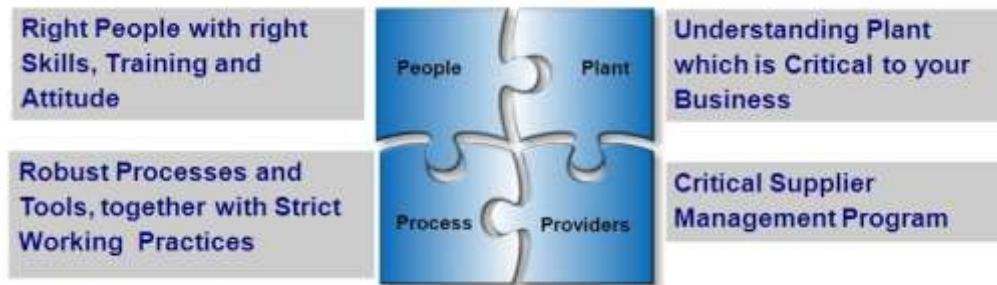
Johnson Controls has developed a suite of structured solutions that minimize operational risk and increase availability based on design intent. We have the ability to provide superior critical environment services in support of the critical load from Facility Commissioning to ongoing O&M risk management strategies. Our Critical Environment Management Services result in an optimized environment that means:

- Lowest operational risk
- Fewer emergency repairs.
- Maximum availability
- Longer equipment life.
- Lowest cost of ownership.
- Better capacity planning and forecasting.

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER



Our approach to managing Risk in Critical Environments is based on 7 Foundations of Risk Management as shown above. Each of these need to be effectively managed to reduce the likelihood of unplanned downtime occurring. We have developed a comprehensive Global Critical Environment Program, supported by a network of regional expert groups, which builds four Levels of Standards on these foundations covering People; Plant; Process and Providers.



Each of these levels shown above have a number of processes, procedures and best practice documents associated with them and is increasingly complex in terms of the work involved in implementation and execution. As such the degree to which these standards are applied will vary depending on the criticality of the plant, the funding available to reduce risk and our clients' attitude to risk management.

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Data Center Management Solutions

We deliver these benefits by integrating our field teams with a program that is supported by our critical facility experts in our Global Critical Environment Networks. With direction from our Global Operational Excellence Teams, we also utilize the experience of our field resources to perform on-site data collection, analysis and remediation services. Software tools improve our ability to analyze key performance and capacity metrics on mechanical and electrical infrastructure. These tools ensure improved efficiency and reliability for an individual data center or an entire enterprise. Our “core” Critical Environment Management technologies/services are grouped into the following categories:

- Critical Document Management Portal - CF Artisan
- Critical Position Development (CPD)
- Critical Environment Management Interface
- Risk Dashboard
- OPRA – Operational Performance & Risk Assessment

Reporting Features

All of the analyzed information is made available to the on-site Johnson Controls account team and directly to the customer. On a pre-determined basis, the Subject Matter Experts and Center of Excellence support teams will generate an enterprise report that summarizes CF Analyst data against the customer’s key performance indicators.

Critical Document Management Portal

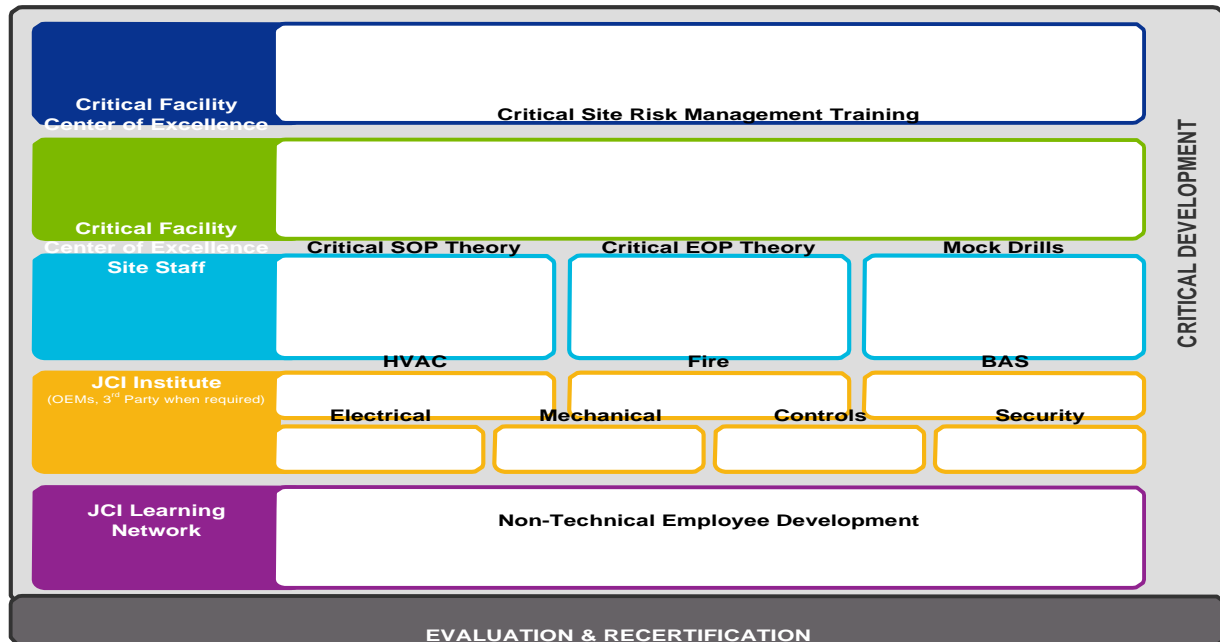
The document management tool is deployed to mitigate the largest risk in data centers, which is process error. This web-based tool is designed so each site can collect, develop and store all critical documentation for ease of access and controls. Utilizing a central database for all critical documentation allows for portfolio consistency and strict revision controls. In addition, all critical site data will be accessible to all stakeholders regardless where you are geographically located.

Critical Position Development - Critical Staff Training and Development

The universal requirement across multiple data centers is for continuous availability of supported applications. A highly skilled and competent staff is imperative. The methodology we use to track staff development is Critical Position Development (CPD). This application assigns tasks (including Sequences of Operation) to each staff member and contractors based on roles and responsibilities. A formal process is used to set up training plans, track competency levels and re-qualify each member annually. Progress reports are available to both site managers and our customers. In addition, the Critical Environments Operational Excellence teams are responsible for auditing staff development and progress. These centralized teams are also integrated into each account to ensure that the program & operations has the necessary governance to maximize effectiveness and consistency through continuous auditing.

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Skills Assessment & Development Plan



Critical Environment Measurement Interface

In order to ensure that all sites are compliant with the 23 Mandatory processes, we have developed a Critical Environment Measurement Interface (CEMI) to document compliance to the Global Critical Environment Standards. Each month, the designated account CE Staff member uses this tool to update compliance to the Global Critical Environment Standards.

Risk Dashboard Web-based Tool

The Risk Dashboard is a web-based tool utilized for critical environments to manage and assign the risk profile of site infrastructure, personnel training & development, process implementation and overall program compliance. This tool is also used to manage critical Key Performance Indicators (KPIs) so optimum site performance is met and exceeded.



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Data Center Operational Performance & Risk Assessment (OPRA)

An OPRA is a transition activity to identify risk in infrastructure & operations. This is designed to identify areas of risk in managing, operating and maintaining a critical facility. This review is unlike the more traditional engineering evaluations that target issues relating to only design or configuration. A risk assessment will assess all the primary resource elements of people and staffing, critical process management, existing infrastructure support systems and the current applied technologies. The typical areas that could be included in this report are:

- Electrical Infrastructure & Distribution Review –
 - Design concept review
 - Asset/system review & condition
 - Single point of failure analysis
 - Risk & Impact Statements per asset/system
 - Capacity Review & profile review
 - Capital planning costs/ROM Pricing(immediate to 5 yr)

- Mechanical Infrastructure & Distribution Review –
 - Design concept review
 - Asset/system review & condition
 - Single point of failure analysis
 - Risk & Impact Statements per asset/system
 - Capacity Review & profile review
 - Capital planning costs/ROM Pricing(immediate to 5 yr)

- Critical Facility Process, Program, Technology & Best Practices to include reviews of:
 - Maintenance Strategy
 - Critical Work Approval
 - Staff Design, Competency & Training
 - Subcontractor Management
 - Escalation & Incident Management/Planning
 - Critical Document Management
 - EOP & SOP Best Practices
 - Asset & Maintenance Frequency Review
 - Redundancy of Infrastructure Scorecard

The purpose of a risk assessment is to establish the requirements and capacity for supporting a customer's designated Critical Environments. A definition of a Critical Environment for this activity is that it is an area that is used to support a function deemed as *Critical* by the customer for their business. A commonly referred to metric for this type of application is that it must be available 100% of the required time or it will have serious impact to the customer's business operation. This desired metric might only be achieved if many diverse factors can be integrated to enable this outcome.

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A review of the status of the diverse elements that could affect the customer's desired metric attainment is at the core of the assessment process. The results of the audit are summarized in a report that contains recommendations, suggestions, risk & impact levels for a Critical Environment Management plan that will meet the desired customer metric. The customer, before contract execution, defines their specific audit requirements. There are several levels of review and documentation that could be provided to meet the goals of the customer and that specific critical facility.

Global Technical/Critical Environment Services Field Support Team & Comprehensive Continuous Risk Audit Program

One of the most important aspects of any critical environment risk management program is sustainability to maximize ongoing program effectiveness. Following the mobilization and discovery phases, the Global Technical Services Group will assign regional SME's for continuous auditing and technical support for all critical operations. This team will integrate into the operational model to ensure best practices are continuously utilized and technical expertise is applied at the site level. The sample scope of services that the technical team will deliver typically includes:

- KPI Management
- Disaster & Business Continuity Planning
- Training Administration & Support
- Method Statement & Procedure Development
- Document & Library Management
- Incident/Root Cause Analysis Reviews
- Environmental Reviews
- Capital Planning Support
- Specialized Troubleshooting & Technical Support
- Continuous Program Compliance/Risk Auditing
- Energy Use Reviews
- Alarm Management & Escalation Process Support

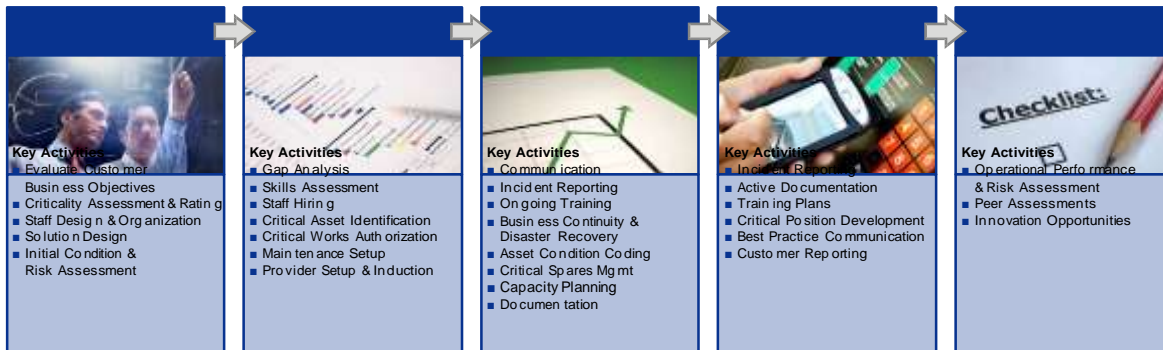
Reporting examples typically include:

- Capacity Reporting
- Incident Reporting & Consolidation
- OEM Field Bulletins Reporting
- Training Certification Reporting
- Critical Space Environmental Reporting
- Maintenance Deferral & Deficiency Reporting
- Change Management & Project Change Reporting

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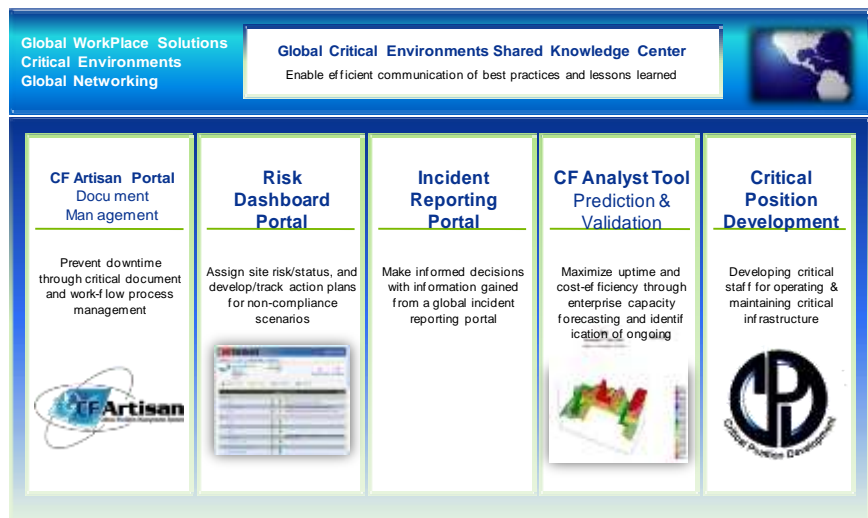
How We Deliver Critical Environment Services over Time

Beginning with the evaluation of a customer's critical environment requirements through to the auditing of operations, the following summarizes key activities of the Critical Environment Product:



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Specifically, we share best practices among our accounts by teaming our critical facility experts in our Global Operational Excellence Teams with the experience of our field resources to perform on-site data collection, analysis and remediation services. New software tools improve our ability to analyze key performance metrics and report areas of deficiencies and gaps. These tools ensure improved efficiency and reliability for an individual data center or an entire enterprise. Our Critical Facility Management Solutions & Technology are grouped into the following areas and enable effective communication within the critical facility network:



JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Critical Infrastructure Operations and Maintenance

Johnson Controls is proposing a multi-tiered approach for the management of the unmanned South Campus modular data center located at Denver International Airport. For frequency and details of the following services refer to agreement **Attachment A Scope of Work** .

O & M Services Included:

- Maintenance Staff for Monday to Friday Site Inspections, General Rounds, HVAC and Minor Maintenance. Four (4) hours per day Monday through Friday (excluding holidays)
- Janitorial services (Materials and Labor for Housekeeping, cleaning)
- 24/7/365 Remote Monitoring of equipment, environment and site
- Electrical Equipment Testing and Maintenance
- Generator Testing
- Thermography Testing of Electrical Equipment
- HVAC Controls Maintenance
- Fire Suppression System Testing and Maintenance
- HVAC Mechanical Maintenance
- On Site Response 24/7/365
- Generator Fuel Testing and Fuel Polishing
- Data entry of energy bills into Energy Star
- Data entry of maintenance data into DIA furnished CCMS (Maximo)
- Annual Mission Critical Compliance Risk Audit Report
- DIA staff maintenance and operations training

The O&M agreement is to provide operations and maintenance of the data center critical infrastructure. DIA would be responsible for the building structure, foundation, utilities, telecommunications, and non-critical infrastructure items. JCI as an infrastructure operations and maintenance company would provide service for maintainable items as it relates to the data center critical infrastructure of power, cooling, and auxiliary systems as defined below.

Operations and Maintenance of Systems and Equipment covered under this agreement:

1. Power Distribution (Distribution Transformers, Generators, Paralleling Gear, Input Switchboards, Automatic Transfer Switches, UPS's, batteries, Starline Busway, General Service Electrical Panels and distribution, PDU's.)
2. HVAC (Air Handling Units, Condensing Units, Hot Aisle Containment System, Fan Coil Units, Humidifiers, Heat Trace, Temperature Controls, Building Automation)
3. Auxiliary Systems (Lighting, fire alarm, fire suppression, emergency power off, JCI DCIM)

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Operations and Maintenance of Systems and Equipment NOT covered and/or provided by others under this agreement:

Building Structure and Foundation
Lift Station
Lightning Protection System
Underground Utilities
XCEL transformers
Security Fence and Gate
Site Work, Landscaping, and Grounds
Snow Removal
Gutters
Refrigerant
Starline Bus Bars
Trash Dumpsters and Trash Removal from Site
Security Systems and door hardware
Refrigerants
Office Furniture
Racks
Rack Security System
IT Equipment and IT Provisioning of Active Gear
Network Hardware (servers, switches, storage, etc.)
IT Data Cabling, cable tray, and network switches and associated Infrastructure
Raritan DCIM software and implementation labor
DIA Furnished Equipment
DP Guardian Periodic Data Center Cleaning Services
Furnishing, replacement, and disposal of the UPS batteries
Generator Engine Service and Maintenance
3rd Party Escorting of Non-JCI subcontractors and suppliers
Shipping and Receiving of Non-JCI Shipments
Space Management Changes
Emergency Communication Systems and work
Utility Bill Management
Mail Delivery

Required Items provided by DIA to JCI onsite staff

CCMS Maximo hardware and software and training provided by DIA to JCI staff
Network Connections, Internet, Tele-communication services to JC staff
VPN for remote access by JCI
Telephone and Telephone service provided by DIA for use by JCI staff
Access to onsite BMS operator workstation and printer for use by JCI staff
Access to site, equipment, and systems

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Furnish keys as required for access

Operations and Maintenance Critical Infrastructure Repair Work

For Systems and Equipment listed above to be included under this agreement, JCI shall provide repair work for failed systems or equipment up to a maximum of \$ 3500.00 per failure occurrence. The following defines the type of repair work covered under this agreement.

In order for a repair to be covered under the \$3500 limit,

- Components of the systems must be maintainable items (maintainable from a mechanical, electrical perspective). This includes motors, starters, compressors, disconnects, VFD's, Safety system field devices, HVAC control system devices, and cables, etc., items that can be maintained. This would preclude any non-maintainable items from being covered (floor and wall coverings, walls, roof, hot aisle containment, cage, rack security system, furniture, owner furnished items, etc.).
- Items such as fuses, relays, etc. that we do not do any maintenance on that are outside of the contract coverage.
- The building itself, as a supplied product of Johnson Controls, would be covered under the standard project warranty period (project warranty will end on 12/31/2015).
- The project warranty covers defects in workmanship, materials and manufacturing. It does not cover acts of god, improperly maintained items, and damage due other non-standard causes.

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Critical Environments Risk Management Program Support

Deployed and supported by central JCI Data Center Subject Matter Experts

Task	Description
	<p>OVERVIEW: This is a Data Center related solution to deploy the CE Risk Management Program with both onsite and remote activity. Initial deployment will include the timeframe required to deploy the program within a 3-9 month timeframe. Following the initial deployment the program will be maintained, controlled, managed and audited with onsite and remote CE Data Center SME support.</p>
1 Contract Review Process	<p>The purpose of this is to provide a structured approach to reviewing the contract and documenting those items specifically relating Critical Environments.</p>
2 Critical Asset Identification and Condition Coding	<p>The purpose of this work instruction is to ensure that for all Critical Sites the Critical Systems and equipment within the facility are identified, condition is assessed and documented.</p>
3 Critical Environment Preventive Maintenance Setup	<p>The purpose of this is to ensure that at all locations where Critical Environments are managed the appropriate maintenance routines for critical assets are identified and setup for maintenance execution including predictive and non-intrusive methods.</p>
4 Critical Spares Identification & Management	<p>This establishes the policies, responsibilities, and procedures for the selection and management of critical spares for critical facility infrastructure equipment at all locations where Critical Environments are managed.</p>
5 Staff Design Process Management	<p>The purpose of this is to assist the Facility Manager at all locations where Critical Environments are managed in reviewing the staffing model to ensure that the technical competency and coverage requirements of the staff are consistent with best practices and the client contract.</p>
6 Maintenance, Repair and Capital Replacement Deferral Management	<p>The purpose of this work instruction is to ensure that at all locations where Critical Environments are managed, when planned work, maintenance, repair or project work is postponed at the client request for any reason the full potential impact of that decision is documented and acknowledged by the client team.</p>

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7	Skills Assessment Process Management	The purpose of this is to ensure that at all locations where Critical Environments are managed the JCI staff who operate critical systems or supervise work on critical systems undergo a skills assessment. This work instruction determines the current skill levels versus the desired skill levels
8	Operator Certification Plan Setup & Management	The purpose of this is to ensure that at all locations where Critical Environments are managed, NO equipment, systems, or procedures will be executed without the operator being certified to perform that function.

Task	Description	
9	Risk Management Training Program Management	The basis for risk management includes People, Plant, Process and Providers and ensuring operators understand how this links with risk. The purpose of this document is to ensure that at all locations where Critical Environments are managed each staff member that is responsible for maintaining, repairing, and overseeing subcontractors receives training associated with risk management.
10	Vendor and Subcontractor Competency & Suitability Program	The purpose of this is to ensure that at all locations where Critical Environments (CE) are managed vendors and subcontractors providing services to Johnson Controls and our clients are competent to perform the required work and that they are suitable to be able to respond to our needs.
11	Critical Environment Subcontractor Access Program	The purpose of this is to ensure that at all locations where Critical Environments are managed when subcontractors or vendors are required to perform activities within those facilities there is a method of ensuring their presence is documented and controlled.
12	Critical Environment Onsite Subcontractor Management	The purpose of this is to ensure that when a subcontractor is hired to perform work within the critical environment we have the proper levels of subcontractor supervision or controls in place to manage their work.

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13	Critical Work Approval Development To ensure that at all locations where Critical Environments are managed all critical work being performed onsite has been approved to proceed in advance of the planned activity. Johnson Controls performs many critical work activities that have the potential to impact many different customers businesses
14	Method Statement Development & Management (EOPs and SOPs) The purpose of this document is to ensure that at all locations where Critical Environments (CE) are managed we plan all critical work in great detail and ensure that we have effectively planned the critical work activities.
15	Steady State Process Development This will define normal steady state condition of all critical infrastructure for conducting rounds & readings and initiating emergency response
16	Critical Work Rules Development & Management The purpose of this is to ensure that at all locations where Critical Environments are managed we identify, establish, and document Critical Work Rules. In order for expectations to be understood by all parties working within a critical environment a clear set work rules must be developed, documented and communicated to anyone that requires access to the critical space.

Onsite Training

- Coordinate daily, weekly, and monthly visits with DIA AIM for DIA personnel to become familiar with site, equipment, procedures and subcontractors (electrical testing, generator testing, fire suppression testing, etc.) DIA may accompany service personnel to observe maintenance during visits, without causing interruption of service for technical personnel.
- During visits, provide training on Metasys controls, HVAC equipment maintenance, and other critical components within the HVAC systems. DIA may accompany service personnel to observe maintenance during visits, without causing interruption of service for technical personnel.

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ATTACHMENT A Scope of Work

This is the scope of work is an attachment to the planned service agreement and is included as part of the agreement. This is the scope of work which consists of the main responsibilities expected by DIA Technologies for maintenance of the South Campus Data Center. Technologies defines the South Campus Data Center as a critical facility required to support Technologies' customers: other airport divisions, their personnel and systems, and the flying public. Safeguarding and maintaining this critical facility with a defined scope of work with a facility maintenance organization is a requirement of the Technologies Division. Johnson Controls has been identified as a facility maintenance organization that can meet Technologies Division requirements.

This document defines responsibilities and expectations of the DIA Technologies Division. The DIA Technologies and DIA AIM Divisions will assess the service provider's overall performance and compliance based on the formal requirements within the agreement and this scope of work. Since a contractual agreement will also be in place, remedies will be sought within the contract for failing to meet these requirements.

I. Overview

The Technologies Division requires facility operations and maintenance services at the South Campus Data Center that provide maximum equipment and systems uptime within The Uptime Institute's Tier III Concurrent Maintainability requirements, while optimizing energy efficiency, and providing a high level of performance of the cooling and power infrastructure of the Data Center.

II. On-Site Facility Operations and Maintenance Role

This role is defined as the "first responder" for data center facility-related emergencies. This role is also a point of contact for executing operations and maintenance of site infrastructure and associated systems. Other points of contact include DIA AIM facility maintenance management and the DIA Technologies Data Center Manager.

This role requires a dedicated, on-site person with a regular work shift of 4 consecutive hours per day, within normal business hours, defined in this scope of work as from 8:00 AM – 5:00 PM. This coverage shall include Monday through Friday, excluding published holidays.

In the event that the dedicated person is unavailable due to sickness or vacation, a fully certified substitute will perform the normal tasks as described in this scope of work.

III. Daily Tasks

- Daily Rounds, including readings for: UPS, MV/LV Switchgear. Chillers, Pumps, CTs, Pumps, AHU's, Condensers, Battery Room Temperature and visual inspection, Connecting and Disconnecting the Starline Bus System, RF Temperature/Humidity and visual inspection, PDU/RPP, Fire Suppression Testing
- Near Miss/Significant Event Reporting
- Spare Parts Inventory review
- Daily/Weekly Reporting
 - Daily Reports generated via Maximo

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- Weekly Reports submitted to DIA AIM and DIA Technologies Data Center Manager, to include:
 - Overall systems status
 - Generator fuel status
 - Spare Part Inventory status
 - Method Statement Development for all critical activity
 - EOP/SOP Development and ongoing administration
 - Subcontractor Site Orientation Training (for new subcontractors)
 - Subcontractor Maintenance and Testing Coordination and Scheduling
 - Subcontractor Escorting
 - Pre Weather/Tornado Related Precautions, as required
 - Integrated 2N Electrical Systems and Generator Testing/Backup Power
 - DCIM and BAS Alarm Review
 - Problem Escalation as Required
 - Critical Equipment Isolation/Restoration
 - Critical Equipment Rotating and verification
 - Critical Work Approval Requests – Change Management (for critical maintenance)
 - Maintenance Deferral Tracking
 - Required Corporate Training (GCES, Safety etc.)
 - Energy Star Reporting
 - CCMS (Maximo) Maintenance and Repair Work Data Input
- IV. Monthly/Quarterly/Annual Tasks, which may require additional staff/subcontractors
- Monthly Capacity Information Gathering
 - Monthly Reporting,
 - Overall systems status
 - Generator fuel status
 - Spare Part Inventory status
 - Trends, anticipated activities, upcoming maintenance
 - Concurrent Maintainability status and risks
 - HVAC Maintenance (Monthly, Quarterly, Annually)
 - Condensing Units Tasks (Monthly Operational Inspections)
 - Check system pressures and temperatures.
 - Check refrigerant charge.
 - Check compressor oil level(s).
 - Inspect starter.
 - Check crankcase heater.
 - Visually inspect for refrigerant and oil leaks.
 - Check electrical connections.
 - Check condition of condenser coils.
 - Check condenser fan blades and motors.
 - Check for proper condenser fan rotation.
 - Clean coils as required to maintain proper operation
 - Air Handler Units (Monthly Operational Inspections)
 - Check belt(s).
 - Check coil conditions.

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- Check condensate pan and drain (if accessible).
 - Check filter condition.
 - Visually inspect damper(s).
 - Check for proper fan operation.
 - Change filters as required to maintain proper operation
 - HVAC Controls Maintenance
 - Metasys Controls Service on Workstation, CPU, I/O Panels, Unit Controllers, Field Devices, Sensors, Relays, Transducers
 - Review "System Event Log" to determine alarms, events, and take appropriate corrective action.
 - Critical points verified/calibrated.
 - Maintain On-site Backup Programming
 - Perform Controls tuning, as required.
 - Building Automation System (BAS) Controls Maintenance (Monthly)
 - Generator Service (Monthly)
 - Startup and Test Generators for proper power generation
 - Test voltage, amperage, generator switch controls
 - Report fuel status. Request fuel delivery from DIA, if necessary
 - Fuel Polishing Service (Bi-Annual Service)
 - Electrical Systems Service (Quarterly)
 - Visually inspect power feed connections, unit operation and status
 - Inspect electrical controls for alarms, and irregularities
 - Review alarm history
 - Test equipment for proper operation.
 - Test UPS Banks
 - Coordinate with DIA AIM and DIA Technologies Data Center Manager to replace 25% of the UPS batteries yearly, beginning in June, 2016. Batteries and replacement to be provided by DIA
 - IT Load Bank Test (Annual)
 - Electrical System Thermography (Annual)
 - Perform predictive infrared testing of all motors, motor control centers, electrical equipment.
 - Prepare report and review with DIA AIM and DIA Technologies Data Center Manager any irregularities. Initiate repairs based on equipment being out of compliance.
 - Fire Suppression Equipment
 - Perform annual testing of fire suppression equipment, charge and operation.
 - Fire Alarm Detection Service (Frequency: Bi-Annual)
 - Janitorial Service (Weekly)
- V. Remote Monitoring Service of South Campus Data Center Facilities
- 24 x 7 x 365 Monitoring
 - Alarm Monitoring of HVAC and Power Systems
 - Monitor for HVAC controls alarms, out of range set points, equipment failure
 - Dispatch of Johnson Controls On-Call Service Staff or Johnson Controls contact, as required.
 - Facility DCIM Trending /Alarming

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- Monitor equipment for predictive trends (e.g. unable to meet defined points within a pre-defined range, hotspots within the facility) and report to maintenance for response or repair.
- VI. Emergency Response Service
- 24 x 7 x 365 Emergency Services On Call Service
 - Two (2) hour response time by On Call Service personnel
- VII. Concurrently Maintainable Environment
- Mission Critical Compliance Risk Audit (Annually, submitted to DIA AIM and DIA Technologies Data Center Manager)
 - Electrical Infrastructure and Distribution Review –
 - Design concept review
 - Asset/system review and condition
 - Single point of failure analysis
 - Risk and Impact Statements per asset/system
 - Capacity review and profile review
 - Mechanical Infrastructure and Distribution Review –
 - Design concept review
 - Asset/system review and condition
 - Single point of failure analysis
 - Risk and Impact Statements per asset/system
 - Capacity Review and profile review
 - Critical Facility Process, Program, Technology and Best Practices to include reviews of:
 - Maintenance Strategy
 - Critical Work Approval
 - Staff Design, Competency and Training
 - Subcontractor Management
 - Escalation and Incident Management/Planning
 - Critical Document Management
 - EOP and SOP Best Practices
 - Asset and Maintenance Frequency Review
 - Redundancy of Infrastructure Scorecard
 - The South Campus Data Center was designed to be concurrently maintainable. As such, DIA Technologies Division requires that maintenance activities on facility systems and distribution paths not impact data center operations.
 - Electrical system maintenance must not require termination of utility services at any time. Either electrical side A or B must be available during routine maintenance activities, as the data center was designed with a minimum of N + 1 electrical systems, most at 2N.
 - The HVAC was designed with N + 1 equipment (condensers and AHU). At no time will more than one condenser or AHU be shut down for maintenance.
 - Operator/Technician Certifications
 - No equipment maintenance, systems modifications, or procedures will be executed without the operator/technician being certified to perform that function.

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- Certifications will be monitored by DIA AIM.

VIII. Documentation

- Asset Management is the responsibility of DIA AIM, assessing and documenting the current condition and serviceability of the assets are shared between DIA AIM and Johnson Controls.
- Critical spares identification, documentation and management is a shared responsibility between DIA AIM and Johnson Controls.
- Preventative Maintenance documentation is a shared responsibility between DIA AIM and Johnson Controls.
- Daily rounds and processes will be developed to define day-to-day responsibilities of all parties working at the data center facility.

IX. Spare Parts Store

- Johnson Controls and DIA AIM will identify items necessary for a spare parts store to be maintained at the South Campus Data Center facility.
- The inventory status of the spare parts store will be communicated to DIA AIM and DIA Technologies in the required monthly status report.
- DIA AIM and DIA Technologies will determine which division will purchase initial spare parts and which division will replenish spare parts items via internal agreement.

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Schedule A

Pricing:

Year 1	\$ 316,825.00
Year 2	\$ 280,712.00
Year 3	\$ 290,538.00
Year 4 (optional)	\$ 299,254.00
Year 5 (optional)	\$ 308,231.00
Three (3) Year Total Service Price:	\$ 888,075.00
Five (5) Year Total Service Price:	\$ 1,495,560.00

Terms and Conditions:

- Pricing is based on monthly invoicing in arrears and Johnson Controls Standard Terms and Conditions.
- Pricing is based on DIA entering into a mutually agreeable contract directly with Johnson Controls, Inc.
- Material and use taxes are included in the above pricing.
- Trip charges, mileage rates are included in the above pricing.
- Minor Repair is defined as a repair event with a price under \$ 3500.00 which is included in the pricing above.
- Major Repair is defined as a repair event over \$3,500 which will be quoted to the customer prior to incurring costs and is excluded from the above pricing.
- Pricing for labor is consistent with City and County Denver Prevailing Wage regulations.
- Pricing is inclusive of City and County of Denver certified payroll requirements.

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER

Planned Service Agreement

Customer Name: DENVER INTERNATIONAL AIRPORT SOUTH DATA CENTER
Address: 8500 Pena Boulevard Denver CO
Proposal Date: 6/24/2015
Estimate #: 1-32W6VLS

Scope of Service

Johnson Controls, Inc. ("JCI") and the Customer (collectively the "Parties") agree Operations and Maintenance Services, as defined in this Exhibit A (Agreement) and Attachment A ("Scope of Work"), will be provided by JCI at the Customer's facility. This Planned Service Agreement, the Services and Equipment Covered listed herein, Supplemental Price and Payment Terms, Terms and Conditions, and Attachment A attached hereto and incorporated by this reference as if set forth fully herein (collectively the "Agreement"), cover the rights and obligations of both the Customer and JCI.

Services and Equipment Covered List

Only the Services and Equipment Covered listed in this proposal with the exclusions listed will be covered as part of this Agreement. Any changes to the Services List or Equipment Covered must be agreed upon in writing by both Parties.

Term / Automatic Renewal

This Agreement takes effect per the effective date of Contract PLANE-201416952 and will continue for three (3) years ("Original Term"). The Agreement will automatically renew on a year-to-year basis for a maximum of three (3) years after the Original Term ends unless the Customer or JCI gives the other written notice it does not want to renew. The notice must be delivered at least forty-five (45) days prior to the end of the Original Term or of any renewal period. The Original Term and any renewal periods are sometimes collectively referred to in this Agreement as the "Term". Renewal price adjustments are discussed in the Terms and Conditions.

**JOHNSON CONTROLS PLANNED SERVICE PROPOSAL
DENVER INTERNATIONAL AIRPORT SOUTH CAMPUS DATA CENTER**

Price and Payment Terms

The total Contract Price for JCI's Services during the 1st year of the Original Term is \$316,825.00. This amount will be paid to JCI in Monthly installments. Pricing for each subsequent year of a multiyear original term is set forth in the Supplemental Price and Payment Terms. All payments will be due and payable within 30 days of the invoice date and such timely payment by Customer shall be a condition precedent to JCI's obligation to perform its Services. A penalty of one and a half percent (1.5%) of the amount due per month shall accrue for payments received after the payment due date. Renewal price adjustments are set forth in the Terms and Conditions.

Multi-year Pricing

Year 1	\$316,825.00
Year 2	\$280,712.00
Year 3	\$290,538.00
Year 4	\$299,254.00 (optional)
Year 5	\$308,231.00 (optional)

Pricing is valid until October 30, 2015

JOHNSON CONTROLS Inc.

By: Steve Nixon

By:

Signature *Steve Nixon*

Signature:

Title: Service Sales Account Executive **Date: 6/24/2015**

Title: _____ **Date:** _____

Signature:

Customer PO#:

Title: _____ **Date:** _____

JCI Branch: Denver CO Service - 0825

Address: 10289 W CENTENNIAL RD

LITTLETON CO 80127-4216

Branch Phone: (866) 819-0233



TERMS AND CONDITIONS

DEFINITIONS

CONNECTED SERVICES are the services and related equipment that allow JCI to access, monitor, and trend data remotely, and which may be available for certain types of Covered Equipment.

CONTRACT PRICE means the price that Customer shall pay to JCI for the Services.

COVERED EQUIPMENT means the equipment for which Services are to be provided under this Agreement. Covered Equipment is set forth in Schedule A - Equipment List.

EQUIPMENT FAILURE means the failure, under normal and expected working conditions, of moving parts or electric or electronic components of the Covered Equipment that are necessary for its operation.

SCHEDULED SERVICE VISITS are the on-site labor visits required to perform JCI recommended inspections and preventive maintenance on Covered Equipment.

SCHEDULED SERVICE MATERIALS are the materials required to perform Scheduled Service Visits on Covered Equipment, unless excluded from the Agreement.

PREMISES means those Customer premises where the Covered Equipment is located.

REPAIR LABOR is the labor necessary to restore Covered Equipment to working condition following an Equipment Failure, but does not include services relating to total equipment replacement due to obsolescence or unavailability of parts.

CENTRAL STATION MONITORING means remote monitoring of Covered Equipment and/or systems including building automation, HVAC equipment, and fire alarm, intrusion, and/or other life safety systems for alarm and event notifications.

REMOTE OPERATING SERVICES means remote interrogation, modification and/or operation of building automation, HVAC equipment, and/or other Covered Equipment.

REPAIR MATERIALS are the parts and materials necessary to restore Covered Equipment to working condition following an Equipment Failure, but excludes total equipment replacement due to obsolescence or unavailability of parts, unless excluded from the Agreement. At JCI's option, Repair Materials may be new, used, or reconditioned.

SERVICES are the work, materials, labor, service visits, and repairs to be provided by JCI pursuant to this Agreement.

JCI'S SERVICES FOR COVERED EQUIPMENT

- 1. BASIC COVERAGE** means Scheduled Service Visits, plus Scheduled Service Materials (unless excluded from this Agreement). No parts, equipment, Repair Labor or Repair Materials are provided for under BASIC COVERAGE.
- 2. PREMIUM COVERAGE** means BASIC COVERAGE plus Repair Labor, plus Repair Materials (unless excluded from the Agreement).
- 3. EXTENDED SERVICE** means Services performed outside JCI's normal business hours and is available only if Customer has PREMIUM COVERAGE. Extended Service is available either 24/5 or 24/7, at Customer's election. The price for Extended Service, if chosen by Customer, is part of the total Contract Price.
- 4. CONNECTED SERVICES.** If Customer is receiving Connected Services on any Covered Equipment as more fully described in Schedule A, Customer may be required to allow JCI to install hardware and/or software to enable communication with Customer's Covered Equipment ("Gateway Device"). In order for JCI to deliver Connected Services on the Covered Equipment, Customer shall provide a secure Internet connection to allow remote access to the Gateway Device in order to remotely access, transmit, store, and trend data for the purposes of providing Services. JCI will not use Connected Services to remotely operate or make changes to Customer's Equipment. The Gateway Device shall remain JCI's property, and JCI may upon reasonable notice remove it at any time. JCI makes no any warranty or guarantee relating to the Connected Services.
- 5. CENTRAL STATION MONITORING OR REMOTE OPERATING SERVICES.** If Central Station Monitoring Services or Remote Operating Services are provided, Customer agrees to furnish JCI with a list of the names, titles, addresses, and phone numbers of all persons authorized to enter the Premises during periods when such premises are closed for business. If JCI's Services include "Central Station Monitoring Services with Open and Close," Customer also agrees to furnish JCI with Customer's daily and holiday opening and closing schedules.

A. INITIAL EQUIPMENT INSPECTION NECESSARY FOR PREMIUM COVERAGE

If Customer has ordered PREMIUM COVERAGE, JCI will inspect the Covered Equipment within forty-five (45) days of the date of this Agreement, or as seasonal or operational conditions permit. JCI will then advise Customer if JCI finds any Covered Equipment not in working order or in need of repair. With Customer's approval, JCI will perform the work necessary to put the Covered Equipment in proper working condition, subject to the terms of this Agreement. Customer will pay for such work at JCI's standard rates for parts and labor in effect at the time that the work is performed. If Customer does not want JCI to perform the work identified as necessary by JCI, any equipment thereby affected will be removed from the list of Covered Equipment, and the Contract Price will be adjusted accordingly. Should Customer not make JCI's recommended repairs or proceed with the modified PREMIUM COVERAGE, JCI reserves the right to invoice Customer for the cost of the initial equipment inspection.

B. OUT OF SCOPE SERVICES

If, during any Service Visit, JCI detects a defect in any of Customer's equipment that is not Covered Equipment under this Agreement (an "Out of Scope Defect"), JCI may (but shall have no obligation to) notify Customer of such Out of Scope Defect. If Customer elects for JCI to repair such Out of Scope Defect, or if JCI otherwise performs any Services or provides any materials, parts, or equipment outside the scope of the Services (collectively, "Out of Scope Services"), Customer shall direct JCI to perform such Out of Scope Services in writing, and Customer shall pay for such Out of Scope Services at JCI's standard fees or hourly rates. If, after receiving notice of an Out of Scope Defect, Customer elects not to engage JCI to repair such Out of Scope Defect, Customer shall defend and indemnify JCI from and against any and all losses, damages, claims, costs and expenses arising directly or indirectly out of such Out of Scope Defect. Any Out of Scope Services performed by JCI at the direction of Customer pursuant to this Section shall be subject to the terms of this Agreement.

C. ADDITIONAL TERMS RELATING TO CENTRAL STATION MONITORING OF INTRUSION, FIRE, AND OTHER LIFE SAFETY SYSTEMS

- 1. Alarm Dispatches.** JCI, upon receipt of an alarm or other signal from the Premises, shall make reasonable efforts to transmit the signal to the appropriate police, fire department, or other emergency response agency having jurisdiction (unless there is reason to believe that an emergency condition does not exist), and JCI shall make a reasonable effort to notify Customer or its designated representative by telephone, unless instructed to do otherwise by Customer in writing. JCI, upon receipt of an industrial process signal from the Premises, shall take reasonable steps to notify Customer's representative pursuant to Customer's written instructions. Customer acknowledges that if the signals transmitted from the Premises will be monitored in a monitoring facility not operated by JCI, the personnel in such monitoring facilities are not the agents of JCI, nor does JCI assume any responsibility for the manner in which such signals are monitored or the response to such signal.
- 2. Communications Media.** Customer acknowledges that monitoring of Covered Equipment requires transmission of signals over standard telephone lines and/or the Internet and that these modes of transmission may be interrupted, circumvented, or compromised, in which case no signal can be transmitted from the Premises to the monitoring facility. Customer understands that to allow the monitoring facility to be aware of such a condition, additional or alternative protection can be installed, such as line security devices, at Customer's cost and expense and for transmission via telephone line only. Customer acknowledges it is aware that line security devices are available and, unless expressly identified in Schedule A - Equipment List, has declined to purchase such devices. Customer further acknowledges that such additional protection is not available for Internet transmission under this Agreement.
- 3. False or Unnecessary Alarms and Service Calls.** At JCI's option, an additional fee may be charged for any false alarm or unnecessary Service Visit caused or necessitated by Customer. In addition, Customer shall be fully responsible and liable for any fines, penalties, or charges assessed as the result of any false alarm and shall reimburse JCI for any costs incurred by JCI in connection therewith.

D. EXCLUSIONS

- JCI's Services and warranty obligations expressly exclude:
 - the repair or replacement of ductwork, casings, cabinets, structural supports, tower fill/slats/basin, hydronic and pneumatic piping, and vessels, gaskets, and piping not normally replaced or maintained on a scheduled basis, and removal of oil from pneumatic piping;
 - disposal of hazardous wastes (except as otherwise expressly provided herein);
 - supplies, accessories, or any items normally consumed during the use of Covered Equipment, such as ribbons, bulbs and paper;
 - the furnishing of materials and supplies for painting or refinishing equipment;
 - the repair or replacement of wire in conduit, buried cable/transmission lines, or the like, if not normally replaced or maintained on a scheduled basis; and
 - replacement of obsolete parts.
- JCI's Services and warranty obligations do not include repairs or service required as the result of:
 - abuse, misuse, alterations, adjustments, attachments, combinations, modifications, or repairs to Covered Equipment not performed, provided, or approved in writing by JCI;
 - issues caused by or related to equipment not covered by this Agreement or attachments made to Covered Equipment;
 - acts or omissions of the Customer, including but not limited to operator error, Customer's failure to conduct preventive maintenance, issues resulting from Customer's previous denial of JCI access to the Covered Equipment, and Customer's failure to keep the site clean and free of dust, sand, or other particles or debris, unless such conditions are previously expressly acknowledged by JCI in writing;
 - use of the Covered Equipment in a manner or environment, or for any purpose, for which it was not designed by the manufacturer;

- (e) issues resulting from site-related and environmental conditions, including but not limited to power failures and fluctuations in electrical current (or "power surges");
- (f) the effects of erosion, corrosion, acid cleaning, or damage from unexpected or especially severe freezing weather;
- (g) any other issues or failures not specifically covered by this Agreement; or
- (h) any other issues caused by occurrences beyond JCI's reasonable control and without JCI's fault or negligence.

E. CUSTOMER OBLIGATIONS AND COMMITMENTS TO JCI

Customer warrants it has given JCI all information concerning the condition of the Covered Equipment.

The Customer agrees and warrants that, during the Term of this Agreement, Customer will:

- (1) operate the Covered Equipment according to the manufacturer's and/or JCI's recommendations;
- (2) keep accurate and current work logs and information about the Covered Equipment as recommended by the manufacturer and/or JCI;
- (3) provide an adequate environment for Covered Equipment as recommended by the manufacturer and/or JCI, including, but not limited to adequate space, electrical power, water supply, air conditioning, and humidity control;
- (4) notify JCI immediately of any Covered Equipment malfunction, breakdown, or other condition affecting the operation of the Covered Equipment;
- (5) provide JCI with safe access to its Premises and Covered Equipment at all reasonable and necessary times for the performance of the Services;
- (6) allow JCI to start and stop, periodically turn off, or otherwise change or temporarily suspend equipment operations so that JCI can perform the Services required under this Agreement;
- (7) as applicable, provide proper condenser and boiler water treatment for the proper functioning of Covered Equipment;
- (8) carefully and properly set and test the intrusion alarm system each night or at such other time as Customer shall close the Premises;
- (9) obtain all necessary licenses and permits required for and pay all taxes associated with the Services;
- (10) notify JCI immediately of any claimed inadequacy in, or failure of, the Covered Equipment or other condition affecting the operation of the Covered Equipment;
- (11) furnish any necessary 110 volt A/C power and electrical outlets at its expense;
- (12) properly maintain, repair, service, and assure the proper operation of any other property, system, equipment, or device of Customer or others to which the Covered Equipment may be attached or connected, in accordance with manufacturer recommendations, insurance carrier requirements, or the requirements of any fire rating bureau, agency, or other authorities having jurisdiction thereof;
- (13) not tamper with, alter, adjust, disturb, injure, remove, or otherwise interfere with any Covered Equipment (including any related software) and not permit the same to be done; and
- (14) refrain from causing false alarms, and reimburse JCI for any fine, penalty, or fee paid by or assessed against JCI by any governmental or municipal agency as a result thereof.

Customer acknowledges that its failure to meet these obligations will relieve JCI of any responsibility for any Covered Equipment breakdown, or any necessary repair or replacement of any Covered Equipment. If Customer breaches any of these obligations, JCI shall have the right, upon written notice to Customer, to suspend its Services until Customer cures such breach. In addition, Customer shall be responsible for paying or reimbursing JCI for any costs associated with corrective work required as a result of Customer's breach of these obligations.

F. FORCE MAJEURE

JCI WILL NOT BE RESPONSIBLE FOR DAMAGE, LOSS, INJURY OR DELAY CAUSED BY CONDITIONS THAT ARE BEYOND THE REASONABLE CONTROL, AND WITHOUT THE INTENTIONAL MISCONDUCT OR NEGLIGENCE, OF JCI. SUCH CONDITIONS INCLUDE, BUT ARE NOT LIMITED TO: (A) ACTS OF GOD; (B) ACTS OF GOVERNMENT AGENCIES; (C) STRIKES; (D) LABOR DISPUTES; (E) FIRE; (F) EXPLOSIONS OR CASUALTIES; (G) THEFTS; (H) VANDALISM; (I) RIOTS OR WAR; (J) TERRORISM; AND (J) UNAVAILABILITY OF PARTS, MATERIALS, OR SUPPLIES.

G. ASBESTOS, MOLD AND HAZARDOUS MATERIALS

"Hazardous Materials" means any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant, or contaminant under any local, state, or federal law, regulation, or ordinance relating to or addressing public and employee health and safety and protection of the environment, or which is toxic, explosive, corrosive, flammable, radioactive, carcinogenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel, fuel, another petroleum hydrocarbon product or polychlorinated biphenyls. "Hazardous Materials" specifically includes mold, lead-based paints, and asbestos-containing materials ("ACM").

Neither Customer nor JCI desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of ACM. It is JCI's policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and Customer shall provide such certification for buildings it owns, or aid JCI in receiving such certification from facility owners in the

case of buildings that it does not own, if JCI will undertake Services in the facility that could disturb ACM.

JCI will be responsible for removing or disposing of any Hazardous Materials that it uses in providing the Services ("JCI Hazardous Materials") and for the remediation of any areas affected by the release of JCI Hazardous Materials. For other Hazardous Materials that may be present at its facilities ("Non-JCI Hazardous Materials"), Customer shall supply JCI with any information in its possession relating to the presence of Hazardous Materials if their presence may affect JCI's performance of the Services. If either Customer or JCI becomes aware of or suspects the presence of Non-JCI Hazardous Materials that may interfere with JCI's Services, it shall immediately stop the Services in the affected area and notify the other party. As between Customer and JCI, Customer shall be responsible at its sole expense for removing and disposing of Non-JCI Hazardous Materials from its facilities and for the remediation of any areas impacted by the release of the Non-JCI Hazardous Materials and must provide a certificate of abatement before JCI will be obligated to perform or continue its Services, unless JCI had actual knowledge that Non-JCI Hazardous Materials were present and acted in disregard of that knowledge, in which case (i) JCI shall be responsible at its sole expense for the remediation of any areas impacted by its release of such Hazardous Materials, and (ii) Customer shall remain responsible at its sole expense for the removal of Hazardous Materials that have not been released and for releases not resulting from JCI's performance of the Services. Customer shall defend and indemnify JCI against any losses, costs, damages, expenses, and claims arising out of its failure to comply with this Section M.

H. CUSTOMER DATA

Customer data is owned by and shall belong to Customer. JCI will access and use Customer data to provide Services to Customer. JCI will not disclose to any third party any individual Customer data acquired through performance of the Services without Customer's consent. Customer agrees that JCI and its subsidiaries, affiliates and approved third party contractors and developers may collect and use Customer data for any reason, as long as any external use of the data is on a de-identified basis that does not personally identify Customer or any individual. Customer hereby grants JCI a perpetual, worldwide, irrevocable, royalty free license to use, modify, manipulate, sublicense, and create derivative works from such data. JCI shall retain all rights to any intellectual property, data, materials and products created as a result of its performance of Services.

I. JCI EMPLOYEES

The Customer acknowledges that JCI's employees are assets to JCI. In the event during the Term of this Agreement or one hundred eighty (180) days thereafter, Customer hires any JCI employee that worked at the Customer's facility at any time the customer agrees to 1) pay JCI an amount equal to 12 months salary for such employee, and 2) reimburse JCI for all costs associated for any training provided to such employee during the three years before the date the Customer hires the employee.

J. MISCELLANEOUS PROVISIONS

1. All notices required to be given hereunder shall be in writing and shall be considered properly given if: (a) delivered in person, (b) sent via the United States Postal Service, postage prepaid, registered or certified with return receipt requested, (c) sent by overnight delivery service (e.g., FedEx, UPS), or (d) sent by facsimile, email or other electronic means and confirmed by facsimile, return email or telephone.
2. This Agreement may not be assigned by Customer without JCI's prior written consent. JCI shall have the right to assign this Agreement to any other person, firm, or corporation without Customer's consent. JCI shall also have the right, in its sole discretion, to subcontract any portion of the Services. This Agreement inures to the benefit of and is applicable to any assignees or subcontractors of JCI, and is binding upon Customer with respect to said assignees or subcontractors with the same force and effect as it binds Customer to JCI.
3. This Agreement shall be subject to and governed by the laws of the State where the Services are performed.
4. If any provision of this Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
5. This Agreement is the entire contract between JCI and Customer and supersedes any prior oral understandings, written agreements, proposals, or other communications between the parties.
6. Customer acknowledges and agrees that any purchase order issued by Customer in connection with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes and shall not be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included or referenced in Customer's purchase order will have any force or effect and these terms and conditions shall control. Customer's acceptance of any Services shall constitute an acceptance of these terms and conditions. Any proposal for additional or different terms, whether in Customer's purchase order or any other document, unless expressly accepted in writing by JCI, is hereby objected to and rejected.
7. If there are any changes to Customer's facilities or operations, or to applicable regulations, laws, codes, taxes, or utility charges, that materially affect JCI's performance of the Services or its pricing thereof, JCI shall have the right to an equitable and appropriate adjustment to the scope, pricing, and other affected terms of this Agreement.

[END OF DOCUMENT]

**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: 201416952 – Data Center Maintenance Agreement

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
Fire Damage Legal - Any one fire:	\$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)

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 only as applicable 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.
- 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.