

SECOND AMENDATORY AGREEMENT

THIS SECOND AMENDATORY AGREEMENT is entered into as of the date indicated on the signature page, by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation ("City"), Party of the First Part, and **THYSSENKRUPP ELEVATOR INC.**, a Georgia corporation authorized to do business in the State of Colorado, (the "Contractor"), Party of the Second Part.

WITNESSETH

WHEREAS, the parties entered into an Agreement dated July 9, 2014 which agreement was subsequently amended by a First Amendment to the Agreement on October 30, 2015 (the "Existing Agreement") in which the Contractor agreed to provide conveyance maintenance and operation services at Denver International Airport ("DEN"); and

WHEREAS, the City requires additional conveyance maintenance services for new airport facilities including but not limited to the Hotel and Transit Center; and

WHEREAS, the parties desire to amend the Existing Agreement by increasing the Maximum Liability of the Agreement and amending the Scope of Work; and

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

1. Section 3 **MAXIMUM LIABILITY, COMPENSATION, AND PAYMENT** Subsection A is hereby amended by deleting Section 3 Subsection A in its entirety and replacing it with the following:

"3 A. Any other provision in this Agreement notwithstanding, in no event shall the City be liable for payment under this Agreement for any amount in excess of **Thirty Five Million Five Hundred Seventy Five Thousand Three Hundred Ninety-Six Dollars and Eighty Cents** (\$35,575,396.80) (the "Maximum Contract Liability"). The Maximum Contract Liability may only be increased by amendment to this Agreement. All payments under this Agreement shall be paid solely and exclusively from the City's "City and County of Denver, Airport System and Operation and Maintenance Fund" and from no other fund or source. The City is under no obligation to make any future apportionments or allocations to said fund. It is presumed that the Contractor's charges and fees for the work included in the Contractor's Scope of Work as set forth in the contract exhibits include all expenses (including incentive payments), and therefore no expenses shall be separately reimbursed hereunder for such work. Any services performed beyond those set forth therein are performed at Contractor's risk and without authorization under the Agreement."

2. Section 4 **TERM** is hereby amended by deleting Section 4 in its entirety and replacing it with the following:

“4. TERM: The term of this Agreement shall commence on September 1, 2014 and shall terminate on August 31, 2020 at Midnight; however, in the Manager’s sole discretion, this Agreement shall remain in full force and effect to permit completion of any work which was commenced prior to the date upon which the term of this Agreement otherwise would have terminated. No extension of the Contract Term shall increase the Maximum Contract Liability amount stated herein; such amount may be changed only by a duly executed written amendment to this Contract.”

3. EXHIBIT A **SCOPE OF WORK** SECTION B: **SCOPE OF WORK** is hereby amended by adding the following section:

“A. TKE will respond to all entrapments and other emergency calls on DEN property, including the Westin Hotel. Due to the length of the escalators servicing the train platform and Level 5 hotel plaza, any events that cause the escalator to be out of service shall be considered “entrapments” rather than “restarts”. The same response requirements of an entrapment in an elevator shall apply to these escalators.”

4. EXHIBIT C-2: **SCHEDULES OF PRICES** is hereby added to the Existing Agreement.

5. EXHIBIT A-1: **SCOPE OF WORK** is hereby deleted and replaced with the attached.

6. APPENDIX 1A: **HOTEL ELEVATOR EQUIPMENT MAINTENANCE AND OPERATION SERVICES: EQUIPMENT TO BE MAINTAINED AND SERVICED** is hereby added to the Existing Agreement.

7. Except as otherwise provided herein, all of the terms and conditions of the Existing Agreement shall remain in full force and effect as though set out in full herein.

8. This **SECOND** Amendatory Agreement shall not be effective or binding on the City until fully executed by all signatories of the City and County of Denver.

[END OF PAGE]

Contract Control Number: PLANE-201415671-02

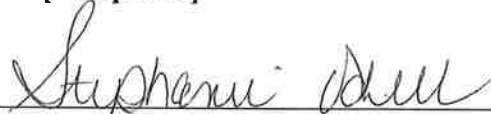
Contractor Name: THYSSENKRUPP ELEVATOR

By: 

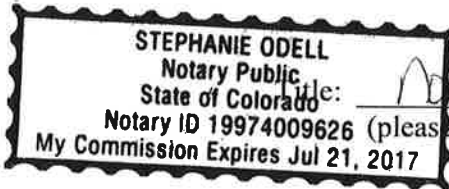
Name: DOUG HETTINGER
(please print)

Title: DISTRICT SALES MANAGER
(please print)

ATTEST: [if required]

By: 

Name: Stephanie Odell
(please print)


Title: Notary
(please print)



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 _____



SECTION C-2: SCHEDULES OF PRICES

PRICING:

All prices quoted shall be firm and fixed for the specified contract period.

ITEMS:

Item #1

Monthly Charge for additional personnel and maintenance, repair and operational services of elevators, escalators, power walks and associated systems at Denver International Airport as outlined in the Agreement. Additionally this pricing shall include all service and maintenance for an anticipated addition of 23 units.

\$58,108/month

(This figure multiplied by 12 resulting in :)

Total Annual Proposal Price \$ 697,296

EXHIBIT A-1: SCOPE OF WORK
ELEVATOR, ESCALATOR AND POWER WALK MAINTENANCE, REPAIR AND
OPERATION SERVICES (201415671): AMENDMENT-02

GENERAL DESCRIPTION

Since the City and County of Denver (“City”) and ThyssenKrupp Elevator entered into Contract #201415671 and #201415671-01, Denver International Airport (“DEN”) has expanded its facilities and added additional conveyance units. In order to provide the new equipment with a level of service commensurate to that of the existing agreement, the City has increased the Contract Maximum Liability, Staffing Plan, and Equipment to be Maintained and Serviced. All terms and conditions of Contract #201415671 and #201415671-01, except those expressly altered in this amendment, shall remain in full force and effect.

STAFFING PLAN

The minimum number of staff shall be not less than eighteen (18) Full-time Employees (FTEs), comprised of at least thirteen (13) certified mechanics and five (5) helpers. The City/DEN reserves the right to approve or disapprove the contractor’s staffing plan and any staff changes.

EQUIPMENT TO BE MAINTAINED AND SERVICED

The elevator, escalator and associated equipment added by this amendment is listed in the agreement Exhibits. Additional Hotel Equipment may be found in APPENDIX I A. TKE shall separately invoice the hotel directly for the maintenance and service of these units.

TKE RESPONSIBILITIES

TKE is responsible for keeping Certificates of Operation and Temporary Certificates of Operation up to date. If these certificates expire, DEN will deduct the full expense of the permits and third party inspections from TKE’s monthly invoices.

DOCUMENTATION AND RECORD KEEPING REQUIREMENTS

All Work Orders (“WO”) shall be completed in the system of record not later than 7 calendar days after the completion of the work. This should include any and all work types including Service Calls (“SC”), Corrective Maintenance (“CM”), Preventive Maintenance (“PM”) and inspections (“INS”).

- I. At a minimum, each WO shall contain the following:
 1. All time required for the completion of the WO
 2. Work Logs
 3. Parts and equipment used to complete the WO, which may be provided in the work logs
 4. Workflow

- II. If this Information (1-4) above) isn't completed, then a vendor deficiency report shall be issued. The same terms and conditions in regards to vendor deficiency in the previous contract, amendment, and other agreements apply.

WESTIN HOTEL

All Hotel conveyances equipment units shall be fully incorporated into (and be subject to the same terms and conditions as) Contract #201415671. Hotel conveyance equipment is listed in Appendix 1-A. TKE shall separately invoice the Hotel directly for the maintenance and service of these units. Maintenance and service of Hotel conveyance equipment shall cost \$7,760/per month.

Invoices shall be submitted to:

The Westin Denver International Airport
8300 Pena Boulevard, Denver, CO 80249
Attn: Robert Harbison

A new insurance certificate shall be issued. Additionally, Westin DIA Operator, LLC, a Delaware limited liability company, as Hotel Manager of the Westin Denver International Airport for the City and County of Denver, Colorado, Property, Manager, Starwood Hotels & Resorts Worldwide, Inc., its subsidiaries, affiliates, respective employees, representatives and agents, and any other persons or entities specified by Property are to be named as Additional Insured under the liability policies, and copies of endorsements when applicable, shall be delivered to Property prior to TKE's commencement of services, and from time to time, and at least twenty (20) days prior to the expiration of the term of each such policy.

APPENDIX I A

**HOTEL ELEVATOR EQUIPMENT MAINTENANCE AND OPERATION SERVICES:
EQUIPMENT TO BE MAINTAINED AND SERVICED**

HOTEL EQUIPMENT

| Location | Units | Location Description | Manufacturer | Equipment Type |
|-----------------|--------------|-----------------------------|---------------------|-----------------------|
| Westin Hotel | HE-01 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | HE-02 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | HE-03 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | HE-04 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | HE-05 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | HE-06 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | HE-07 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | HE-08 | Hotel Escalator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | HESC-01A | Hotel Escalator | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-01B | Hotel Escalator | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-02A | Hotel Escalator | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-02B | Hotel Escalator | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-03 | Hotel Escalator (Future) | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-04 | Hotel Escalator (Future) | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-05 | Hotel Escalator | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-06 | Hotel Escalator | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-07 | Hotel Escalator | ThyssenKrupp | Glass Escalator |
| Westin Hotel | HESC-08 | Hotel Escalator | ThyssenKrupp | Glass Escalator |
| Westin Hotel | SE-01 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | SE-02 | Hotel Elevator | ThyssenKrupp | Traction Elevator |
| Westin Hotel | FE-01 | Hotel Elevator | ThyssenKrupp | Traction Elevator |