

**OFFICES SPACE LEASE**

**BETWEEN**

**CITY AND COUNTY OF DENVER**

**AND**

**ROCKY MOUNTAIN MOTION CORP  
D/B/A THE GLOBAL BUSINESS  
SOLUTION PROVIDERS**

**DENVER INTERNATIONAL AIRPORT**

**LEASE FOR OFFICE SPACE  
DENVER INTERNATIONAL AIRPORT**

**SUMMARY PAGE**

**Rocky Mountain Motion Corp**

This Summary Page, consisting of one page, is attached to and made a part of that certain Lease made and entered into as of the date stated on the signature page, between the City and County of Denver and the Tenant listed below.

<b>TENANT: Name</b>	Rocky Mountain Motion Corp
Address	14921 E. 4 <sup>th</sup> Ave., Suite 150
City, State and Zip	Aurora, CO 80011
Attn:	Wendy McDowell
Trade Name	The Global Business Solution Providers
State of Incorporation	Colorado

<b>OFFICE LOCATION and COMPENSATION (Initial)</b>						
<b>Loca Num.</b>	<b>Concourse /Terminal</b>	<b>Address</b>	<b>Square Feet</b>	<b>Annual Rental</b> (Initial or as provided in Section 5.01)	<b>Monthly Payment</b> (Initial or as provided in Section 5.03A)	<b>Reserved</b>
	Concourse A, Mezz Level	R17-2-4-E19-S3-2	130.3	\$4,691	\$390.92	
			Totals:	\$4,691	\$390.92	

**PERFORMANCE SURETY** \$2,345.00

**TERM:**  
 Effective Date June 1, 2015  
 Expiration Date: May 31, 2016

**INSURANCE POLICY AMOUNTS:** See Exhibit C

**DESCRIPTION OF EXHIBITS AND ADDENDA:**

- Exhibit A Office Space Plan
- Exhibit C Insurance Certificate
- Exhibit X Provisions for Design and Construction of Improvements

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## **OFFICE SPACE LEASE**

**THIS OFFICE SPACE LEASE (“Lease”)**, is made and entered into as of the date stated on the signature page (“Effective Date”), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, for and on behalf of its Department of Aviation (the "City"), Party of the First Part; and **ROCKY MOUNTAIN MOTION CORP**, a corporation d/b/a **“THE GLOBAL BUSINESS SOLUTION PROVIDERS”** (“Tenant”, Party of the Second Part).

### **SECTION 1 - GENERAL**

#### **1.01 CONSIDERATION**

City enters into this Lease for and in consideration of the payment of rent, the construction of all improvements by Tenant as herein provided, and the performance and observance by Tenant of the covenants and agreements herein.

#### **1.02 INCORPORATION OF ATTACHED SUMMARY PAGE, EXHIBITS AND ADDENDA**

The Summary Page attached to this Lease and the Exhibits attached to this Lease as described on the Summary Page shall be deemed incorporated in this Lease. Appendices 1 and 2 of the Companion Agreement (Standard Federal Assurances) are also incorporated herein by this reference.

### **SECTION 2 – DEFINITIONS**

#### **2.01 AIRPORT**

"Airport" or "DIA" shall mean Denver International Airport.

#### **2.02 AUDITOR**

"Auditor" shall mean the City's Auditor and his authorized representative.

#### **2.03 COMPANION AGREEMENT**

"Companion Agreement" shall mean the concession agreement(s) set forth on the Summary Page, and shall include the plural where applicable.

#### **2.04 COMMENCEMENT DATE**

"Commencement Date" shall mean September 1, 2012.

#### **2.05 CONCOURSES**

"Concourses" shall mean Concourses A, B and C located at the Airport but specifically excludes the Terminal as herein defined.

#### **2.06 DIA DESIGN STANDARDS**

"DIA Design Standards" shall mean the design standards and criteria for Denver International Airport, and as hereafter amended.

## **2.07 DIA TENANT DEVELOPMENT GUIDELINES**

"DIA Tenant Development Guidelines" shall mean the criteria established at DIA for tenants and concessionaires for design, construction, installation, signage and related matters, and as hereafter amended.

## **2.08 MANAGER**

"Manager" shall mean the City's Co-Managers of Aviation, or their successor in function.

## **2.09 MANAGER'S AUTHORIZED REPRESENTATIVE**

Whenever reference is made herein to "Manager or his authorized representative," or words of similar import are used, the City's Airport Property Officer shall be such authorized representative of the Manager, unless notice otherwise is given to the Tenant by the Manager.

## **2.10 PAST DUE INTEREST RATE**

"Past Due Interest Rate" shall mean interest accruing at 18% per annum commencing on the fifth business day after the date such amount is due and owing until paid to City.

## **2.11 OFFICE SPACE**

"Office Space" shall mean the Office Space as generally depicted on the Office Space Plan attached hereto as Exhibit A, which is located within the Terminal and/or Concourses and contains the number of square feet set forth on the Summary Page. "Office Space" shall include the plural where applicable. The City and Tenant acknowledge and agree that the dimensions of the Office Space as set forth in Exhibit A are approximate and that, following the completion of construction, the precise dimensions and square footage shall be determined by the Manager to conform to such measurement and a revision to the Summary Page and Exhibit A will be made, if necessary, depicting the dimensions and square footage of the Office Space as actually constructed, each of these actions to be mutually agreed upon and taken without the requirements of a formal amendment to this Lease. The Manager may add or subtract square footage of up to 10% of the Office Space with the prior written consent of the Tenant without City Council approval.

In order to maximize the highest and best use of the City's airline facilities, the Manager, at his sole discretion and upon thirty (30) days prior written notice, may require Tenant, and Tenant agrees, to relocate its Office Space, at its own cost and expense, in which case, the Manager will revise the Summary Page and Exhibit A without formal amendment to this Lease.

## **2.12 TERMINAL**

"Terminal" shall mean the Jeppesen Terminal Building located at the Airport.

# **SECTION 3 - LEASE OF OFFICE SPACE**

## **3.01 OFFICE RIGHTS GRANTED**

City grants to Tenant the right to occupy and use the Office Space consistent with and subject to all of the terms and provisions of this Lease.

### **3.02 USE OF OFFICE SPACE**

Tenant may use the Office Space only for office, and limited office use solely in support of office and supply functions, and for no other purposes, unless otherwise authorized in writing by the Manager.

### **3.03 MEANS OF ACCESS**

Tenant, its agents and employees, have a non-exclusive right of ingress to and egress from the Office Space by a means of access located outside the boundaries of such space as specified by City. In non-public areas, such access shall be restricted under the Airport's security requirements as described in the section herein entitled "Security," and the City may at any time close, relocate, reconstruct or modify such means of access, provided that a reasonably convenient and adequate means of ingress and egress is available for the same purposes.

The City has established access corridors and access door locations for the Office Space, and such plans are available from Airport Engineering.

Nothing in this Lease shall be construed to prevent the City from charging the operators of vehicles carrying passengers and property a fee for the privilege of entering upon the Airport or using the roadways in or on the Airport, or soliciting passengers upon the Airport, or otherwise operating on the Airport; and City reserves the right to make such charges provided that they do not discriminate unreasonably against the operators of vehicles used for carrying officers, employees, passengers or property of Tenant.

### **3.04 RIGHT OF INSPECTION**

City retains the full right of entry in and to the Office Space for any purpose necessary, incidental to or in connection with its obligations hereunder, or in the exercise of its governmental functions, or for the purpose of making any inspection it deems necessary.

## **SECTION 4 – TERM**

### **4.01 TERM**

"Term" shall mean the period commencing on the date of execution (the "Effective Date") as stated on the Summary Page and expiring at the close of business on the "Expiration Date" as stated on the Summary Page. In addition, to the foregoing, the parties intend that the term shall be co-terminus with the term of the Companion Agreement(s) listed on the Summary Page. Therefore, by written notice to Tenant signed by the Manager intended to accomplish this purpose, the Term may be extended or terminated to the extent of and under the same conditions as any extension or termination of the Companion Agreement(s) listed on the Summary Page. Such approval may be granted in the Manager's sole discretion and regardless of whether the Companion Agreement has been extended. This Lease may be terminated by the City prior to the Expiration Date with or without cause, upon ninety (90) days written notice to Tenant signed by the Manager.

### **4.02 SURRENDER OF STORAGE SPACE**

Upon the expiration or earlier termination of this Lease or on the date specified in any demand for possession by City after any Default by Tenant, Tenant covenants and agrees to surrender



possession of the Office Space to City in the same condition as when first occupied, ordinary wear and tear excepted.

#### **4.03 HOLDING OVER**

If Tenant holds over after expiration of the Term or any extension thereof, thereafter Tenant's occupancy shall be deemed a month-to-month tenancy at a monthly rental equal to 150% of the monthly rent provided in Section 5 herein unless otherwise modified in writing. Tenant shall be subject to all other terms and conditions of this Lease not specifically modified above. The Manager, in his sole discretion, may waive the additional rent and allow Tenant to holdover at the rates stated in Section 5. Nothing herein shall be construed to give Tenant the right to hold over, and City may exercise any remedy at law or in equity to recover possession of the Office Space, as well as any damages incurred by City.

### **SECTION 5 – RENT**

#### **5.01 RENT**

Tenant covenants and agrees, without offset, deduction or abatement, to pay City the established rentals, rates, fees and charges for storage space set forth on the Summary Page as annual rent for the rights and privileges herein granted by City, which sum is reserved to the City and shall be payable in monthly installments. Said obligation to pay rent shall commence upon the Commencement Date set forth in Section 2.04 herein and continue through the Term hereof.

#### **5.02 PAYMENT OF MONTHLY RENT**

The Annual Rent shall be payable by Tenant to City in twelve equal installments ("Monthly Rent" in advance and without demand on the Commencement Date and on the first day of each month thereafter.

#### **5.03 INTEREST ON PAST DUE AMOUNTS**

Any payments not made to City when due shall accrue interest at the Past Due Interest Rate, as herein defined.

#### **5.04 PLACE AND MANNER OF PAYMENTS**

All sums payable to City hereunder shall be made without notice at the following:

Airport Revenue Fund  
Denver International Airport  
PO Box 492065  
Denver, Colorado 80249-2065

or at such other place as the Manager or his authorized representative may hereafter designate by notice in writing to Tenant. All sums shall be made in legal tender of the United States. Any check given to the City shall be received by it subject to collection, and Tenant agrees to pay any charges, fees or costs incurred by the City for such collection, including reasonable attorney fees.

#### **5.05 REESTABLISHMENT OF RENTALS, FEES AND CHARGES**

The City, through the Manager, may from time to time, at intervals of not more than five (5) years, at the Manager's sole discretion, and subject to the requirements of any outstanding bond ordinance pertaining to the Airport, reestablish the rentals, fees and charges provided for herein. The City agrees that such reestablished schedule of rentals, fees and charges shall be reasonable in relation to the cost of providing, operating and maintaining property, services and facilities of the airport system.

If the Manager proposes any change in the schedule of rentals, fees and charges, the City will give notice thereof to Tenant not less than 90 days before the same is to become effective. Should the proposed rentals, fees and charges result in an increase of more than 5% in the dollar amount of compensation paid by Tenant for the prior calendar year, then Tenant may decline to pay compensation at the new rate(s). Tenant shall promptly advise the Manager (but in no event less than 60 days prior to the proposed effective date of such schedule of rentals, fees and charges) of its intention to cancel and terminate this Agreement. Upon such notice of intent to cancel and terminate, Tenant shall surrender the Concession Space upon a date specified by the Manager. Should Tenant fail to give such notice of cancellation and termination, then it shall be deemed to have accepted the new rate(s) of compensation as promulgated by the Manager.

No failure by the City to reestablish the rentals, fees and charges at a five (5) year interval date shall constitute a waiver of the City's right to reestablish the rentals, fees and charges at any time thereafter.

## **SECTION 6 - USE OF STORAGE SPACE**

### **6.01 CARE OF AREA**

Tenant agrees that it will keep the Office Space in a neat, clean, safe, sanitary and orderly condition at all times, and further agrees that it will keep such area free at all times of all paper, rubbish, spills, and debris. Tenant, at its own expense, shall collect and deposit all trash and refuse at frequent intervals at collection station locations specified by the City. Accumulation of boxes, cartons, barrels or other similar items shall not be permitted in any public area in the Airport.

### **6.02 VENDING MACHINES**

No amusement or vending machines or other machines operated by coins, tokens or credit cards shall be installed or maintained in or upon the Office Space except with the written permission of the Manager or his authorized representative. This prohibition includes, but not by way of limitation, sales from vending machines of such items as cigarettes, candy, maps, coffee, soft drinks, newspapers, stamps and insurance policies; telephones; dispensation of cash, money orders and checks; and operation of mechanical or electronic game devices, electronic video games, and entertainment devices.

### **6.03 COMPLIANCE WITH ALL LAWS AND REGULATIONS**

Tenant agrees not to use or permit the Office Space to be used for any purpose prohibited by the laws of the United States or the State of Colorado or the ordinances or Charter of the City and County of Denver, or not authorized hereunder, and it further agrees that it will use the Office Space in accordance with all applicable federal, state and local laws and all general rules and regulations adopted by the City or the Manager for the management, operation and control of the Airport, either promulgated by the City on its own initiative or in compliance with regulations or actions of the Federal Aviation Administration or other authorized federal agency.

Tenant agrees to submit any report, reports or information which the City is required by law or regulation to obtain from Tenant or which the Manager may reasonably request relating to Tenant's operations. The Tenant agrees that any duly authorized representative of the City shall, until the expiration of three (3) years after final payment under this Lease, have access to and the right to examine any directly pertinent books, documents, and records of the Tenant involving matters directly related to this Lease.

In the operation of its storage facilities, Tenant shall comply with the Standard Federal Assurances described in Appendices 1, 2 and 3 of the Companion Agreement(s), and those Appendices are incorporated herein by reference.

#### **6.04 COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS**

Tenant, in conducting any activity on the Office Space, shall comply with all applicable local, state or federal environmental rules, regulations, statutes, laws or orders (collectively "Environmental Requirements"), including but not limited to Environmental Requirements regarding the storage, use and disposal of Hazardous Materials or Special Wastes and regarding releases or threatened releases of Hazardous Materials or Special Wastes to the environment. For purposes of this Lease the terms "Hazardous Materials" shall refer to those materials, including without limitation asbestos and asbestos-containing materials, polychlorinated biphenyls (PCBs), oil or any other petroleum products, natural gas, source material, pesticides, and any hazardous waste, toxic substance or related material, including any substance defined or treated as a "hazardous substance," "hazardous waste" or "toxic substance" (or comparable term) in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sec. 9601 et seq. (1990)), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq. (1990)), and any rules or regulations promulgated pursuant to such statutes or any other applicable federal or state statute. Tenant shall comply with the City's Ordinance 196, as amended on March 18, 1991 (amendments to the City Uniform Public Code related to water conservation fixtures).

Tenant shall acquire all necessary federal, state and local environmental permits and comply with all applicable federal and state environmental permit requirements.

Tenant agrees to ensure that its Office Space is designed, constructed, operated and maintained in a manner that minimizes environmental impact through appropriate preventive measures and complies with all federal, state and local environmental requirements. Tenant agrees to evaluate methods to reduce the generation and disposal of waste materials. Wastewater from maintenance or operational activities shall be pretreated with sand and grease traps.

In the case of a release, spill or leak as a result of Tenant's activities, Tenant shall immediately control and remediate the contaminated media to applicable federal, state and local standards. Tenant shall reimburse the City for any penalties and all cost and expense, including without limitation attorney fees, incurred by the City as a result of the release or disposal by Tenant of any pollutant or hazardous material on the Airport.

#### **6.05 WASTE OR IMPAIRMENT OF VALUE**

Tenant agrees that nothing shall be done or kept in the Office Space which might impair the value of the City's property or which would constitute waste.

## **6.06 HAZARDOUS USE**

Tenant agrees that nothing shall be done or kept in the Office Space and no improvements, changes, alterations, additions, maintenance or repairs shall be made to the Office Space which might be unsafe or hazardous to any person or property. Further, Tenant shall not do or permit to be done any act or thing upon the Office Space which will invalidate, suspend or increase the rate of any fire insurance policy required under this Lease, or carried by the City, covering the Office Space or the buildings in which the Office Space is located or which, in the opinion of the Manager or his authorized representative, may constitute a hazardous condition that will increase the risks normally attendant upon the operations contemplated under this Lease. If, by reason of any failure by Tenant to comply with the provisions of this section, after receipt of notice in writing from the City, any fire insurance rate on the Office Space or on the buildings in which the same is located, shall at any time be higher than it normally would be, then Tenant shall pay the City, on demand, that part of all fire insurance premiums paid by the City which have been charged because of such violation or failure of Tenant; provided, that nothing herein shall preclude Tenant from bringing, keeping or using on or about the Office Space such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on the normal operations contemplated herein.

## **6.07 STRUCTURAL OR ELECTRICAL OVERLOADING**

Tenant agrees that nothing shall be done or kept on the Office Space and no improvements, changes, alterations, additions, maintenance or repairs shall be made to the Office Space which might impair the structural soundness of the building, result in an overload of utility lines serving the Terminal and/or Concourses or interfere with electric, electronic or other equipment at the Airport. In the event of violations hereof, Tenant agrees immediately to remedy the violation at Tenant's expense.

## **6.08 NOISE, ODORS, VIBRATIONS AND ANNOYANCES**

Tenant shall conduct its operations in an orderly and proper manner so as not to commit any nuisance in the Office Space or annoy, disturb or be offensive to others in the Airport and shall take all reasonable measures, using the latest known and practicable devices and means, to eliminate any unusual, nauseous or objectionable noise, gases, vapors, odors and vibrations.

## **6.09 ACCESSIBILITY**

Tenant shall not do or permit to be done anything which might interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems or portions thereof on the Office Space or elsewhere on the Airport, nor do or permit to be done anything which may interfere with free access and passage in the Office Space or the public areas adjacent thereto, or hinder police, firefighting or other emergency personnel in the discharge of their duties. Further, Tenant shall not do or permit to be done anything which might interfere with the effectiveness or accessibility of elevators or escalators in or adjacent to the Office Space, including lines, pipes, wires, conduits and equipment connected with or appurtenant thereto.

Tenant shall not place any additional lock of any kind upon any window or interior or exterior door in the Office Space, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefor is maintained on the Office Space, nor refuse, upon the expiration or sooner termination of this Lease, to surrender to the City any and all keys to the interior or exterior doors on the Office Space, whether said keys were furnished to or otherwise procured by Tenant. If any keys

furnished to Tenant by City are lost, Tenant shall pay the City, on demand, the cost for replacement thereof.

#### **6.10 NO AUCTION**

Tenant agrees not to allow or permit any sale by auction or hawking on the Office Space.

#### **6.11 CONSTRUCTION OF IMPROVEMENTS/RESTRICTION ON CHANGES**

Tenant shall at its sole cost and expense construct and install the initial Improvements as defined in Exhibit X, "Provisions for Design and Construction of Improvements." The Improvements are subject to the prior written approval of the Manager and shall be constructed in accordance with the Airport's Tenant Development Guidelines, the requirements of Exhibit X, and pursuant to the City's building permit process and the customary terms and conditions thereof.

Tenant shall, unless otherwise instructed, complete its design, obtain building permits and complete construction no later than 30 days after execution of this Lease. Such period may be extended by the Manager if completion of Improvements was delayed through no fault of Tenant; however, in no event shall such extension affect the date upon which rent is due.

Thereafter, Tenant agrees not to alter, add to, remove or demolish any of the Improvements on the Office Space without the prior written approval of the Manager. All such alterations or changes shall be made in accordance with the Airport Tenant Development Guidelines and the requirements of Exhibit X.

#### **6.12 TITLE TO IMPROVEMENTS**

Tenant agrees that all improvements to the Office Space, including approved changes and renovations, which are affixed to the realty, shall become the property of the City upon their completion and acceptance by City.

#### **6.13 REMOVAL OF TENANT'S EQUIPMENT**

Tenant shall retain title to and shall remove, at its sole cost, prior to the expiration or termination of this Lease, all of Tenant's Equipment, as hereinafter defined. "Tenant's Equipment" shall mean all equipment, apparatus, machinery, furnishings, trade fixtures and personal property installed by Tenant and used in the operation of the business of Tenant (as distinguished from the use and operation of the Office Space) which is listed on an annual inventory list submitted by Tenant and approved by the City and maintained in the City's Airport Property Office. If such removal shall injure or damage the Office Space, Tenant agrees, at its sole cost, at or prior to the expiration or termination of this Lease, to repair such injury or damage in good and workmanlike fashion and to place the Office Space in the same condition as the Office Space would have been if such Tenant's Equipment had not been installed. If Tenant fails to remove any of Tenant's Equipment by the expiration or termination of this Lease, City may, at its option, keep and retain any such Tenant's Equipment or dispose of the same and retain any proceeds therefrom, and City shall be entitled to recover from Tenant any costs of City in removing the same and in restoring the Office Space in excess of the actual proceeds, if any, received by City from disposition thereof.

## **SECTION 7 - UTILITIES AND SERVICES**

### **7.01 HEATING AND AIR CONDITIONING (HVAC)**

Tenant shall, at its expense, furnish, install and maintain any ductwork and other connections within or leading into its Office Space required to connect and complete the HVAC from the Airport's central system for the Office Space.

City shall, at its expense, furnish normal and reasonable quantities of central air from the central HVAC system to the Office Space and all necessary power and electricity for such central air circulation. Subject to conditions beyond its control, the City shall maintain under normal conditions a temperature adequate for comfortable occupancy according to the season; provided, that Tenant properly maintains the ductwork and other connections within or leading into its Office Space and complies with the recommendations of the City's engineer regarding reasonable use of the Office Space.

### **7.02 ELECTRICITY**

Tenant shall, at its expense, furnish, install and maintain an electric meter at a location and of a type specified by the City, and shall pay all costs for electricity used within the Office Space. Electricity may be metered under an adjacent Concession Space of a Companion Agreement if authorized by the City. Tenant shall furnish, install and maintain all power circuits and connections required for equipment and mechanical systems used in the Office Space. Any bills by the City for such costs shall be due within 30 days and shall accrue interest at the Past Due Interest Rate if not paid when due.

### **7.03 WATER SERVICE**

If Tenant requires water service to the Office Space, Tenant shall, at its expense, furnish, install and maintain a water meter for the Office Space at a location and of a type specified by the City and shall pay all costs for water used within the Office Space. Tenant shall be responsible for all pipe tie-in and water hook-up of its equipment.

### **7.04 LIGHTING**

Tenant shall, at its expense, furnish, install and maintain all lighting fixtures and wiring for general illumination of the Office Space. Levels of illumination and wattage requirements shall be subject to approval by City.

### **7.05 JANITORIAL SERVICES AND MAINTENANCE**

Tenant shall, at its expense, be responsible for janitorial services for the Office Space.

### **7.06 STRUCTURAL MAINTENANCE**

City shall, at its expense, maintain all structural parts of the Terminal and Concourses, including exterior glass, walls and roof but specifically excluding concession improvements made by Tenant.

## **7.07 COMMON USE SERVICES**

The Manager may establish common use services at the Airport, including but not limited to trash and refuse removal, deliveries, industrial waste handling, recycling and security guards. The Manager reserves the right to establish charges for common use services based upon documented actual costs. Trash, sewer and deliveries will be common use services, which Tenant may be required to use and pay its prorata actual share; however, other common use services may be utilized at Tenant's option. Tenant agrees to pay the charges for those common use services which are utilized by Tenant.

## **7.08 INTERRUPTION OF SERVICES**

Tenant agrees that City shall not be liable for failure to supply any utility services. City reserves the right to temporarily discontinue utility services at such time as may be necessary by reason of accident, unavailability of employees, repairs, alterations or improvements or whenever by reason of strikes, lockouts, riots, acts of God or any other happenings beyond the control of the City, the City is unable to furnish such utility services. The City shall not be liable for damages to persons or property for any such discontinuance, nor shall such discontinuance in any way be construed as cause for abatement of rent or operate to release the Tenant from any of its obligations hereunder, except as otherwise provided in the section entitled "Damage, Destruction or Loss."

# **SECTION 8 - INDEMNITY, INSURANCE AND BONDS**

## **8.01 INDEMNITY**

Tenant hereby agrees to release and indemnify and save harmless the City, its officers, agents and employees from and against any and all loss of or damage to property, or injuries to or death of any person or persons, including property and employees or agents of the City, and shall defend, indemnify and save harmless the City, its officers, agents and employees from any and all claims, damages, suits, costs, expense, liability, actions, penalties or proceedings of any kind or nature whatsoever, including worker's compensation claims, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, its operations in connection herewith, or its use or occupancy of any portion of the Airport and including acts and omissions of officers, employees, representatives, suppliers, invitees, contractors and agents of the Tenant; provided, that the Tenant need not release, indemnify or save harmless the City, its officers, agents and employees from damages resulting from the sole negligence of the City's officers, agents and employees. The minimum insurance requirements prescribed herein shall not be deemed to limit or define the obligations of Tenant hereunder.

## **8.02 INSURANCE**

A. The Tenant shall obtain and keep in force during the entire term of this Agreement, insurance policies as described in Exhibit C and incorporated herein unless otherwise provided for in the Companion Agreement. The certificate specifies the minimum insurance requirements the Tenant and subcontractors must meet under this Agreement. Such amounts may be adjusted by the Manager in her sole discretion at any time during the term of this Agreement.

B. Prior to the Commencement Date, the Tenant shall submit to the Airport Property Management Office an ACORD insurance certificate, which specifies the issuing company or companies, policy numbers and policy periods for each required coverage. The Tenant shall

deliver to the Airport Property Office a certificate evidencing the renewal of all policies, at least ten days prior to each policy's expiration date.

C. 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.

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

E. Unless specifically accepted in writing by the City's Risk Management Administrator, the Tenant shall include all subcontractors performing services hereunder as insureds under each required policy or shall maintain a separate certificate for each subconsultant. All coverage's for subcontractors shall be subject to all of the requirements set forth in the form certificate and the Tenant shall insure that each subconsultant complies with all of the coverage requirements.

F. 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.

### **8.03 PERFORMANCE GUARANTEE**

Upon execution of this Lease, Tenant shall deliver to the Manager, and maintain in effect at all times throughout the Term an irrevocable letter of credit, or such other acceptable surety as first approved in writing by City, in an amount equal to six (6) months of monthly rent, which amount is subject to increase by the Manager. Such guarantee shall be payable without condition to the City and guarantee to the City full and faithful performance of (i) all of the terms and provisions of this Lease as said Lease may be amended, supplemented or extended and (ii) all obligations and duties under all general rules and regulations adopted by the City or the Manager for the management, operation and control of the Airport as amended or supplemented. All irrevocable letters of credit shall be in a form, and issued by a bank, acceptable to the City.

### **8.04 NO PERSONAL LIABILITY**

No director, officer or employee of either party hereto shall be held personally liable under this Lease or because of its execution or attempted execution.

### **8.05 TAXES, LICENSES, LIENS AND FEES**

Tenant agrees to promptly pay all taxes, excises, license fees and permit fees of whatever nature applicable to its operations hereunder and to take out and keep current all municipal, state or federal licenses required for the conduct of its business at and upon the Office Space and further agrees not to permit any of said taxes, excises, license fees or permit fees to become delinquent. Tenant also agrees not to permit any mechanic's or materialman's or any other lien to become attached or be foreclosed upon the Office Space or improvements thereto, or any part thereof, by reason of any work or labor performed or materials furnished by any mechanic or materialman. Tenant agrees to furnish to the Manager, upon request, duplicate receipts or other satisfactory



evidence showing the prompt payment by it of Social Security, unemployment insurance and worker's compensation insurance, and all required licenses and all taxes. Tenant further agrees to promptly pay when due all bills, debts and obligations incurred by it in connection with its operations hereunder and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment or execution to be filed against the Office Space or improvements thereon which will in any way impair the rights of the City under this Lease.

## **SECTION 9 - DEFAULT AND REMEDIES**

### **9.01 DEFAULT**

Tenant shall be in default under this Lease if Tenant:

A. Fails to timely pay when due to City the compensation, rent or any other payment required hereunder; or

B. Tenant is in default under any Companion Agreement or any other Agreement with the City at the Airport; or

C. Becomes insolvent, or takes the benefit of any present or future insolvency or bankruptcy statute, or makes a general assignment for the benefit of creditors, or consents to the appointment of a receiver, trustee or liquidator of any or substantially all of its property; or

D. Transfers its interest under this Lease, without the prior written approval of the City, by reason of death, operation of law, assignment, sublease or otherwise, to any other person, entity or corporation; or

E. Abandons, deserts or vacates the Office Space; or

F. Suffers any lien or attachment to be filed against the Office Space, the Airport or City's property because of any act or omission of Tenant, and such lien or attachment is not discharged or contested by Tenant in good faith by proper legal proceedings within 20 days after receipt of notice thereof by Tenant; or

G. Fails to keep, perform and observe any other promise, covenant or agreement set forth in this Lease and such failure continues for a period of more than 30 days after delivery by Manager of a written notice of such breach or default, except where a shorter period is specified herein, or where fulfillment of its obligation requires activity over a period of time and Tenant within 10 days of notice commences in good faith to perform whatever may be required to correct its failure to perform and continues such performance without interruption except for causes beyond its control; or

H. Uses or gives its permission to any person to use for any illegal purpose any portion of the Airport made available to Tenant for its use under this Lease.

### **9.02 REMEDIES**

If Tenant defaults in any of the covenants, terms and conditions herein, the City may exercise any one or more of the following remedies:

A. The City may elect to allow this Lease to continue in full force and effect and to enforce all of City's rights and remedies hereunder, including without limitation the right to collect rent as it becomes due together with Past Due Interest; or

B. The City may cancel and terminate this Lease and repossess the Office Space, with or without process of law, and without liability for so doing, upon giving 30 days written notice to Tenant of its intention to terminate, at the end of which time all the rights hereunder of the Tenant shall terminate, unless the default, which shall have been stated in such notice, shall have been cured within such 30 days. Notwithstanding the foregoing, Tenant shall be allowed only two notices of default hereunder which it may cure within the time specified in this section. The third notice shall be final and the City shall at its option (1) cancel and terminate all of the rights hereunder of the Tenant, reenter the Office Space, remove therefrom all property of the Tenant and store the same at the expense of the Tenant, or (2) elect to proceed under subparagraph C. below.

If City elects to terminate, Tenant shall be liable to City for all amounts owing at the time of termination, including but not limited to rent due plus interest thereon at the Past Due Interest Rate together with any other amount to fully compensate City for all loss of rent, damages, and costs, including attorney fees, caused by Tenant's failure to perform its obligations hereunder, or which in the ordinary course would likely result therefrom.

C. The City may elect to reenter and take possession of the Office Space and expel Tenant or any person claiming under Tenant, and remove all effects as may be necessary, without prejudice to any remedies for damages or breach. Such reentry shall not be construed as termination of this Lease unless a written notice specifically so states; however, the City reserves the right to terminate the Lease at any time after reentry. Following reentry, the City may relet the Office Space, or any portion thereof, for the account of Tenant, on such terms and conditions as the City may choose, and may make such repairs or improvements as it deems appropriate to accomplish the reletting. The City shall not be responsible for any failure to relet or any failure to collect rent due for such reletting.

Tenant shall be liable to City for all costs of reletting, including attorney fees and repairs or improvements. Notwithstanding re-entry by the City, Tenant shall continue to be liable for all amounts due as rent under this Lease, on the dates specified and in such amounts as would be payable if default had not occurred. Upon expiration of the Term, or any earlier termination of the Lease by the City, the City, having credited to the account of Tenant any amounts recovered through reletting, shall refund, without interest, any amount which exceeds the rent, damages and costs payable by Tenant under this Lease.

### **9.03 REMEDIES CUMULATIVE**

The remedies provided in this Lease shall be cumulative and shall in no way affect any other remedy available to City under law or equity.

### **9.04 ADMINISTRATIVE HEARING**

Disputes arising out of this Lease shall be resolved by administrative hearing before the Manager following the procedures outlined in Denver Revised Municipal Code Section 5-17; provided, that City shall retain its right to obtain an order of eviction in accordance with applicable state law. It is further agreed that no cause of action shall be brought against the City until there has been full compliance with the terms of this paragraph.

## **9.05 WAIVERS**

No failure of City to insist upon the strict performance of a term, covenant or agreement contained in this Lease, no failure by City to exercise any right or remedy under this Lease, and no acceptance of full or partial payment during the continuance of any default by Tenant shall constitute a waiver of any such term, covenant or agreement or a waiver of any such right or remedy or a waiver of any default by Tenant.

## **SECTION 10 - DAMAGE, DESTRUCTION OR LOSS**

### **10.01 DAMAGE TO OR DESTRUCTION OF STORAGE SPACE**

If the Office Space, or any portion thereof, is destroyed or damaged by fire or otherwise to an extent which renders it unusable, City may rebuild or repair any portions of the building structure destroyed or damaged, and, if the cause was beyond the control of Tenant, the obligation of Tenant to pay the rent hereunder shall abate as to such damaged or destroyed portions during the time they are unusable. If the City elects not to proceed with the rebuilding or repair of the building structure, it shall give notice of its intent within 90 days after the destruction or damage. Tenant may then, at its option, cancel and terminate this Lease.

### **10.02 COOPERATION IN THE EVENT OF LOSS**

If the City elects to rebuild, the Lease shall continue in full force and effect subject to the abatement of rent during the time the damaged or destroyed portions are unusable. City and Tenant shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss or damage.

### **10.03 LOSS OR DAMAGE TO PROPERTY**

City shall not be liable for any loss of property by theft or burglary from the Airport or for any damage to person or property on the Airport resulting from operating the elevators, or electric lighting, or water, rain or snow, which may come into or issue or flow from any part of the Airport, or from the pipes, plumbing, wiring, gas or sprinklers thereof or that may be caused by the City's employees or any other cause, and Tenant agrees to make no claim for any such loss or damage at any time, except for any abatement of rent or right to insurance proceeds provided for in this Section.

### **10.04 MUTUAL WAIVER/INSURANCE COVERAGE**

City and Tenant each waive any and every claim for recovery from the other for any and all loss of or damage to the Office Space or to the contents thereof, which loss or damage is covered by valid and collectible fire and extended insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Since this mutual waiver will preclude the assignment of any such claim by subrogation or otherwise to an insurance company or any other person, Tenant agrees to give to each insurance company which has issued, or may issue, to the Tenant policies of fire and extended coverage insurance, written notice of the terms of this mutual waiver, and to have such insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverage by reason of this waiver.

## **SECTION 11 - MISCELLANEOUS PROVISIONS**

### **11.01 ADVERTISING AND PUBLIC DISPLAYS**

Tenant shall not install or have installed or allow to be installed upon or within the Office Space, without the prior written approval of the Manager or his authorized representative, any sign, either lighted or unlighted, poster or other display of advertising media, including material supplied by manufacturers of merchandise offered for sale, as well as other types of display specified in the DIA Design Standards. Permission will not be granted for any advertising which fails to comply with DIA Design Standards or DIA Tenant Development Guidelines, or any advertising material, fixture or equipment which extends beyond the Office Space.

### **11.02 AGREEMENT BINDING UPON SUCCESSORS**

This Lease, subject to the provisions of the section entitled "Assignment," shall be binding upon and extend to the heirs, personal representatives, successors and assigns of the respective parties hereto.

### **11.03 AGREEMENT MADE IN COLORADO**

This Lease shall be deemed to have been made in and shall be construed in accordance with the laws of the State of Colorado.

### **11.04 AGREEMENT SUBORDINATE TO AGREEMENTS WITH UNITED STATES**

This Lease 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 development of the Airport or airport system. The provisions of Appendices 1, 2 and 3 to the Companion Agreement are incorporated herein by reference.

### **11.05 ASSIGNMENT**

Any assignment is subject to the "Assignment" provision in the Companion Agreement.

### **11.06 BOND ORDINANCES**

This Lease is in all respects subject and subordinate to any and all City bond ordinances applicable to the Airport and airport system and to any other bond ordinances which should amend, supplement or replace such bond ordinances. The parties to this Lease acknowledge and agree that all property subject to this Lease which was financed by the net proceeds of tax-exempt bonds is owned by the City, and Tenant agrees not to take any action that would impair, or omit to take any action required to confirm, the treatment of such property as owned by the City for purposes of Section 142(b) of the Internal Revenue Code of 1986, as amended. In particular, the Tenant agrees to make, and hereby makes, an irrevocable election (binding on itself and all successors in interest under this Lease) not to claim depreciation or an investment credit with respect to any property subject to this Lease which was financed by the net proceeds of tax-exempt bonds and shall execute such forms and take such other action as the City may request in order to implement such election.

### **11.07 FORCE MAJEURE**

Neither party hereto shall be liable to the other for any failure, delay or interruption in the performance of any of the terms, covenants or conditions of this Lease due to causes beyond the control of that party, including without limitation strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or any other circumstance for which such party is not responsible or which is not in its power to control, but in no event shall this paragraph be construed so as to allow Tenant to reduce or abate its obligation to pay the rent herein, or any other compensation due hereunder.

### **11.08 INCONVENIENCES DURING CONSTRUCTION**

Tenant recognizes that from time to time during the Term of this Lease, it may be necessary for City to commence or complete extensive programs of construction, expansion, relocation, maintenance and repair in order that the Airport and its facilities may be completed and operated in accordance with any present or future master layout plan, and that such construction, expansion, relocation, maintenance and repair may inconvenience the Tenant in its operation at the Airport. Tenant agrees that no liability shall attach to City, its officers, agents, employees, contractors, subcontractors and representatives by way of such inconveniences, and Tenant waives any right to claim damages or other consideration therefrom.

### **11.09 MASTER PLAN**

Tenant agrees that no liability shall attach to the City, its officers, agents and employees by reason of any efforts or action toward implementation of any present or future master layout plan for the Airport and waives any right to claim damages or other consideration arising therefrom.

### **11.10 INDEPENDENT CONTRACTOR**

Tenant shall at all times have the status of an independent contractor without the right or authority to impose tort or contractual liability upon the City.

### **11.11 NOTICES**

All notices required to be given to the City or Tenant hereunder shall be in writing and sent by certified mail, return receipt requested, as follows:

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

with a copy to:                                   Airport Property Management Section  
    Denver International Airport  
    Airport Office Building, 9th Floor  
    8500 Peña Boulevard  
    Denver, CO 80249-6340

To Tenant     Rocky Mountain Motion Corp, Inc.

Attn: Wendy McDowell  
14921 E. 4<sup>th</sup> Ave., Suite 150  
Aurora, CO 80011

Either party hereto may designate in writing from time to time the address of substitute or supplementary persons within the State of Colorado to receive such notices. The effective date of service of any such notice shall be the date such notice is mailed or delivered to Tenant or Manager.

#### **11.12 PARAGRAPH HEADINGS**

The paragraph headings herein are for convenience in reference only and are not intended to define or limit the scope of any provision of this Lease.

#### **11.13 PATENTS AND TRADEMARKS**

Tenant represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its operations under this Lease. Tenant agrees to save and hold harmless the City, its officers, employees, agents and representatives from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Tenant under this Lease.

#### **11.14 SECURITY**

Tenant shall cause its officers, contractors, agents and employees to comply with any and all existing and future security regulations adopted by the City or the Transportation Security Administration (TSA), including 49 CFR Subtitle B, Chapter XII, as amended from time to time.

#### **11.15 SEVERABILITY**

If any provision in this Lease is held by a court to be invalid, the validity of other provisions herein which are severable shall be unaffected.

#### **11.16 SURVIVAL OF PROVISIONS; SEVERABILITY**

All terms and conditions of this Lease which, by reasonable implication, contemplate continued performance or compliance beyond the termination of this Lease (by expiration of the term or otherwise) shall survive such termination and continue to be enforceable as provided herein. In the event, any of the provisions, or applications thereof, of this Lease are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or applications thereof, shall not be affected.

#### **11.17 THIRD PARTIES**

This Lease shall not be deemed or construed to confer upon any third party or parties (except parties to whom the Tenant may assign this Lease in accordance with the terms hereof, and except any successor to the City) any right to claim damages or to bring any action or proceeding against either the City or the Tenant because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein.

### **11.18 USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS**

Tenant, its officers, agents and employees shall cooperate and comply with the provisions of the Federal Drug-Free Workplace Act of 1988 and Denver Executive Order No. 94, or any successor thereto, concerning the use, possession or sale of alcohol or drugs. Tenant shall also prohibit consumption of alcohol within the Office Space. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City's barring Tenant from City facilities or participating in City operations.

### **11.19 CITY SMOKING POLICY**

Tenant and its officers, agents and employees shall cooperate and comply with the provisions of Denver Revised Municipal Code Sec. 24-301, et. seq. prohibiting smoking in City buildings and facilities, the City's Executive Order No. 99 dated December 1, 1993 and Executive Order No. 13 dated July 31, 2002 prohibiting the sale or advertising of tobacco products. Tenant agrees that it will prohibit smoking by its employees and the public in the Office Space and will not sell or advertise tobacco products.

### **11.19 NONDISCRIMINATION**

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

### **11.20 ENTIRE AGREEMENT**

The parties agree that the provisions herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No amendments, unless expressly reserved to the Manager herein, shall be valid unless executed by an instrument in writing by all the parties with the same formality as this Lease.


### **11.21 FINAL APPROVAL**

This Lease is expressly subject to and shall not be or become effective or binding on the City until approved by the City Council and fully executed by all signatories of the City and County of Denver.

**[SIGNATURE PAGE FOLLOWS]**

**Contract Control Number:** PLANE-201523193-00

**Contractor Name:** Rocky Mountain Motion Corp dba The Global Business Solution Providers

By:  \_\_\_\_\_

Name: Adam McDowell  
(please print)

Title: CFO/VP  
(please print)

**ATTEST: [if required]**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(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:

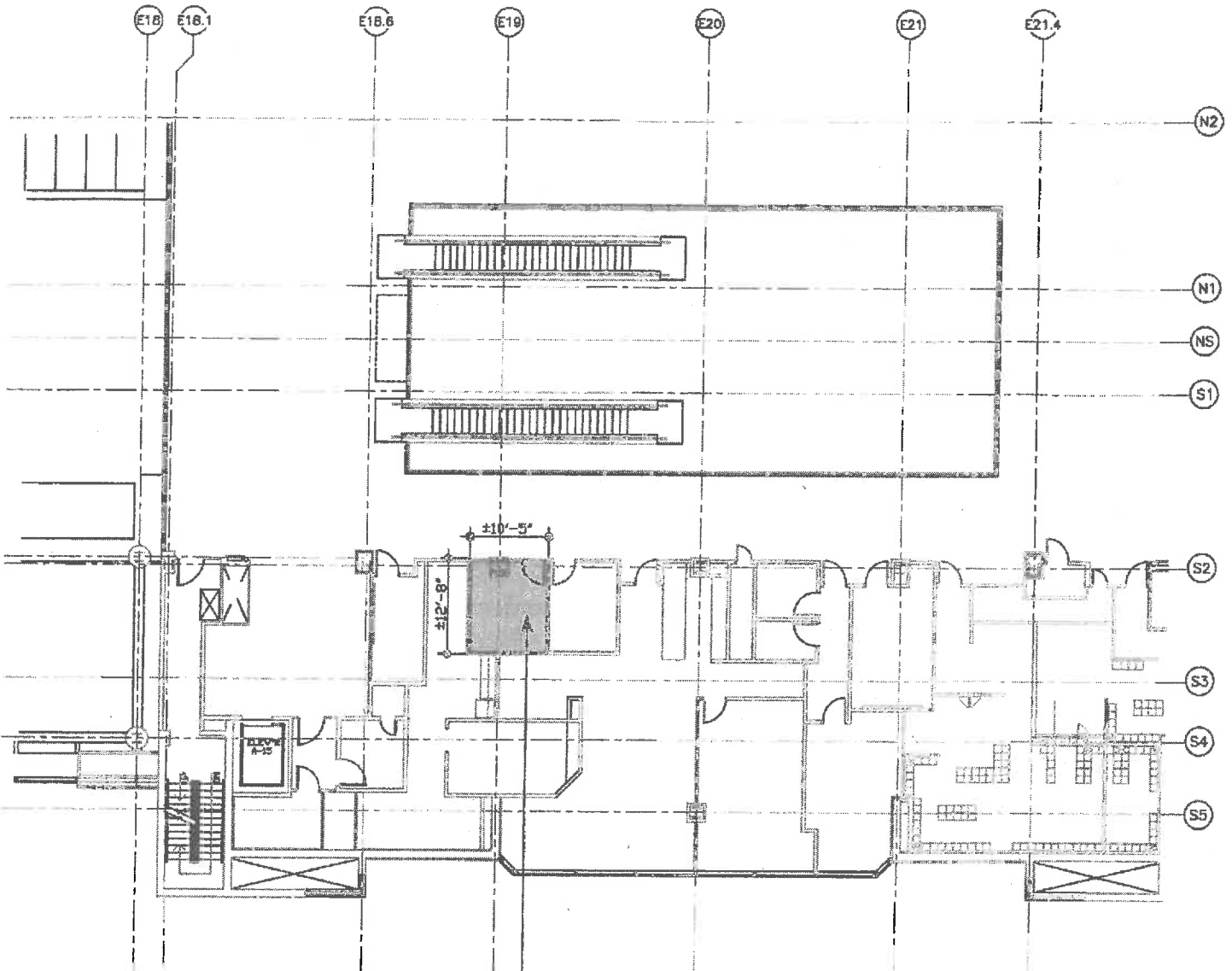
REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_

By \_\_\_\_\_

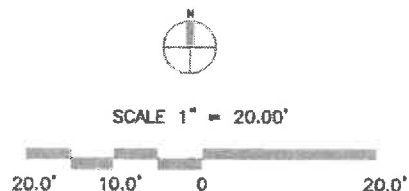
By \_\_\_\_\_





Global Business Solution Providers  
 R17-2-4-E19-S3-2  
 130.3 sq. ft.

- CONC. WALL (BY CITY)
- STUD/GYPSUM WALL (BY CITY)
- GLASS WALL (BY CITY)
- TENANT LEASE LINE
- (H) (C) COLUMNS
- NIC = Not Included  
(In Lease or Sq. Ft. Calc.)



**NOTE:**  
 This exhibit depicts only approximate dimensions and square footage of leased area based upon planning data and is not intended to show dimensions for construction details.

*David Washburn*  
 Director of Facilities Services

 KEY PLAN CONCOURSE A		REVISED	DENVER INTERNATIONAL AIRPORT
		<b>EXHIBIT A</b> Concourse A Mezz. Level Global Business Solution Providers	
		CC#: GBSP	DATE: 05/26/15

**CITY AND COUNTY OF DENVER  
CERTIFICATE OF INSURANCE FOR DEPARTMENT OF AVIATION (02/07/01)**

Original COI

Advice of Renewal

Change

Party to Whom this Certificate is Issued:

Name and Address of Insured:

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

**CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: 201523193 – Office Space for Drug Testing Program**

**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.

**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**

**Exhibit C**

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)	<b>Each Occurrence and aggregate</b>	<b>\$1,000</b>
---	--------------------------------------	----------------

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/Medical Malpractice

**Coverage: Professional Liability**

<b>Minimum Limits of Liability (In Thousands)</b>	<b>Per Claim Aggregate</b>	<b>\$1,000 \$3,000</b>
---	--------------------------------	----------------------------

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

1. Policies written on a claims-made basis must remain in force in accordance with CRS 13-80-104.
2. Any cancellation notice required herein may be provided by either Certified or Regular Mail.
3. Coverage must extend, by endorsement or otherwise, to cover the full scope of all environmental work performed under the insured's contract with the City.
4. Waiver of Subrogation and Rights of Recovery against the City & County of Denver, its officers, officials and employees.

### Property Coverage

**Coverage: Personal Property, Contents, Fixtures, Tenant Improvements and Betterments**

Minimum Limits of Liability (in Thousands):

- o 100% of the Replacement Cost value of Personal Property, Contents, Fixtures, Tenant Improvements and Betterments
- o Covered Cause of Loss – Special Form including glass coverage and signs
- o Replacement Cost Endorsement

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. Waiver of Subrogation Applies to City as Landlord for any protected Landlord Property.
3. In the event of payment of any Loss involving Tenant Improvements and Betterments, permanent fixtures, etc, the insurance carrier shall pay the City (as Landlord) its designee first for said property loss

### **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 Certificate of Insurance shall be allowed without the review and approval of the Risk Administrator prior to contract execution.

### **NOTICE OF CANCELLATION**

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

## EXHIBIT X

### PROVISIONS FOR DESIGN AND CONSTRUCTION OF IMPROVEMENTS

#### GENERAL PROVISIONS

SECTION 1: GENERAL. Except as the context otherwise requires and unless otherwise expressly provided herein, the capitalized terms in this *Exhibit X* to the Agreement shall have the same meaning as any similarly capitalized terms defined in the Agreement or any exhibit thereto. Reference to Denver International Airport (DIA), Department of Aviation or Manager of Aviation shall mean that entity specifically, or that division or individual authorized to represent that entity. As used below the term "Tenant" shall mean and include the "Party of the Second Part.

SECTION 2: IMPROVEMENTS. "Improvements," which may also be known as "Concession Improvements" or "Tenant Improvements," shall mean any new construction, equipment, finishes, fixtures, systems, furnishings and furniture installed by Tenant, as well as modifications or alterations to existing construction, equipment, finishes, fixtures, systems, furnishings and furniture which conform to drawings and specifications approved in writing by the Manager of Aviation. Such drawings and specifications must provide for the necessary and proper operation of the business contemplated under this Agreement.

SECTION 3: COMPLIANCE WITH LAWS AND REGULATIONS. Tenant agrees to comply with and require its contractors to comply with all applicable federal, state and local laws and all general rules and regulations applicable to construction at DIA, including but not limited to payment of prevailing wages and sales and use taxes, compliance with the Americans with Disabilities Act, 42 USC 12,000 et seq. and its regulations.

In addition to the above, the Tenant and its contractors shall comply with all DIA specific rules and regulations regarding site access, use of site, safety, security, design and construction and shall obtain and pay for all related permits. Failure to comply will be grounds for denial of access and/or suspension of construction activities. Regulations in force specific to DIA include but are not limited to the following:

The Denver Municipal Airport System Rules and Regulations

DIA Design Standards

DIA Tenant Development Guidelines

SECTION 4: PAYMENT OF PREVAILING WAGE RATES. Tenant shall require its contractor and all of its subcontractors to pay every worker, laborer or mechanic employed by them in the performance of the construction of the Improvements prevailing wages, including fringe benefits or their cash equivalent, for the same class and kind of work in the City and County of Denver, as determined by the Career Service Board under the provisions of Section 20-76 of the Denver Revised Municipal Code. The wages shall be those prevailing at the time of the contractor's final bid, and the Tenant shall require the contractor to submit with its bid the wage schedule applicable. The contractor shall post in a prominent and easily accessible place at the site of the Improvements the scale of wages to be paid by the contractor and all subcontractors at any tier working under the contractor. The contractor shall furnish to the Mayor's Office of Contract Compliance and to the Auditor, or the Manager's authorized representative, each week during

which work is in progress, a true and correct copy of the payroll records of all workers employed to perform the work. All payroll records shall include information showing the number of hours worked by each worker, the hourly pay of such worker, any deductions made from pay, and the net amount of pay received by such worker for the period covered by the payroll. The payroll record shall be accompanied by a sworn statement of the contractor that the copy is a true and correct copy of the payroll records of all workers performing the work, either for the contractors or subcontractors, that payments were made to the workers as set forth in the payroll records, that no deductions were made other than those set forth in such records, and that all workers were paid the prevailing wages as of the contractor's final bid for the work. Compliance with above requirements shall be deemed a work "specification" as such word is used in Section 5-18(d), Denver Revised Municipal Code. Violation of the prevailing wage requirement and its documentation, hereinabove set forth, shall result in an order from the Manager of Aviation for the work to cease until there is satisfactory evidence that the violation has been remedied and will not reoccur. The issuance of a stop-work order shall not relieve contractor's surety of any liability on contractor's bond or bonds, but such a stop-work order shall be deemed a default by the contractor insofar as said surety's obligation is concerned.

**SECTION 5: SBE AND MBE/WBE PARTICIPATION.** This Agreement is subject to the requirements of Articles III and VII of the Denver Revised Municipal Code.

Tenant agrees that it shall provide for participation of Small Business Enterprises (SBEs) in the design and construction of Improvements, in compliance with Article VII, Division 1 of Chapter 28, Denver Revised Municipal Code (D.R.M.C.), or any successor ordinance effective at the time of any design and construction that Tenant may carry out during the life of this Agreement. The goal for percentage of design and construction work to be performed by SBE firms is set forth on the Construction Summary Page, and Tenant shall make a good faith effort to meet such goals as have been set in accordance with the ordinance. Further, the City and County of Denver encourages Tenants to utilize SBEs and to divide the design and construction work into economically feasible units or segments to allow the most opportunity for subcontracting.

Tenant agrees that it shall provide for participation of Minority Business Enterprises ("MBE") and Women Business Enterprises ("WBE") in the design and construction of Improvements, in compliance with the requirements of Article III, Divisions 1 and 3 of Chapter 28, of the Denver Revised Municipal Code ("MBE/WBE Ordinance"), or applicable successor ordinance, during the life of this Agreement. Tenant agrees to comply with rules and regulations issued by the Director of the Division of Small Business Opportunity ("DSBO"), a division of the Mayor's Office of Economic Development. The goal for percentage of design and construction work to be performed by MBE/WBE firms is set forth on the Construction Summary Page, and Tenant shall meet, or make a good faith effort to meet, such goals as have been set in accordance with the ordinance. Further, the City and County of Denver encourages Tenants to utilize MBE/WBE firms and to divide the design and construction work into economically feasible units or segments to allow the most opportunity for subcontracting.

**SECTION 6: INSURANCE REQUIREMENTS.** Refer to Appendix B of Manual 1 of the DIA Tenant Development Guidelines for insurance requirements for Tenant, Tenant's Design Consultants and Tenant's Contractors for required insurance coverage for design and construction of Improvements and completed Improvements, including requirements for submittal of certificates and renewals of insurance.

**SECTION 7: EVIDENCE OF INSURANCE.** Certified copies of required insurance policies, or certificates, in the standard form required, evidencing the existence thereof, or binders, shall be

delivered to the DIA Division of Planning and Development at least 15 days prior to the commencement of any design work to be performed by Tenant's consultants and any construction work for Improvements. If a binder is delivered, it shall be replaced within 30 days by a certified copy of the policy or the required certificate. Policies shall be in a form and of a company acceptable to and approved by the City, and certificates shall be on standard City and County of Denver Certificate of Insurance forms.

Each such policy or certificate shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without 45 days prior written notice (10 days for nonpayment of premium) given by certified mail, return receipt requested, to the Manager of Aviation, 8500 Peña Boulevard, Denver, Colorado 80249-6340.

Each such policy or certificate shall further provide that any coverage afforded the City and County of Denver as an additional insured under the policy shall apply as primary insurance and any other insurance issued to the City and County of Denver shall apply as excess and noncontributing insurance.

Any renewal certificate shall be delivered to the Manager of Aviation at least 10 days prior to the expiration of each expiring policy. If at any time any of the insurance policies shall be or become unsatisfactory to the Manager of Aviation as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to the Manager of Aviation, Tenant shall promptly obtain a new and satisfactory replacement policy.

**SECTION 8: LIMITATION ON LIABILITY.** Tenant agrees that no liability shall attach to the City for any damages or losses incurred or claimed by Tenant or any other person or party on account of the construction or installation of the Improvements or other Improvements to the Tenant's site made by the Tenant. Tenant agrees that no liability shall attach to the City for any interference or delay caused by construction in adjacent areas, travelers, other businesses or airport operations, including without limitation damages or losses in the nature of delay damages, lost labor productivity, and impact damages. Tenant agrees to indemnify, defend and hold harmless the City from any loss, cost, damage or expense incurred, claimed, asserted or arising in connection with Tenant's or its contractors' or agents', construction or installation of the Improvements or other Improvements to the site made by the Tenant.

## **DESIGN PROVISIONS**

**SECTION 9: DESIGN PROCEDURES.** Refer to Manual 1 of the DIA Tenant Development Guidelines for procedures and requirements regarding design, including but not limited to design process and schedule, submittal requirements, review and approval process, design modifications and project coordination.

Approval of the Manager of Aviation extends to and includes consideration of architectural, structural, mechanical, electrical, specialty systems, site, signage, landscaping and aesthetic matters, and DIA reserves the right to reject any design submitted and to require Tenant to resubmit designs and layout proposals until they meet with the approval of the Manager of Aviation. No substantial changes or alterations shall be made in said drawings or specifications after approval by the Manager of Aviation, and no alterations or improvements shall be made to or upon the Tenant's site without prior approval.

Tenant CADD Submittal Requirements: All issue for construction and project record drawings shall be provided by the Tenant to DIA in AutoCAD Rel. 2007 .dwg file format in accordance with



DIA CADD standards set forth in Design Standards Manual 1. All design drawings submitted by the Tenant to the DIA shall be provided in the latest release of AutoCAD format in accordance with the DIA's Design Standards Manual.

Concession CADD Submittal Requirements: AutoCAD 2007 .dwg format CADD files that match the Tenant's hardcopy drawings must be submitted via: CD-ROM or DVD-ROM in MS-Windows format. All drawings must represent precision input and follow industry standard CADD practices. The drawings must reflect true design dimensioning and must NOT be graphic representations of the design. All site, civil and utility drawings MUST be produced using units in feet and the DIA Grid Coordinate System. The DIA Project Manager must approve submittal and may require adherence to the requirements set forth in DIA design standards.

In addition to the above, Tenant is responsible for coordination with the Denver Building Inspection Division, Zoning, Fire Department, Wastewater Management, Consumer Protection, Health and Hospitals, etc. as may be required to comply with submittal, review and approval requirements in order to obtain all required permits. Prior to the issuance of a Notice to Proceed with Improvements from the Manager of Aviation, the Tenant shall obtain and pay for all approvals, licenses and permits required for the Improvements. Whenever a conflict arises between state or local law, ordinances or regulations and federal law or regulations, the most stringent law or regulations applicable to this Agreement shall control.

SECTION 10: DESIGN STANDARDS. First-class standards of design and construction are required, and all Improvements shall conform to applicable statutes, ordinances, building codes, and regulations as well as the DIA Design Standards and DIA Tenant Development Guidelines, as they may be amended from time to time and any other applicable design, construction and maintenance standards.

Approval of the Manager of Aviation shall extend to and include consideration of architectural and aesthetic matters and the City reserves the right to reject any designs submitted and to require the Tenant to resubmit designs and layout proposals until they meet with the City's approval. If any portion of the plans and specifications is disapproved by the City, the Tenant shall promptly submit necessary modifications and revisions thereof. The approval given by the Manager of Aviation shall not constitute a representation or warranty as to such conformity; therefore, responsibility remains with the Tenant at all times.

## **CONSTRUCTION PROVISIONS**

SECTION 11: CONSTRUCTION PROCEDURES. Refer to Manual 1 of the DIA Tenant Development Guidelines for procedures and requirements regarding construction, including but not limited to construction schedule, submittal requirements, review and approval process, construction inspections, construction modifications and project coordination.

Compliance with standards: All construction work shall comply with the requirements of and standards established by the City and all other appropriate governmental agencies and entities. The City shall at all times have the right to monitor and inspect any construction to assure that the Improvements are constructed and installed in full compliance with the plans and specifications.

Standard of Performance: All work done by the Tenant or its contractors shall be done in a first-class workmanlike manner using only good grades of materials and shall comply with all insurance requirements and all applicable laws and ordinances and rules and regulations of

governmental departments or agencies. Whenever a conflict arises between State or local law, ordinances or regulations and Federal law or regulations, Federal law or regulations applicable to this Agreement shall control.

City Inspection: All construction work, materials and installations involved in or incidental to the construction of the improvements undertaken by the Tenant throughout the term hereof shall be subject at all times to inspection and approval by the City. DIA shall at all times have the right of access to the construction site and to monitor and inspect the construction of all Improvements to insure that all Improvements are constructed and installed in compliance with approved drawings and specifications.

DIA shall have the right to halt construction of the Improvements or deny access to the site at any time if construction is at material variance from the approved drawings and specifications until such variance is corrected, or if such construction poses an immediate safety hazard at the Airport, until such safety hazard is eliminated. The City shall cooperate and use its best efforts to alleviate and resolve any such variance or impediment to the safe operation of the Airport so as to permit continued construction as expeditiously as possible.

In order to assist DIA in monitoring and inspecting construction, the Tenant shall submit, or cause to be submitted for information and record, copies of all field test reports, certificates of insurance, waivers of liens, material certificates, shop drawings and submittals for review for compliance with DIA design and construction standards, contractor application for payment requests, construction progress reports, notification of substantial completion of Improvements and final acceptance, two copies of maintenance and operation manuals in connection with building systems and all updates thereof, as-built documents, and any other documents related to the construction of the Improvements which may be reasonably requested by DIA.

No change order or other contract modification that materially changes the scope of the Improvements shall be executed without prior approval of the Manager of Aviation, whose approval shall not be unreasonably withheld. The City will approve, conditionally approve or disapprove submissions of change orders that materially change the scope of the work within a reasonable period of time following receipt thereof. Any conditional approval or disapproval shall be accompanied by an explanation as to the reason for the condition.

The Building Inspection Division of the City and County of Denver shall also receive copies of all change orders. Any conditional approval or disapproval shall be accompanied by an explanation of the reasons.

Tenant is responsible for all temporary utilities required during construction. Tenant, at its sole cost and expense, shall obtain and make utility connections, hook-ups or taps as necessary or as stipulated in this Agreement, securing all necessary applications or permits and paying all associated fees. Tenant, at its sole cost and expense, shall provide meters, calibrated by the utility company, and maintain equipment as required to provide accurate measurement of usage and consumption. DIA makes no warranty as to the location of structures, wiring, fixtures or systems, and Tenant accepts them on an "as is" basis without further recourse against DIA as to their location, number or suitability for the particular purposes of the Tenant.

Tenant is responsible for maintaining a clean, orderly and safe construction site, free of accumulated construction debris and waste materials and shall be responsible for legal removal of same. Construction shall be accomplished without interfering with travelers, airport operations or other businesses, providing barricades and/or construction enclosures as required.

SECTION 12: CONSTRUCTION BONDS AND PERMITS. Prior to Notice to Proceed with construction Improvements, Tenant and its contractor shall deliver to the Manager of Aviation performance and payment bonds and copies of all required permits, licenses and all other documents as required by Manual 1 of the DIA Tenant Development Guidelines.

SECTION 13: MODIFICATIONS AND ALTERATIONS. Modifications and alterations to existing Tenant improvements are subject to the same requirements and provisions as new tenant improvements as itemized in this *Exhibit X* and this Agreement.

Advance Notice of Modification: The Tenant shall give or cause to be given to the City advance notice before performing any material modification to the improvements.

Expense of Alterations. Any work necessary to make any alterations, improvements, or additions to the facility throughout the term of this Agreement shall be done at the Tenant's cost and expense, in accordance with and subject to all of the required approvals, submittals, and procedures, and all other requirements of whatsoever nature, as set forth herein.

SECTION 14: AS-BUILT DOCUMENTS. Not later than 60 days after completion of all work for the Improvements, Tenant shall provide DIA two complete sets of as-built documents prepared in accordance with DIA requirements. If Tenant fails to provide as-built documents after written notice from DIA, DIA may elect to have the documents completed and charge the Tenant for the costs associated therewith. Tenant agrees that, upon the request of DIA, Tenant will inspect the Improvements jointly with DIA to verify as-built documents

## APPENDIX NO. 1

### STANDARD FEDERAL ASSURANCES AND NONDISCRIMINATION

NOTE: As used below the term "contractor" shall mean and include the Airline, 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, creed, color, sex, 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.

7. The Airline for itself, representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Airline shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

8. The Airline for itself, representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land: (1) that no person on the grounds of race, color, sex, creed or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex, creed or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Airline shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

#### 9. NONDISCRIMINATION IN AIRPORT EMPLOYMENT OPPORTUNITIES

The Airline 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.

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.

## APPENDIX NO. 2

### DISADVANTAGED BUSINESS ENTERPRISES - REQUIRED STATEMENTS

Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this agreement.

DBE Obligation. The City and its contractors agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The City and its contractors shall not discriminate on the basis of race, color, sex, creed or national origin in the award and performance of DOT-assisted contracts.

49 CFR 26.5 defines a DOT-assisted contract as “any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees.” “Contractor” means one who participates through a contract or subcontract (at any tier) in a DOT-assisted highway, transit, or airport program.