Purchase Order

DO NOT INVOICE TO THIS ADDRESS

City and County of Denver
Purchasing Division
201 West Colfax Avenue Dept.304
Denver, CO 80202
United States
Phone: 720/913-8100 Fax: 720/913-8101

Purchase Order	Date	Revision	Page:
PLANE-0000015698	08/14/2014		1 of 5

Payment Terms	Freight Terms		Ship Via
Net15	DESTINATION		Common

Buyer	Phone		Origin
Subia, Curtis C. - Purchasing	720/913-8152		REG

Vendor: 0000094282

VANCOUVER INTERNATIONAL AIRPORT AUTHORIT
3211 GRANT MCCONACHIE WAY
RICHMOND BC V7B 1Y7
Canada

Ship To:
DIA Maintenance Center
27500 East 80th Avenue
Denver CO 80249
United States

Bill To:
Denver International Airport
8500 Pena Boulevard
Room 8870
Denver CO 80249-6340
United States

Tax Exempt? Y   **Tax Exempt ID:** 98-02890-000

Line-Sch	Vendor Part#/Description	Mfg ID	Quantity	UOM	PO Price	Extended Amt	Due Date
1 - 1	AUTOMATED PASSPORT KIOSK UNITS		16.00	EA	$15,000.00	$240,000.00	09/30/2014
	Req ID: 00202157						
2 - 1	INSTALLATION		1.00	LOT	$20,000.00	$20,000.00	09/30/2014
	Per the Proposal, this fee includes site surveying, provision of multiple kiosk layouts for consideration, installation, testing of the units off-site. On-site is only commissioning of kiosks, training, official launch support and coordination.						
	Req ID: 00202157						
3 - 1	PERPETUAL SOFTWARE LICENSE		16.00	EA	$32,000.00	$512,000.00	09/30/2014
	Req ID: 00202157						
4 - 1	INITIAL SUPPORT FOR EACH UNIT		1.00	LOT	$96,000.00	$96,000.00	09/30/2014
	The Annual Support / Maintenance Agreement is for the Standard Service Support program as outlined in the proposal and covers Level 3 support services and warranty. Term of the Service Agreement to run one year from the date the kiosks are installed and in full operation.						
	Req ID: 00202157						

This purchase shall be for the Denver International Airport (DIA).

Purchase Order price includes all shipping and handling. All Freight Pricing is included and No Additional Freight Charges shall be accepted.

Agency Contact: Candace Brown 303-342-4195

Vendor Contact Information: Christopher Gilliland 604-276-6058
Christopher_Gilliland@yvr.ca

For additional questions regarding this purchase order and the terms herein
contact: Curtis Subia | 720-913-8152 | curtis.subia@denvergov.org

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	Purchase Made Under the Provisions of Section 20-63(A) of the Revised Municipal Code. Request for Proposal 7225.						
	Vendor is to supply and install sixteen (16) Passport Control Kiosks as proposed in the above referenced Request for Proposal. All requirements outlined in the Scope of Work (Attachment A) shall form part of this purchase order and shall be completed prior to payment.						
	Purchase is governed by terms and conditions in Attachment titled "APC KIOSK SUPPLY & SUPPORT CONTRACT SUITE."						
	Vendor is to provide copies repair and maintenance manuals for Denver International Airport at request per the proposal.						

Total PO Amount $868,000.00

Any Discrepancies must be reconciled with the Purchasing Division Buyer before this order is filled.

This Purchase Order may contain an item or items issued pursuant to a Master Purchase Order(s) ("MPO") previously agreed to between the City and the Vendor. All of the terms and conditions of the MPO(s) referenced above shall govern the purchase of the related item(s). The Vendor acknowledges and agrees by accepting this Purchase Order: a) that for any item referencing an MPO and where the terms and conditions stated in this Purchase Order differ from the MPO(s) the PO terms are void and of no effect [unless agreed to in a separate written or electronic acknowledgment between the Vendor and the Director of Purchasing] and b) that where there is no MPO referenced above, the Vendor agrees to be bound by all of the terms and conditions of this Purchase Order.

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TERMS AND CONDITIONS
GENERAL CONDITIONS OF PURCHASE:

1. Non-Exclusive: This Purchase Order is non-exclusive. City does not guarantee any minimum purchase other than as provided herein

2. Inspection and Acceptance: Vendor shall perform all services in accordance with the standard of care exercised by highly competent vendors who perform like or similar services. City may inspect all goods/services prior to acceptance. Payment does not constitute acceptance. Vendor shall bear the cost of any inspection/testing that reveal goods/services that are defective or do not meet specifications. City's failure to accept or reject goods/services shall not relieve Vendor from its responsibility for such goods/services that are defective or do not meet specifications nor impose liability on City for such goods/services. If any part of the goods/services are not acceptable to City, City may, in addition to any other rights it may have at law or in equity: (1) make a warranty claim; (2) repair and/or replace the goods or substitute other services at Vendor's expense; or (3) reject and return the goods at Vendor's cost and/or reject the services at Vendor's expense for full credit. Any rejected goods/services are not to be replaced without written authorization from City, and any such replacement shall be on the same terms and conditions contained in this Purchase Order.

3. Shipping, Taxes and Other Credits and Charges: Vendor shall procure all permits and licenses; pay all charges, taxes and fees; and give all notices necessary and incidental to the fulfillment of this Purchase Order and all cost thereof have been included in the prices contained herein. City shall not be liable for the payment of taxes, late charges or penalties of any nature, except as required by D.R.M.C. § 20-107, et seq. The price of all goods/services shall reflect all applicable tax exemptions. City's Federal Registration No. is 84-6000580 and its State Registration No. is 98-02890. All pricing is F.O.B. destination unless otherwise specified. Shipments must be marked with Vendor's name, the Purchase Order number, and contain a delivery or packing slip. Vendor shall not impose any charges for boxing, crating, parcel post, insurance, handling, freight, express or other similar charges or fees. Vendor shall notify City in writing of any price decreases immediately, and City shall receive the benefit thereof on all unshipped items. Vendor shall comply with any additional delivery terms specified herein. Vendor shall be responsible for the cleanup and reporting of any contamination (environmental or otherwise) or spillage resulting from the delivery and/or unloading of goods within twenty-four (24) hours of the contamination or spillage or sooner if required by law. Vendor shall pay all sales and use taxes levied by City on any tangible personal property built into the goods/services. Vendor shall obtain a Certificate of Exemption from the State of Colorado Department of Revenue prior to the purchase of any materials to be built into the goods/services and provide a copy of the Certificate to City prior to final payment.

4. Risk of Loss: Vendor shall bear the risk of loss, injury or destruction of goods prior to delivery to City. Loss, injury or destruction shall not release Vendor from any obligation hereunder.

5. Invoice: Each invoice shall include: (i) the purchase order number; (ii) individual itemization of the goods/services; (iii) per unit price, extended and totaled; (iv) quantity ordered, back ordered and shipped; (v) an invoice number and date; (vi) ordering department's name and "ship to" address; and (vii) agreed upon payment terms set forth herein.

6. Payment: Payment shall be subject to City's Prompt Payment Ordinance D.R.M.C. § 20-107, et-seq. after City accepts the goods/services. City's payment obligations hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Purchase Order, encumbered for the purpose of this Purchase Order and paid into the Treasury of City. Vendor acknowledges that: (i) City does not by this Purchase Order, irrevocably pledge present cash reserves for payments in future fiscal years; and (ii) this Purchase Order is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of City. City may setoff against any payments due to Vendor any claims and/or credits it may have against Vendor under this Purchase Order.

7. Amendments/Changes: Only the Manager of General Services or his delegate is authorized to change or amend this Purchase Order by a formal written change order. Any change or amendment that would cause the aggregate payable under this Purchase Order to exceed the amount appropriated and encumbered for this Purchase Order is expressly prohibited and of no effect. Vendor shall verify that the amount appropriated and encumbered is sufficient to cover any increase in cost due to changes or amendments. Goods/services provided without such verification are provided at Vendor's risk. The Vendor has no authority to bind City on any contractual matters.

8. Warranty: Vendor warrants and guarantees to City that all goods furnished under this Purchase Order are free from defects in workmanship and materials, are merchantable, and fit for the purposes for which they are to be used. For any goods furnished under this Purchase Order which become defective within twelve (12) months (unless otherwise specified) after date of receipt by City, Vendor shall either, at City's election and to City's satisfaction, remedy any and all defects or replace the defective goods at no expense to City within seven (7) days of receipt of the defective goods or accept the defective goods for full credit and payment of any return shipping charges. Vendor shall be fully responsible for any and all warranty work, regardless of third party warranty coverage. Vendor shall furnish additional or replacement parts at the same prices, conditions and specifications delineated herein.

9. Indemnification/Limitation of Liability: Vendor shall indemnify and hold harmless City (including but not limited to its employees, elected and appointed officials, agents and representatives) against any and all losses (including without limitation, loss of use and costs of cover), liability, damage, claims, demands, actions and/or proceedings and all costs and expenses connected therewith (including without limitation attorneys' fees) that arise out of or relate to any claim of infringement of patent, trademark, copyright, trade secret or other intellectual property right related to this Purchase Order or that are caused by or the result of any act or omission of Vendor, its agents, suppliers, employees, or representatives. Vendor's obligation shall not apply to any liability or damages which result solely from the negligence of City. City shall not be liable for any consequential, incidental, indirect, special, reliance, or punitive damages or for any lost profits or revenues, regardless of the legal theory under which such liability is asserted. In no event shall City's aggregate liability exceed the agreed upon cost for those goods/services that have been accepted by City under this Purchase Order up to the Total Purchase Order Amount. Notwithstanding anything contained in this Purchase Order to the contrary, City in no way limits or waives the rights, immunities and protections provided by C.R.S. § 24-10-101, et seq.

10. Termination: City may terminate this Purchase Order, in whole or in part, at any time and for any reason immediately upon written notice to Vendor. In the event of such a termination, City's sole liability shall be limited to payment of the amount due for the goods/services accepted by City. Vendor acknowledges the risks inherent in this termination for convenience and expressly accepts them. Termination by City shall not constitute a waiver of any claims City may have against Vendor.

11. Interference: Vendor shall notify the Director of Purchasing immediately of any condition that may interfere with the performance of Vendor's obligations under this Purchase Order and confirm such notification in writing within twenty-four (24) hours. City's failure to respond to any such notice shall in no way act as a waiver of any rights or remedies City may possess.

12. Venue, Choice of Law and Disputes: Venue for all legal actions shall lie in the District Court in and for City and County of Denver, State of Colorado, and shall be governed by the laws of the State of Colorado as well as the Charter and Revised Municipal Code, rules, regulations, Executive Orders, and fiscal rules of City. All disputes shall be resolved by administrative hearing, pursuant to the procedure established by D.R.M.C.§ 56-106. Director of Purchasing shall render the final determination.

13. Assignment/No Third Party Beneficiary: Vendor shall not assign or subcontract any of its rights or obligations under this Purchase Order without the written consent of City. In the event City permits an assignment or subcontract, Vendor shall continue to be liable under this Purchase Order and any permitted assignee or subcontractor shall be bound by the terms and conditions contained herein.

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This Purchase Order is intended solely for the benefit of City and Vendor with no third party beneficiaries

14. Notice: Notices shall be made by Vendor to the Director of Purchasing and by City to Vendor at the addresses provided herein, in writing sent registered, return receipt requested.

15. Compliance With Laws: Vendor shall observe and comply with all federal, state, county, city and other laws, codes, ordinances, rules, regulations and executive orders related to its performance under this Purchase Order. City may immediately terminate this Purchase Order, in whole or in part, if Vendor or an employee is convicted, plead nolo contendre, or admits culpability to a criminal offense of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature.

16. Insurance: Vendor shall secure, before delivery of any goods/services, the following insurance covering all operations, goods and services provided to City. Vendor shall keep the required insurance coverage in force at all times during the term of the Purchase Order, or any extension thereof, during any warranty period, and for three (3) years after termination of this Purchase Order. The required insurance shall be underwritten by an insurer licensed to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision stating "Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to the Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202. Such written notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior." Additionally, Vendor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, City must be notified by Vendor. Vendor shall be responsible for the payment of any deductible or self-insured retention The insurance coverages specified in this Purchase Order are the minimum requirements, and these requirements do not lessen or limit the liability of Vendor. Vendor shall provide a copy of this Purchase Order to its insurance agent or broker. Vendor may not commence services or work relating to the Purchase Order prior to placement of coverage. Contractor certifies that the attached certificate of insurance attached to the Purchase Order documents, preferably an ACORD certificate, complies with all insurance requirements of this Purchase Order. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Purchase Order shall not act as a waiver of Vendor's breach of this Purchase Order or any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements. Vendor's insurer shall name as Additional Insured to its Commercial General Liability and Business Auto Liability policies the City and County of Denver, its elected and appointed officials, employees and volunteers. Vendor's insurer shall waive subrogation rights against the City. All sub-contractors and sub-consultants (including independent contractors, suppliers or other entities providing goods/services required by this Purchase Order) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of Vendor. Vendor shall include all such entities as insureds under its policies or shall ensure that they all maintain the required coverages. Vendor shall provide proof of insurance for all such entities upon request by City. For Worker's Compensation Insurance, Vendor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of $100,000 for each bodily injury occurrence claim, $100,000 for each bodily injury caused by disease claim, and $500,000 aggregate for all bodily injuries caused by disease claims. Vendor expressly represents to City, as a material representation upon which City is relying, that none of the Vendor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Purchase Order, and that any such rejections previously effected, have been revoked. Vendor shall maintain Commercial General Liability coverage with limits of $1,000,000 for each occurrence, $1,000,000 for each personal and advertising injury claim, $2,000,000 products and completed operations aggregate, and $2,000,000 policy aggregate. Vendor shall maintain Business Auto Liability coverage with limits of $1,000,000 combined single limit applicable to all owned, hired and non-hired vehicles used in performing services under this Purchase Order. For Commercial General Liability coverage, the policy must provide the following: (i) That this Purchase Order is an Insured Contract under the policy; (ii) Defense costs in excess of policy limits(iii) A severability of interests, separation of insureds or cross liability provision; and (iv) A provision that coverage is non-contributory with other coverage or self-insurance provided by City. For claims-made coverage, the retroactive date must be on or before the first date when any goods or services were provided to City. Vendor must advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

17. Severability: If any provision of this Purchase Order, except for the provisions requiring appropriation and encumbering of funds and limiting the total amount payable by City, is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected if the intent of City and Vendor can be fulfilled.

18. Survival: All terms and conditions of this Purchase Order which by their nature must survive termination/expiration shall so survive. Without limiting the foregoing, Vendor's insurance, warranty and indemnity obligations shall survive for the relevant warranty or statutes of limitation period plus the time necessary to fully resolve any claims, matters or actions begun within that period. Bonds shall survive as long as any warranty period.

19. No Construction Against Drafting Party: No provision of this Purchase Order shall be construed against the drafter.

20. Status of Vendor/Ownership of Work Product: Vendor is an independent contractor retained on a contractual basis to perform services for a limited period of time as described in Section 9.1.1E(x) of the Charter of City. Vendor and its employees are not employees or officers of City under Chapter 18 of the D.R.M.C. for any purpose whatsoever. All goods, deliverables, hardware, software, plans, drawings, reports, submittals and all other documents or things furnished to City by Vendor shall become and are the property of City, without restriction.

21. Records and Audits: Vendor shall maintain for three (3) years after final payment hereunder, all pertinent books, documents, papers and records of Vendor involving transactions related to this Purchase Order, and City shall have the right to inspect and copy the same.

22. Remedies/Waiver: No remedy specified herein shall limit any other rights and remedies of City at law or in equity. No waiver of any breach shall be construed as a waiver of any other breach.

23. No Discrimination in Employment: Vendor shall not 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 Vendor shall insert the foregoing provision in any subcontracts hereunder.

24. Use, Possession or Sale of Alcohol or Drugs: Vendor shall cooperate and comply with the provisions of Executive Order 94. Violation may result in City terminating this Purchase Order or barring Vendor from City facilities or from participating in City operations.

25. Conflict of Interest: No employee of City shall have any personal or beneficial interest in the goods/services described in this Purchase Order; and Vendor shall not hire or contract for services any employee or officer of City which would be in violation of City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

26. Advertising and Public Disclosure: Vendor shall not reference the goods/services provided hereunder in any of its advertising or public relations materials without first obtaining the written approval of

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the Manager of General Services.

27. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT: a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance"). b. The Contractor certifies that: (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement. (2) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement. c. The Contractor also agrees and represents that: (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement. (2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement. (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program. (4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Contractor to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien. (6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3. d. The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.

28. In order to receive payment, a complete and responsive invoice must be submitted as required by the City's Prompt Payment Ordinance Article VII of Chapter 20, D.R.M.C., which includes clearly stating the City-generated purchase order or contract number on the invoice and complying with the City's invoicing instructions, including delivery of the invoice to the proper City official or agency.

Authorized Signature

System Requirements (Architecture, Security, Maintenance, and Warranty)

Note: YVR's responses to DEN's system requirements are highlighted below.

SECTION B: SCOPE OF WORK AND TECHNICAL REQUIREMENTS

B1 INTRODUCTION

The Department of Aviation of the City & County of Denver (DEN) is seeking proposals from qualified firms to provide, install, implement, and maintain US Customs and Border Protection (CBP) approved and certified Automated Passport Control (APC) Kiosks. The sixteen kiosks will be installed in the Federal Inspection Services area. The selected kiosk vendor must also provide the contract maintenance and support of the kiosks.

All proposed kiosk systems must meet or exceed the physical, software, and security components as described below. Kiosks must have CBP Phase III certification and have demonstrated successful operations at a minimum of two large hub-airports in the U.S. or equivalent non-U.S. airport with CBP pre clearance.

B2 KIOSK OPERATION & FUNCTION

Below is a narrative of the basic operation and function of the kiosks.

1. Automated Passport Control Kiosks must have the following functional and technical requirements
   a. Each APC kiosk and operating system must be certified for U.S. CBP Phase III processing – Electronic System for Travel Authorization (ESTA) program. *YVR received Phase 3 certification from US CBP on March 28, 2014. Our Phase 3 application is being successfully operated at THREE large hub airports: Vancouver, Chicago O'Hare and Atlanta. It will be expanded to JFK Terminal 1 and Terminal 4, Charlotte and Fort Lauderdale by June 13, 2014. Our Phase 3 software complies with the very latest version of US CBP's requirements (reference November 2013 – Version 14).*
   b. Each APC kiosk must be uniform in design and a complete unit. *YVR offers its partner airports a choice of two kiosk designs, based on space constraints and budget. Both kiosks are uniform in design and are UL labeled as a complete unit. To respond to this RFP, YVR is offering its Standard "Slim Line" model. This model is economically priced, easy to service and requires minimal floor space.*
   c. Each APC kiosk must be in compliance with the CBP APC business Requirements and provide hosted CBP interface services. *Our software complies with the very*

latest version of US CBP's requirements (reference November 2013 – Version 14) and is a fully-hosted solution. Our solution includes secure and centralized servers with redundancy that are hosted and operated by Vancouver Airport Authority (YVR).

d. Each APC Kiosk must capture and complete a validation of travel document (passport) data. *Confirmed.*

e. Each APC Kiosk must capture the face of passenger processing the entry passport. *Confirmed.*

f. Each APC Kiosk must capture the customs declaration data from the traveler. *Confirmed.*

g. System shall collect and submit fingerprint images that are NFIQ equivalent (Referenced in ICD and appendix L of the Automated Passport Control Business Requirements). *Confirmed. Only YVR's solution provides the very latest in biometric technology. We have sourced the most advanced fingerprint readers in the market and are first in the world to incorporate Cross Match's latest technology into a kiosk. The device addresses common problems that can be expected in high throughput biometric capture operations. No other APC solution is using such advanced fingerprint hardware. The new technology is expediting the entire APC process, especially for those who are not familiar with providing fingerprints and for those with language barriers.*

h. Hand off the data to the US Customs and Border Protection Automated Passport Control System. *Confirmed.*

i. Printing of receipt to passenger for presentation at the primary line counter. *Confirmed.*

j. Multi-language display to include at a **_minimum_** English, French, German, Japanese, Spanish. *Confirmed. In addition, YVR will provide Denver International Airport with an additional 21 languages at no additional cost. Additional languages include: Chinese (Simplified), Chinese (Traditional), Dutch, German, Italian, Korean, Polish, Portuguese, Czech, Danish, Estonia, Finnish, Swedish, Greek, Hungarian, Icelandic, Latvian, Lithuanian, Norwegian, Slovak, and Slovenian.*

k. ADA and Accessibility Requirements need to meet or exceed ADA and accessibility compliance requirements. *Confirmed. All YVR kiosks are designed to adhere to the 2010 ADA Standards for Accessible Design as published by the United States Department of Justice at no additional cost. Our kiosks accommodate individuals with hearing or visual impairments as well as those with limited mobility and or in wheelchairs.*

l. Ability to sound audible alerts. *Our kiosks provide speech instructions through text-to-speech functionality to supplement information displayed on the touch screen in compliance with section 707.5 of the ADA standards. Each kiosk comes standard with a headphone jack and volume control to provide audible instructions.*

m. Securable maintenance access panel to both kiosk and base. *Confirmed.*

2. Training

a. Contractor shall provide system administrator and train-the-trainer end user training on an ongoing basis. *YVR will provide onsite and on demand training*

for system commissioning, including both hardware and software components. An electronic version of the O&M Guide is provided prior to the training. Two types of training are provided, one for Customer Service Staff and one for Technical Support staff: Customer service staff or those designated to assist travelers at the APC Kiosks will receive classroom training followed by hands-on training at the APC Kiosk site. Classroom training will be provided via PowerPoint presentation and includes an overview of the APC process, exception handling, queue management plans, outage reporting and contingencies. Videos are also used to show the APC process and benefits. Upon completion of the 1.5 hour classroom training, personnel will be led to the APC Kiosk area to be shown the Kiosks. They will be able to perform full transactions at a Kiosk and be trained on how to replace the receipt paper. An APC Process Manual covering items from this training segment will be issued to each attendee to refer to as needed. Technical support staff who are designated as responders to APC Kiosks for any unserviceable Kiosk peripheral (or other form of outage) will receive comprehensive instructor-led training at the APC Kiosk site. Training will take approximately 1.5 hours. Each attendee will receive an APC Kiosk Operations and Maintenance Guide detailing how to resolve any issue at the Kiosk, whether it is a simple reboot of a Kiosk computer or replacement of a part. Any issue that cannot be resolved by local support staff can be escalated to our 24/7, 365 day/year service desk.

b. Contractor shall prepare and submit a test plan, with test cases, to DEN and US CBP for review and approval. *YVR will carry out its APC Deployment Quality Assurance Plan, which includes:*

    Factory Quality Assurance *– to test all Kiosk components and peripherals (performed by Kiosk manufacturer)*

    CBP Integration Tests *– to test end-to-end APC transactions with CBP's development environment using the customer's hosted environment and customer-emulated test Kiosks. Performed by YVR and CBP 1-2 weeks prior to customer deployment.*

    On-site APC Kiosks Customer Quality Control Tests *– to test all Kiosk components and peripherals. Performed by YVR during the deployment of the Kiosks at the customer site.*

    On-site CBP Integration Tests *–– to test end-to-end APC transactions with CBP's development environment using the customer's hosted environment and customer production Kiosks. Performed by YVR and CBP 1-2 days prior to Soft Launch.*

c. Contractor shall assist in the execution of the test plan, as needed. *Confirmed.*

3. Maintenance
    a. Contractor shall perform all services on the APC kiosks to ensure that each APC kiosk is fully functional 24-hours per day, 7 days a week, throughout the life of the unit. *YVR's Standard Support Service program is offered to all customers for an annual fee as detailed in the Cost Proposal. The program has been designed to respond quickly to all issues that may arise and provide the highest level of service to minimize any downtime of the kiosks. The program includes three levels of service: Level 1 - Customer to provide. Includes non-technical services (printer paper change, kiosk cleaning etc.). Level 2 – Customer to provide. Hardware related (reboot a PC, printer replacement as needed, etc.). YVR to provide full training and documentation to "Customer identified support staff" while on site for certification and GO Live. YVR to provide a "dashboard" to monitor the health of the overall system and each individual kiosk. YVR is available 24/7 to answer any questions if required. Level 3 – YVR to provide. All basic software releases, upgrades, and improvements. Cosmetic changes and other CBP-mandated changes. 24/7 Level 2 assistance remotely. 24/7 Level 3 full support remotely (or onsite if required). An inventory of spare parts. A full warranty on all of the kiosk components for the life of the contract. Regrettably, YVR is unable to provide Level 1 and Level 2 support services at this time. We can, however, provide the initial training and any advice required to support these functions. Vancouver Airport Authority is prepared to work towards the Denver International Airport preferred solution, as outlined in this RFP, within the first 12 months of operation. Our Standard Support Service solution provides the best value to our airport customers and minimizes ongoing maintenance costs. We will provide all of the training and support necessary to ensure that each APC kiosk is fully functional with minimal downtown.*
    b. Contractor shall perform preventive maintenance and troubleshooting services to maintain each APC kiosk's reliability. *Due to the simple and efficient design of our kiosks, our recommended preventative maintenance schedule is minimal and can easily be completed by staff from Denver International Airport. This maintenance schedule below describes the maintenance tasks and their suggested minimum frequency for maintaining the APC kiosks in good repair. For additional information, please refer to the "APC Kiosk Operations and Maintenance Guide" in the Appendix.*

Task	Description	Frequency
Clean document reader	The document reader glass needs to be cleaned daily as continuous use tends to leave the glass covered in hand prints, dust, and other debris. It can be cleaned using a microfiber cloth dampened with water or consumer product glass cleaner. Do not spray water or glass cleaner directly on the reader.	Daily
Clean touch	The touch screen is cleaned using a	Daily

screen	microfiber cloth dampened with consumer product glass cleaner. Do not spray water or glass cleaner directly on the reader. Ensure that the perimeter of the screen is cleaned to remove any dirt build-up in the corners or along the edges.	
Clean kiosk chassis	The steel surfaces of the kiosk are cleaned using a microfiber cloth and a product similar to 3M™ Stainless Steel Polish and Cleaner. For convenience, an aerosol spray cleaner is recommended. Spray a small amount of cleaner on the steel surface and wipe using a micro fiber dust cloth.	Weekly
Clean printer	See Appendix C – *Printer Preventive Maintenance*.	Weekly

    c. Contractor shall submit a Monthly Activity Report to DEN, which shall include a completed preventive maintenance checklist and summary status of all incidents within the reporting period. *Access to reports which summarize all incident reports will be made available to Denver International Airport.*

4. System Reports

    a. System should allow DEN secured, direct access to performance data. *Confirmed.*

    b. System shall provide APC Kiosk usage reports as requested by DEN. Usage reports may include, but not limited to, passenger volumes, wait times, processing rates, downtime, errors and pass/fail comparisons. *Confirmed. The kiosk application logs information to the centralized servers for later reporting and alerting. Denver International Airport will have access to a real time dashboard that shows the status of all of the airport's kiosks. Built into the application/dashboard is the ability to configure email alerts to be received by airport staff in the case of failures or other events that may trigger an alert such as low paper warnings. The software collects a number of statistical measures about each transaction. Examples of usage reports that are available for Denver International Airport to review include: Transactions per kiosk, Transactions by time of day, Dwell-time on each screen, Transactions by passenger details, Transaction pass or failure statistics, Kiosk diagnostics and service issues, Passenger and flight detail analytics. No personal or customs-related data is retained beyond the end of the transaction. Wait times are currently not reported, but future enhancements to the reports are continuing and custom report requests can be made. All reports can be exported into a variety of formats such as CSV, Excel, XML, PDF, Word, TIFF and MHTML.*

    c. Contractor shall provide data extracts as requested. *Confirmed.*

B.2 KIOSK PHYSICAL STRUCTURE

1. Kiosk will be "standing" style, but be fully ADA compliant. A desk style kiosk is not acceptable. *Confirmed*.
2. Kiosk must be capable of being upgraded. *Confirmed*.
3. DIA will provide a 120v, 20A floorbox on a separate circuit at each unit for power connection. The kiosk must have a cord and plus for connection to the floorbox.

B.3 COMPUTER HARDWARE

1. Hardware components shall be warranted for a minimum of 1 year from the date of final acceptance after installation. *Confirmed. YVR's industry-leading warranty program actually provides full warranty coverage for all parts for the life of the contract*.
2. Additional years of maintenance will be identified and provided by the successful vendor.
3. Kiosk printers should provide paper change signal notification indicating when printing paper is low to a balance of no less than 10 receipts. *Confirmed. Signal is on screen. YVR is working on an enhancement which will email "low paper" alerts to staff*.

B.4 MISC REQUIREMENTS
1. Vendor shall provide at least three days of on-site start up support and training. *Confirmed. Our training plan is detailed above*.
2. Vendor shall provide 5 copies of training guides and troubleshooting manuals, including 2 copies on flash drive or CD. *Confirmed*.
3. All guides provided shall be reproducible at DEN for use solely in the airport. *Confirmed*.
4. Vendor shall provide a perpetual software license for the APC software and/or the kiosk management software and any other software license(s) in their proposal; however DEN reserves the right to negotiate the terms in the software license. DEN will not agree to Vendor limitation of liability provisions or changes to the indemnification or insurance provisions contained in this document.
5. Software shall be warrantied for a period of one year from the date of final acceptance after installation. *Confirmed*.
6. The vendor shall provide at no additional charge to repair all hardware including initial on-site trouble shooting/fault isolation, 2nd and 3rd level repairs for a minimum period of one year from final acceptance after installation. *See Standard Support Service above*.
7. Vendor shall provide at no cost all software maintenance including corrections and updates to the APC software and Kiosk Management Software as required by CBP for a period of one year from the date of final acceptance by DEN. *Confirmed*.
8. Kiosks shall be designed and built to allow modular upgrades and additions of hardware components such as biometric scanners and other devices that provide additional kiosk functionality for advance Phases of APC as may be required by DEN. *Confirmed*.
9. DEN reserves the right to add kiosk locations at Denver International Airport from time to time. Vendor pricing for additional kiosks and installation locations will be as outlined in Section C: Pricing, below. *Confirmed*.

10. Screen must be able to clearly state if the machine is out of service. *Confirmed.*
11. Vendor employees must meet DIA Rules and Regulations Part 20 and be able to hold a DIA SIDA airport ID badge and have CBP clearance within the Federal Inspection Services area. *YVR will comply with all rules, regulations, written policies and authorized directives from the City and/or the Transportation Security Administration with respect Airport security.*
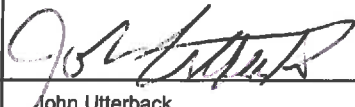
APC KIOSK SUPPLY & SUPPORT CONTRACT SUITE

Agreement Number		Effective Date	19/08/2014

PARTIES:	CUSTOMER		YVRAA
Full Legal Name	City and County of Denver, Denver International Airport	Full Legal Name	**Vancouver Airport Authority**
Business Address	8500 Pena Blvd, Denver, CO 80249	Business Address	P.O. Box 23750, Airport Postal Outlet, Richmond, British Columbia, Canada V7B 1Y7
Telephone / Facsimile	303-342-2113	Telephone / Facsimile	604-276-6500 / 604 276 6505
Customer's Representative		**YVRAA's Representative**	
Name / Title	Curtis Subia, Associate Buyer	Name / Title	Paul Mewett / Director-Simplified Passenger Travel
Telephone / Facsimile	303-342-2113	Telephone / Facsimile	604.276.6701 / 604.232.6088
E-Mail	curtis.subia@denvergov.org	E-Mail	paul_mewett@yvr.ca
Customer's Recipient for Notices As above ☐; in addition to above ☐; or only as set out below ☐		**YVRAA's Recipient for Notices** As above ☐; in addition to above ☑; or only as set out below ☐	
Name / Title	Candace Brown	Name / Title	Legal Services
Telephone / Facsimile	303-342-4195	Telephone / Facsimile	604-276-6500 / 604-276-6344
E-Mail	candace.brown@flydenver.com	E-Mail	Legal@yvr.ca

The customer described above (the "**Customer**") wishes for the Vancouver Airport Authority ("**YVRAA**") to supply, and YVRAA agrees to supply, certain goods and services in accordance with the provisions set out herein.

Cover Page	(this document)	Part 3	Hardware and Software Supply Agreement
Part 1	Prices and Dates	Part 4	Installation and Consulting Services Agreement
Part 2	General Terms and Conditions	Part 5	Maintenance and Support Services Agreement

THE UNDERSIGNED HEREBY ACKNOWLEDGE THAT THE ATTACHED PARTS HAVE BEEN AND ARE HEREBY INCORPORATED BY REFERENCE, AND AGREE TO BE BOUND BY ALL SUCH PROVISIONS.

CUSTOMER		YVRAA	
Signature	*[signature]*	Signature	
Name	John Utterback	Name	
Title	Director of Purchasing	Title	
Signature		Signature	
Name		Name	
Title		Title	

This **Goods, Services and Payments Schedule**, a part of the **APC Kiosk Supply & Support Contract Suite** made between YVRAA and the Customer, identifies quantities, costs and payment dates for the goods and services to be provided under the Agreements. Capitalized terms used but not defined in this Part have the meanings assigned to them in an Agreement or elsewhere in the Reference Documents.

1.   The Customer has requested, and YVRAA shall supply, goods and services in the following quantities and costs:

REQUESTED GOODS AND SERVICES				
Good / Service	**Price per unit**	**Number of units requested**	**Flat fees**	**Total price**
Kiosk (model and language modules denoted below) hardware and software capital cost	$47,000	16	n/a	$752,000 (the "**Kiosk Fees**")
Implementation Services (includes configuration of one FIS location)	n/a	n/a	$20,000	$20,000 (the "**Implementation Services Fees**")
Maintenance Services - 5 year initial term	$6,000 per Kiosk, per year, during the Maintenance Period	16	n/a	$96,000 per year (the "**Maintenance Services Fees**")

* Kiosk models: select one	
Base Model ☑	**Premium Model** ☐

Simplified enclosure - with all minimum required peripherals:
➢ Document Scanner ➢ Camera
➢ Receipt Printer ➢ LED attract light system to improve visibility
➢ Touch screen
➢ TracePad (Access keypad) ➢ ADA Compliant and ULC Certified
➢ System PC
➢ Fingerprint Reader for Biometric Capture
	➢ Includes Base Model features plus:
	   o More advanced enclosure
	   o Monitor angle adjustment (450 tilting screen)
	   o Sliding back tray for easy access to peripherals

* Language modules: English, French and Spanish included. Optional language modules (select all):	
☐　　　Dutch – Netherlands	☐　　　Polish - Poland
☐　　　German – Germany	☐　　　Portuguese - Portugal
☐　　　Italian – Italy	☐　　　Chinese - China
☐　　　Japanese – Japan	☐　　　Chinese - Hong Kong
☐　　　Korean - Korea	☐　　　Chinese - Taiwan
	(collectively, the "**Optional Language Modules**").

2. In exchange for the goods and services supplied under the Agreements, the Customer shall pay the following amounts to YVRAA:

PAYMENT SCHEDULE	
Event / Date	**Amount payable**
25% within twenty (20) days of signing the Cover Page	$193,000
35% within twenty (20) days of Customer's receipt of the Kiosks:	$270,200
30% within twenty (20) days of successful completion of field equipment acceptance tests and certification of Production Kiosks:	$231,600
10% within twenty (20) days of USCBP confirming the Production Kiosks can go into operation:	$72,200
within thirty (30) days of the Production Kiosks being put into production following approval for such use by USCBP, and thereafter on the anniversary of that date for each year of the Maintenance Period, the Maintenance Services Fees totaling:	$96,000

3. All references to monetary amounts in the Suite are in US dollar currency.

1. The Agreements and their interpretation

1.1 This <u>APC Kiosk Supply & Support Contract Suite</u> is made up of the Cover Page, Part 1– Goods, Services and Payments Schedule, this Part 2–General Terms and Conditions, Part 3–Hardware and Software Supply Agreement, Part 4–Implementation Services Agreement and Part 5–Maintenance and Support Services Agreement (collectively, the "Suite").

1.2 Each of Parts 3, 4 and 5 (collectively, the "Agreements") constitute independent agreements governing the supply and licensing by YVRAA of the products and services described in those Parts, and each Agreement shall:

(a) be interpreted independently from one another, though together with and incorporating the terms of the Cover Page, Part 1 and Part 2 ("Reference Documents"); and

(b) expire at the time set out in each such Part, subject to earlier termination as provided in the Agreements (if any) or in Section 5 of this Part, below.

1.3 Capitalized terms not otherwise defined herein, in an Agreement or other Reference Documents have the meanings accorded below:

(a) "Documentation" means the documentation to be provided by YVRAA to the Customer as regarding the Kiosks to support the Customer's management, use and enjoyment of the Kiosks for the purpose intended, whether in printed or digital form;

(b) "Go Live" means the date upon which, following USCBP approval, the Customer's Production Kiosks are released into active production environment for their intended purpose;

(c) "Hardware" means all non-software elements of the Kiosks;

(d) "Implementation Plan" means the plan for Kiosk implementation and commissioning developed pursuant to Section 3.1(b) of the Implementation Services Agreement;

(e) "Kiosks" means the YVRAA's Automated Passport Control kiosks made up of the Hardware and Software components, capable of processing holders of US, Canadian and US Visa Waiver Countries' Passports, in such quantities as set out in Part 1–Goods, Services and Payments Schedule;

(f) "Lookup and Referral Service" has the meaning given to it by USCBP on the Effective Date;

(g) "Production Kiosks" means those Kiosks identified for initial production use in the Implementation Plan;

(h) "Proprietary Components" means Hardware and Software components that have been developed by or on behalf of YVRAA, together with the Documentation.

(i) "Software" means run time versions of all computer programs installed upon or intended by YVRAA to be installed upon the Kiosks, including software provided by YVRAA under a Maintenance and Support Services Agreement (if any); and

(j) "USCBP" means United States Customs and Border Protection;

2. Confidential Information

2.1 In this section, "Confidential Information" means all information that relates to the business or affairs of a party, its affiliates, customers, clients or suppliers that is confidential or proprietary to, or about or created by that party, its affiliates, customers, clients, or suppliers. YVRAA Confidential Information includes but is not limited to all Parts of the Suite.

2.2 Each party acknowledges and agrees:

(a) the other party's Confidential Information is a valuable and unique asset of the other party;

(b) to maintain securely all Confidential Information of the other party received by it, acquired or developed by it, or disclosed to it as a result of or in connection with the transactions contemplated by the Agreements; and

(c) it shall not, directly or indirectly divulge, communicate, use, copy or disclose to any person (or permit others to use, copy or disclose) any Confidential Information of the other party, except as such disclosure or use is contemplated in the documents making up the Agreements.

2.3 A party is permitted to use and disclose the other party's Confidential Information for the purpose of fulfilling its rights and obligations under the Agreements.

2.4 Additionally, a party is permitted to disclose to, and permit the use of the other party's Confidential Information by its professional advisors and service providers (collectively, "Advisors"), for the purpose of such party's acquisition of advice and services related fulfilling its rights and obligations under the Agreements (the "Purpose"), provided that:

(a) such Advisors are informed of the confidential nature of the Confidential Information and agree to use it only for the Purpose, and to otherwise act in accordance with the provisions contained herein pertaining to Confidential Information as if a party hereto; and

(b) the party permitting the use and disclosure will be responsible for any breach of such provisions by any of its Advisors.

2.5 If a party is obliged by law to publicly disclose or otherwise share any of the other party's Confidential Information, it shall:

(a)   provide advance notice of such disclosure to the other party;

(b)   refrain from opposing, and cooperate in the prosecution of, any action by the other party to obtain a protective order or other remedy or assurance; and

(c)   use reasonable commercial efforts to limit the scope of such disclosure or sharing to the extent necessary.

2.6   Each party agrees to immediately notify the other party of any misuse of the other party's Confidential Information. Without limiting any other provision under an Agreement, each party agrees to assist the other party in preventing and repairing any unauthorized disclosure of the other party's Confidential Information.

2.7   Finally, the parties agree and acknowledge that:

(a)   any violation of the provisions relating to Confidential Information could result in irreparable injury to the party that has had its Confidential Information held, used or disclosed in non-compliance with these terms (the "Aggrieved Party"); and

(b)   in the event of a violation of any provisions relating to Confidential Information, the Aggrieved Party shall be entitled to apply for injunctive relief or other remedies at law or in equity which a court of competent jurisdiction deems fit.

3. Ownership

3.1   Except as expressly provided in the Agreements, as between the parties, all right, title and interest in and to any works or materials created or delivered by YVRAA to the Customer hereunder, or created jointly by YVRAA and Customer hereunder (collectively, "Works") will at all times belong exclusively to YVRAA. Customer hereby irrevocably assigns and agrees to assign exclusively to YVRAA and its successors and assigns any and all right, title and interest in such Works and all related intellectual property rights without additional consideration. Except as expressly provided in the Agreements, Customer has neither claim nor interest in any of these Works or rights, and agrees it will do nothing to harm YVRAA's ownership, maintenance and validity of rights related to the Works.

3.2   If at any time it is deemed by operation of law that YVRAA is not the sole owner of all possible rights in and to any Works, Customer hereby irrevocably grants and will grant to YVRAA and its successors and assigns the unrestricted right in perpetuity to use the same on a royalty-free, worldwide, fully transferable and sub licensable basis.

3.3   Upon YVRAA's reasonable request and at YVRAA expense, Customer will execute documents to evidence YVRAA's proprietary and intellectual property rights as stated in Sections 3.1 and 3.2 of this Part, above.

3.4   If Customer provides for YVRAA's use any hardware, software or other items owned, leased or licensed by Customer, then no title to any such items will pass to YVRAA, and YVRAA will return all such items to Customer upon conclusion of the engagement. YVRAA will use any such items in a manner consistent with their intended use and will exercise at least the same degree of care in their use as it does with its own similar items.

4. Payments and Taxes

4.1   The Customer shall make all payments in such amounts and at such times as provided in the Agreements, plus all applicable taxes. All payments shall be made to YVRAA's designated bank account by electronic funds transfer.

4.2   All sales, use, value added or goods and services taxes, withholding taxes or similar levies of any kind, including interest and penalties thereon (collectively, "Taxes") arising with respect to the goods and services supplied hereunder are the sole responsibility of and will be paid by Customer without withholding or deduction from the amounts owing to YVRAA under an Agreement. To the extent that YVRAA is required to collect and remit such Taxes, the Taxes will be shown on the applicable invoice and paid by Customer to YVRAA; however, failure of YVRAA to invoice for or collect any Taxes will not relieve the Customer of its obligation to pay. If Customer is required by applicable law to withhold or deduct Taxes from an amount payable to YVRAA under an Agreement, Customer will pay to the relevant taxing jurisdiction or authority the full amount required to be withheld or deducted and will pay to YVRAA an additional amount such that, after deduction of all amounts required to be withheld or deducted, the net amount actually received by YVRAA will equal the amount which would have been receivable by YVRAA in the absence of such withholding or deduction. Customer further agrees to keep YVRAA harmless against and indemnify YVRAA in respect of all demands, claims, suits, actions, judgments, costs or expenses howsoever and wheresoever made or caused arising from any Taxes imposed.

5. Termination and its Effect

5.1   YVRAA may, in its sole discretion, immediately terminate an Agreement, suspend Customer's ability to access the Software (in whole or in part) or suspend performance of any services under any Agreement, if Customer:

(a)   breaches the provisions concerning Confidential Information contained in an Agreement;

(b)   commits a material breach of any other terms of an Agreement, including the failure to pay any amount under an Agreement when due for reasons other than relating to a reasonable and good faith dispute, and such breach has not been rectified within 30 days of receipt of notice by Customer requiring that Customer remedy such breach; or

(c)   is insolvent, becomes subject to proceedings concerning its bankruptcy, receivership, insolvency or the like, or if a receiver is appointed for all or substantially all of Customer's assets (each, an "**Insolvency Event**") and that Insolvency Event prevents YVRAA from performing its material obligations under an Agreement.

5.2   Customer may, in its sole discretion, immediately terminate an Agreement if YVRAA:

(a)   breaches the provisions concerning Confidential Information contained in an Agreement;

(b)   commits a material breach of the terms of an Agreement and such breach has not been rectified within 30 days of receipt of notice by YVRAA requiring that YVRAA remedy such breach; or

(c)   is subject to Insolvency Event, and that Insolvency Event prevents YVRAA from performing its material obligations under the Agreement.

5.3   Within 30 days of the expiration or termination of an Agreement for any reason:

(a)   Customer must pay to YVRAA any unpaid amounts owing for the period up to the effective date of expiration or termination;

(b)   Customer must, as regarding all YVRAA Confidential Information not required to permit the Customer to fulfill its rights and obligations under other Agreements then in force and effect (if any):

(i)   cause its return to YVRAA; or, at the option of YVRAA

(ii)   destroy it, and have an officer or director of Customer certify to YVRAA that such Confidential Information has been destroyed; and

(c)   YVRAA must, as regarding all Customer Confidential Information not required to permit YVRAA to fulfill its rights and obligations under other Agreements then in force and effect (if any):

(i)   cause its return to the Customer; or, at the option of the Customer

(ii)   destroy it, and have an officer or director of YVRAA certify to the Customer that such Confidential Information has been destroyed.

5.4   Notwithstanding termination of an Agreement for any reason, such termination will not relieve either party from any obligation or liability that has accrued under that Agreement or any other Agreement to the date thereof, or from the performance of its obligations under that Agreement or any other Agreement to the date thereof.

6.   Insurance

6.1   YVRAA shall obtain and maintain during the life of all Agreements, with an insurance company rated not less than "A" by A.M. Best, the following insurance:

(a)   in the event that YVRAA staff operate automobiles while delivering Implementation or Maintenance Services to Customer while on–site at the Customer's facilities, Automobile Liability insurance covering bodily injury and property damage covering all owned, non-owned and hired automobiles for limits of not less than $1,000,000 bodily injury each person, each accident and $1,000,000 property damage or $1,000,000 combined single limit – bodily injury and property damage;

(b)   Commercial General Liability ("CGL") insurance with a limit of not less than $1,000,000 per occurrence or in the aggregate including coverage for bodily injury, property damage, products and completed operations, personal injury liability and contractual liability;

(c)   Information Technology Professional Errors and Omissions Liability insurance ("ITPE&O") in an amount of not less than $1,000,000 per occurrence or in the aggregate to cover errors and omissions of YVRAA which result from the performance of such Implementation or Maintenance Services hereunder;

(d)   Worker's Compensation insurance in accordance with the government insurance program in which YVRAA participates pursuant to applicable laws**.**

The Customer shall be listed as an additional insured under the CGL and ITPE&O insurance for operations or services rendered under the applicable Agreement, and proof of YVRAA insurance must be submitted to the Customer upon request.

6.2   The Customer shall obtain appropriate insurance coverage for the transactions contemplated under each of the Agreements, and shall maintain such insurance coverage in full force and effect until all Agreements have been terminated or have expired.

7.   Force Majeure

7.1   Each of the following is a "Force Majeure Event" under an Agreement:

(a)   a natural disaster, fire, flood, storm, epidemic or power failure;

(b)   a war (declared or undeclared), insurrection or act of terrorism or piracy;

(c)   a strike (including illegal work stoppage or slowdown) or lockout;

(d)   a freight embargo; or

(e)   any other causes beyond the reasonable control, and not the result of the fault or neglect, of that party;

if the event prevents a party from performing its obligations under such Agreement and is beyond the reasonable control of that party.

7.2   A party that is prevented from performing its obligations under an Agreement by a Force Majeure Event (the "Affected Party") is not liable to the other party for any failure or delay in the performance of its obligations under such Agreement. Any time periods

for the performance of such obligations are automatically extended for the duration of the Force Majeure Event, provided that the Affected Party complies with the requirements of Section 7.3 of this Part, below. Notwithstanding the foregoing, each party acknowledges and agrees that the foregoing does not operate so as to excuse it from prompt payment of any and all sums due by it to the other in accordance with terms and conditions of the Agreement.

7.3 An Affected Party must promptly notify the other party in writing upon the occurrence of the Force Majeure Event and make all reasonable efforts to prevent, control or limit the effect of the Force Majeure Event so as to resume compliance with the Affected Party's obligations under the Agreement as soon as possible.

7.4 If the Force Majeure Event persists for 90 days or more, either party may, by written notice to the other party, terminate the Agreement(s) impacted by the Force Majeure Event.

8. Independent Contractor

8.1 By mutual agreement, the terms of each Agreement will be carried out by YVRAA as an independent contractor at arm's length from, and not in any other capacity or relationship including as an agent of, Customer. As such, YVRAA is solely responsible for and subject to the terms and conditions set out herein, and will have control of the manner and means of performance of the obligations set forth in the Agreements and all matters relating to compliance with statutory and other legal obligations arising from YVRAA's responsibilities under the Agreements, including any matters arising between YVRAA and its employees.

8.2 Neither party has, nor shall hold itself out as having, any right, power or authority to create any contract or obligation, either expressed or implied, on behalf of, in the name of, or binding upon the other party unless with the other party's express written consent.

8.3 Except as expressly stated in an Agreement, each party is solely responsible for all cost, expense and risk incurred by it and by any of its personnel, employees and agents in connection with the performance of its obligations under an Agreement.

9. Publicity

9.1 Customer agrees that YVRAA has the right, at any time following the execution of the Suite by each of the parties, to use Customer's name and logo in its customer- and trade-related promotional materials (including, without limitation, on any websites owned or controlled by YVRAA), and to indicate that Customer is a customer of YVRAA. YVRAA will seek Customer's prior written consent for any other promotional uses of Customer's name and logo, such consent not to be unreasonably withheld, conditioned or delayed.

10. Dispute Resolution

10.1 YVRAA and Customer shall work co-operatively with each other and take commercially reasonable steps to avoid problems and disputes (collectively "Disputes") and, if those steps are not successful, to resolve each Dispute at the first level.

10.2 If the Customer Representative or the YVRAA Representative considers that a Dispute is, given the nature of the Dispute, not being resolved in a timely manner, he/she shall make the resolution of the Dispute a priority.

10.3 If, despite the efforts of the parties, the Customer Representative or the YVRAA Representative considers that the Dispute is, given the nature of the dispute, still not being resolved in a timely manner, he or she may refer the Dispute to senior management for resolution, in which case, senior management of each party shall promptly provide a written statement of their position to senior management of the other Party, and shall make resolution of the Dispute a priority.

10.4 If, despite the efforts of both parties, either party's senior management considers that the Dispute is, given the nature of the Dispute, not being resolved in a timely manner, only then they may refer the Dispute to their legal counsel, in which case it shall ensure that its legal counsel notify the other party's legal counsel in the manner provided herein. The notice shall describe the nature of the Dispute and shall propose a solution.

10.5 Once a Dispute has been referred to the Parties' legal counsel, each Party shall ensure that its legal counsel promptly communicate with each other, and that they work together to promptly resolve the Dispute on a reasonable commercial basis.

10.6 Nothing in any Agreement will prohibit YVRAA from seeking to prevent any unauthorized copying, disclosure, use, retention, or distribution of its intellectual or other property by injunctive relief or otherwise in any court of competent jurisdiction. YVRAA will have the exclusive right to bring legal action for failure to pay any amount when due under an Agreement in any court of competent jurisdiction.

10.7 No claim, regardless of form, that arises out of or that is in any way connected with an Agreement may be brought by the Customer more than one year after the cause of action has accrued or the provision of the product or performance of the service giving rise to that claim has been completed or terminated, whichever is earlier.

11. Interpretation

11.1 The headings in the Suite are for convenience of reference only and will not affect the construction of any Agreement.

11.2 Each provision of an Agreement is severable. If any provision of an Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, then the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remaining provisions of the Agreement or the legality, validity or enforceability of that provision in any other jurisdiction.

11.3 Whenever the singular or masculine or neuter is used in an Agreement, it will be construed to include the plural or feminine or body corporate where the context of an Agreement or the parties may so require. The words "include" or "including" as used in an Agreement will not be construed as words of limitation.

11.4   Each Agreement and all documents contemplated by or delivered under or in connection with such Agreement, constitute the entire agreement between the parties with respect to the subject matter of each such Agreement and supersede all prior letters of intent, agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral, express or implied, statutory or otherwise.

11.5   With respect to any matter arising under or related to any Agreement:

(a)   each party may seek injunctive relief in any court of competent jurisdiction; and

(b)   the parties hereby exclude the application of the *United Nations Convention on the International Sale of Goods*, pursuant to Article 6 of Schedule 1 to the *International Sale of Goods Act*, RSBC 1996 c. 236.

11.6   All provisions of each Agreement that are expressly or by implication to come into or continue in force and effect after the expiration or termination of such Agreement will remain in effect and be enforceable following expiration or termination. Additionally, all provisions of this Part 2, other than Article 6 of this Part will survive the termination of any Agreement.

12.   General

12.1   All notices given under an Agreement shall be in writing and shall be delivered by courier (Fed Ex, UPS, or similar), confirmed transmission facsimile, or receipt-confirmed e-mail directed to the contact information set out on the Cover Page. Each party may, from time to time, change its address by giving the other party notice in the manner denoted above, using the contact information most recently provided by the other party.

12.2   Each of the parties agrees to execute and deliver at the request of the other party all further documents, deeds and instruments, and shall do and perform all further acts as may be reasonably necessary to give full effect to the intent and meaning of an Agreement.

12.3   Nothing contained in an Agreement shall be interpreted as precluding a party from discussing, negotiating or entering into arrangements with third parties regarding purchase or sale of products or services which are the same, similar or competitive to those provided under an Agreement.

12.4   Customer has no right to assign its rights or delegate its obligations under an Agreement without the prior written consent of YVRAA, and any attempted assignment without such consent will be void. YVRAA has the right to assign or otherwise transfer its rights under an Agreement, in whole or in part, to a subsidiary or affiliate, or a purchaser or transferee of substantially all of the assets used by YVRAA in its business to which such Agreement relates without notice to, or obtaining the consent of, Customer. Additionally, YVRAA may subcontract the services to be provided in any Agreement, provided that that all such subcontractors abide by the provisions of the applicable Agreement, and any breach of a provision of such Agreement by such subcontractor shall be deemed a breach by YVRAA.

12.5   Each Agreement enures to the benefit of and binds the parties and their respective successors and permitted assigns.

12.6   No Agreement may be amended except by written instrument having direct reference to the specific Agreement, being signed by both parties. No indulgence or forbearance by either party shall constitute a waiver unless the waiver is expressed in writing and signed by the party granting the waiver, in which case the waiver shall be effective only in the specific instance and for the specific purpose for which it is given.

12.7   The Customer shall not provide any inducements, whether monetary or otherwise, to any employee of YVRAA that may cause the employee to act, or not to act, other than in the best interests of YVRAA.

12.8   Any component document of an Agreement may be executed in counterpart and such counterparts together will constitute a single instrument. Delivery of an executed counterpart by electronic means, including by facsimile transmission or by electronic delivery in any format capable of producing a printed copy, will be equally effective as delivery of a manually executed counterpart. The parties acknowledge and agree that in any legal proceedings between them respecting or in any way relating to an Agreement, each waives the right to raise any defense based on the execution of any component of an Agreement in counterpart or the delivery of such executed counterparts by electronic means.

12.9   The Parties hereby expressly declare that they have required that this agreement and all annexes, documents or notices relating thereto be drawn up in English. Les Parties aux présentes déclarent expressément qu'elles ont exige que la présente convention et tous les annexes, documents ou avis qui y sont afférents soient rédigés en langue anglaise.

This **Hardware and Software Supply Agreement** (the "Agreement"), a part of the **APC Kiosk Supply & Support Contract Suite** made between YVRAA and the Customer establishes the terms and conditions under which YVRAA will provide the Kiosks to the Customer. The parties agree as follows:

1.   Hardware, Software and Documentation

1.1   Subject to the terms of this Agreement, YVRAA shall sell, assign, convey, transfer and deliver to Customer, and Customer shall purchase, receive and accept from YVRAA, all of YVRAA's right, title and interest in and to all Hardware.

1.2   YVRAA shall license to Customer on a perpetual, non-exclusive and royalty-free basis, and Customer shall license from YVRAA, all Software Proprietary Components for the purpose of operating the Kiosks at the Customer's facility.

1.3   YVRAA hereby assigns to Customer or shall arrange to be granted to Customer, and Customer hereby accepts as assignee or shall enter into with the applicable third party licensor, a non-exclusive and royalty-free license to all Software other than Proprietary Components, for the purpose of operating the Kiosks at the Customer's facility.

1.4   YVRAA shall license to Customer on a non-exclusive and royalty-free basis, and Customer shall license from YVRAA, all Documentation for the purpose of training on, servicing, maintaining, repairing and operating, the Kiosks at the Customer's facility.

1.5   Unless specifically listed in Part 1–Goods, Services and Payments Schedule, the goods supplied hereunder do not include any other YVRAA or third party hardware, software, or services.

1.6   Customer shall not copy, recreate, adapt, engineer, disassemble, decompile, modify, make derivative works of, distribute, sell, license, lease, loan or otherwise use or deal with the Software Proprietary Components for any purpose except as otherwise expressly permitted herein.

2.   Delivery and Acceptance

2.1   YVRAA will use commercially reasonable efforts to:

(a)   deliver the Kiosks, DAP (Incoterms, 2010) the Customer's Business Address, by the date(s) specified in the Implementation Plan. Customer may indicate an alternate address for the shipment by providing such address to YVRAA in writing not less than 21 days prior to the planned date of delivery set out in the Implementation Plan;

(b)   advise Customer if such shipment may or will be delivered after the date set out in the Implementation Plan;

(c)   ensure that the packaging is sufficient to protect the Kiosks in the course of handling, shipping and storage, and YVRAA shall pay for packing and packaging relating the provision of the Kiosks to the Customer; and

(d)   include packing slips, commercial invoices, customs declarations, and certificates of origin with each shipment.

2.2   Title to each shipment of the Kiosks shall pass from YVRAA to Customer on delivery to the destination named by the Customer, and accordingly Customer shall thereafter be responsible for insuring the Kiosks against all risks.

2.3   Kiosk shipments shall not be uncrated in advance of the installation date set out in the Implementation Plan. All missing or damaged Hardware boxes must be noted on the waybill when the order is signed for by the Customer, and provided that a report thereof is submitted to YVRAA within 48 hours of Customer having signed for such shipment, YVRAA will use commercially reasonable efforts, at its sole cost and expense, to:

(a)   promptly provide the Customer a replacement therefor; and

(b)   arrange for all such damaged Hardware to be picked up promptly and returned to YVRAA, the Customer acknowledging that upon pick up, all right, title and interest in or to the damaged Hardware reverts to YVRAA.

2.4   With respect to missing Kiosks or Kiosk components or non-cosmetic damage to Kiosks identified upon uncrating on the installation date, provided that a report thereof is submitted to YVRAA within 24 hours of Customer uncrating, YVRAA will use commercially reasonable efforts, at its sole cost and expense, to:

(a)   promptly provide the Customer a replacement therefor; and

(b)   arrange for all such damaged Kiosks to be picked up promptly and returned to YVRAA, the Customer acknowledging that upon pick up, all right, title and interest in or to such Kiosks reverts to YVRAA.

3.   Payments

3.1   In exchange for the Kiosks, Customer will pay to YVRAA the Kiosk Fees. Fees payable under the Suite, which include Kiosk Fees, shall be paid by the Customer at the time set forth on the Cover Page.

4.   Warranty

4.1   YVRAA warrants that, as at the date of delivery to the Customer:

(a)   title to all Kiosks shall be free and clear of all liens, encumbrances and security interests except those arising by law applicable to the Customer, imposed by the Customer's creditors, or imposed by YVRAA pending full payment therefor by the Customer;

(b)   the Kiosks shall comply with, and perform in accordance with, the Documentation in all material respects, normal wear and tear excepted;

(c)   all materials, parts, components and other items incorporated in the Kiosks shall be new;

(d)   the Hardware shall be of merchantable quality;

(e)   the Hardware, and the media on which the Software is provided, shall be free from material defects in materials and workmanship under normal use and service; and

(f)   YVRAA is not aware of any claims by third parties that the Kiosks infringe on the intellectual property rights of third parties.

5.   Indemnity

5.1   YVRAA shall indemnify and hold harmless Customer from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Customer as a result of or in connection with any action, demand or claim that use or possession of Proprietary Components in accordance with the terms of this Agreement infringes the intellectual property rights of any third party (an "IPR Claim"), provided that YVRAA shall have no such liability if the Customer:

(a)   does not notify YVRAA in writing setting out full details of any IPR Claim of which it has notice as soon as is reasonably possible;

(b)   makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of YVRAA (which shall not be unreasonably withheld or delayed);

(c)   does not let YVRAA at its request and own expense have the conduct of or settle all negotiations and litigation arising from IPR Claim; or

(d)   does not, at YVRAA's request and own expense, give YVRAA all reasonable assistance in the circumstances described above.

5.2   If any IPR Claim is made against the Customer, and YVRAA directs the Customer to cease use or enjoyment of the allegedly infringing Proprietary Components, the Customer will promptly cease such use and in such case YVRAA shall (and in any event, YVRAA may) promptly and at its own expense either:

(a)   procure for Customer the right to continue using and possessing the Proprietary Components; or

(b)   modify or replace the infringing part of the Proprietary Components without adversely affecting the functionality of the Kiosks as set out in this Agreement so as to avoid the infringement or alleged infringement;

provided that if, YVRAA having used its reasonable efforts, neither of the above can be accomplished on reasonable terms, YVRAA shall refund the Kiosk Fee paid by Customer in respect of the Kiosks containing infringing Proprietary Components. Apart from the indemnity given by YVRAA above, this shall be Customer's sole remedy in respect of the Kiosks (or any part thereof) infringing intellectual property rights.

6.   Warranty Exclusions

6.1   YVRAA's sole obligation and Customer's sole remedy for any breach of the warranties set out in Section 4.1 of this Agreement is at YVRAA's option, to either provide replacement Kiosks that comply with such warranties, or to refund to the Customer of the Kiosk Fees and Implementation Services Fees paid to YVRAA pertaining to the relevant Kiosks (provided that the Customer returns such Kiosks to YVRAA). EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, YVRAA MAKES, AND CUSTOMER RECEIVES, NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, REGARDING OR RELATING TO THE KIOSKS. EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, YVRAA SPECIFICALLY DISCLAIMS, AND CUSTOMER WAIVES, ALL IMPLIED WARRANTIES, REPRESENTATIONS AND CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF YVRAA HAS BEEN INFORMED OF SUCH PURPOSE) AND ANY OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE, WITH RESPECT TO THE KIOSKS. EXCEPT AS SET FORTH IN THIS SECTION, CUSTOMER ASSUMES SOLE RESPONSIBILITY FOR: (A) DETERMINING THAT THE KIOSKS (OR ANY PART THEREOF) MEET THE BUSINESS REQUIREMENTS OF CUSTOMER AND (B) THE RESULTS OBTAINED FROM THE KIOSKS. THIS ARTICLE WILL SURVIVE ANY EXPIRATION OR TERMINATION OF THIS AGREEMENT.

7.   Limitation on Liability

7.1   IN NO EVENT WILL YVRAA OR ITS SUPPLIERS OR LICENSORS BE LIABLE UNDER CONTRACT (INCLUDING FUNDAMENTAL BREACH), TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL LOSSES OR DAMAGES OR FOR ANY LOSSES OR DAMAGES RESULTING FROM LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF USE, LOSS OF OR DAMAGE TO DATA, OR DAMAGES FOR PURE ECONOMIC LOSS, HOWEVER CAUSED, WHETHER FORESEEABLE OR NOT, EVEN IF YVRAA IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.2   IN NO EVENT WILL THE TOTAL LIABILITY OF YVRAA AND ITS SUPPLIERS AND LICENSORS FOR ANY LOSS OR DAMAGES RELATING TO THE KIOSKS EXCEED THE TOTAL KIOSK FEES AND IMPLEMENTATION SERVICES FEES ACTUALLY PAID TO YVRAA.

7.3   THE LIMITATIONS IN THIS ARTICLE APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS OF LIABILITY IN THIS ARTICLE ARE MATERIAL PARTS OF THE BARGAIN BETWEEN THE PARTIES, AND THAT PRICES FOR THE SERVICES WOULD BE HIGHER WITHOUT THEM. THIS ARTICLE WILL SURVIVE ANY EXPIRATION OR TERMINATION OF THE AGREEMENT.

8.   Government Rights

8.1   The Software and related materials under this Agreement are commercial computer software as that term is described in 48 C.F.R. 252.227-7014(a) – Rights in non-commercial computer software and noncommercial computer software documentation (1). If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and / or commercial computer software documentation subject to the terms of the Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulations and its successors. If acquired by or on behalf of any agency within the Department of Defense, the U.S. Government acquires this commercial computer software and / or commercial computer software documentation subject to the terms of the Agreement as specified in 48 C.F.R. 227.7202 3 – Rights in commercial software or commercial computer software documentation of the DOD FAR Supplement and its successors. This Article will survive any expiration or termination of this Agreement.

This **Implementation Services Agreement** (the "Agreement"), a part of the **APC Kiosk Supply & Support Contract Suite** made between YVRAA and the Customer establishes the terms and conditions under which YVRAA agrees to provide Customer the services described in Appendix 1 to this Agreement (collectively, the "Implementation Services"). Capitalized terms used but not defined in this Agreement have the meanings assigned to them in the Reference Documents. The parties agree as follows:

1. Implementation Services

1.1 YVRAA will use commercially reasonable efforts to provide the Implementation Services described in Appendix 1 to this Agreement, by the date(s) specified in the Implementation Plan.

1.2 Unless specifically listed in Appendix 1, Implementation Services do not include any installation, deployment, configuration or support for any hardware or software not supplied by YVRAA.

1.3 Some or all of the Implementation Services will be provided by YVRAA at the Customer site(s) listed on the Cover Page, as agreed between the parties acting reasonably. YVRAA will not be required to render any Implementation Services at locations other than the Customer site(s) listed on the Cover Page, without its consent.

1.4 YVRAA will make good, by repair, replacement, or otherwise, as it and the Customer reasonably determine is necessary, for any damage to the equipment and property at the Customer's facility caused by persons involved in the delivery of Implementation Services on YVRAA's behalf (collectively, "Workers").

2. USCBP-related Services

2.1 Customer acknowledges that USCBP approval is required for Kiosk operation. Accordingly, both parties shall work together to effect all requirements of USCBP approval and operation of the Kiosks for the intended purpose, and shall work cooperatively with USCBP to ensure USCBP:

(a) approves the implementation and on-going operation of the Kiosks for the intended purpose (the parties acknowledging that USCBP approval for US and Canadian Passport holders may not occur simultaneously);

(b) provides the "Lookup and Referral Service" (as that term is generally defined by the USCBP from time to time) to support the use of the Kiosks for the intended purpose; and

(c) provides the necessary USCBP officers to support the Kiosks for the intended purpose.

3. Customer Responsibilities

3.1 Additionally, Customer will:

(a) designate one employee of Customer who will be YVRAA's primary point of contact for all questions and issues relating to the Implementation Services;

(b) promptly following the Effective Date, work cooperatively with YVRAA to develop an implementation plan (the "**Implementation Plan**") to establish dates relating to the delivery of the Kiosks and the provision of Implementation Services.

(c) make a final decision on installation locations of the Kiosks in the Customer's facilities and advise YVRAA accordingly;

(d) provide building modification approvals for, and co-ordinate and perform the physical installation of the Kiosks;

(e) provide sufficient power and data to the Kiosks;

(f) provide local area network infrastructure to connect the Kiosks to USCBP's Lookup and Referral Service via a Wide Area Network connection

(g) provide YVRAA with on-site access to Customer's facilities during Customer's normal business hours and otherwise as reasonably required by YVRAA in order to facilitate YVRAA's ability to timely perform the Implementation Services;

(h) as necessary, provide security escorts, at its sole cost, to accompany all Workers who are on-site at the Customer's facility;

(i) provide YVRAA with remote electronic access to Customer's systems as reasonably required by YVRAA in order to facilitate YVRAA's ability to timely perform the Implementation Services;

(j) provide such Customer information and data as is reasonably necessary to enable YVRAA to perform its obligations;

(k) make good, by repair, replacement or otherwise, as it and YVRAA reasonably determine is necessary, for any damage to the equipment and property brought into the Customer's facility by Workers that is caused by the Customer or its subcontractors; and

(l) perform such other duties and tasks as may be otherwise agreed upon in writing by the parties.

3.2 Customer is responsible to provide such infrastructure and any hardware, network capacity or other system components required to receive, install and commission the Kiosks that is not specifically identified herein as being the responsibility of YVRAA.

4. Acceptance

4.1 The Customer will be deemed to have accepted the Implementation Services upon their completion by YVRAA.

5. Payments

5.1 In exchange for the Implementation Services, Customer will pay to YVRAA the Implementation Services Fees. Fees payable under the Suite, which include Implementation Services Fees, shall be paid by the Customer at the time set forth on the Cover Page.

6. Limited Warranty

6.1 YVRAA warrants that it will perform the Implementation Services in a professional and workmanlike manner, using technically qualified personnel. YVRAA's sole obligation and Customer's sole remedy for any breach of this warranty is for YVRAA to promptly and at its own expense re-perform the applicable Implementation Services as warranted. EXCEPT AS EXPRESSLY SET OUT IN THIS SECTION, YVRAA MAKES, AND CUSTOMER RECEIVES, NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, REGARDING OR RELATING TO THE SERVICES PROVIDED HEREUNDER. YVRAA SPECIFICALLY DISCLAIMS, AND CUSTOMER WAIVES, ALL IMPLIED WARRANTIES, REPRESENTATIONS AND CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF YVRAA HAS BEEN INFORMED OF SUCH PURPOSE) AND ANY OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE, WITH RESPECT TO THE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION, CUSTOMER ASSUMES SOLE RESPONSIBILITY FOR: (a) DETERMINING THAT THE SERVICES PROVIDED HEREUNDER MEET THE BUSINESS REQUIREMENTS OF CUSTOMER, AND (b) THE RESULTS OBTAINED FROM THE SERVICES. THIS SECTION WILL SURVIVE ANY EXPIRATION OR TERMINATION OF THE AGREEMENT.

7. Indemnity

7.1 YVRAA shall indemnify and hold harmless Customer from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Customer as a result of or in connection with any action, demand or claim that the Implementation Services infringe the intellectual property rights of any third party (an "IPR Claim"), provided that YVRAA shall have no such liability if the Customer:

    (a) does not notify YVRAA in writing setting out full details of any IPR Claim of which it has notice as soon as is reasonably possible;

    (b) makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of YVRAA (which shall not be unreasonably withheld or delayed);

    (c) does not let YVRAA at its request and own expense have the conduct of or settle all negotiations and litigation arising from IPR Claim; or

    (d) does not, at YVRAA's request and own expense, give YVRAA all reasonable assistance in the circumstances described above.

7.2 If any IPR Claim is made against the Customer, and YVRAA directs the Customer to cease enjoyment of the allegedly infringing Implementation Services, the Customer will promptly cease such enjoyment and in such case YVRAA shall (and in any event, YVRAA may) promptly and at its own expense re-perform the Implementation Services to make them non-infringing, while giving equivalent service; however, if, YVRAA having used its reasonable endeavours, cannot do so on reasonable terms, YVRAA shall refund the Implementation Services Fees paid by Customer in respect of the infringing Implementation Services. Apart from the indemnity given by YVRAA above, this shall be Customer's sole remedy in respect of the Implementation Services infringing intellectual property rights.

8. Limitation on Liability

8.1 IN NO EVENT WILL YVRAA OR ITS SUPPLIERS OR LICENSORS BE LIABLE UNDER CONTRACT (INCLUDING FUNDAMENTAL BREACH), TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL LOSSES OR DAMAGES OR FOR ANY LOSSES OR DAMAGES RESULTING FROM LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF USE, LOSS OF OR DAMAGE TO DATA, OR DAMAGES FOR PURE ECONOMIC LOSS, HOWEVER CAUSED, WHETHER FORESEEABLE OR NOT, EVEN IF YVRAA IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 IN NO EVENT WILL THE TOTAL LIABILITY OF YVRAA AND ITS SUPPLIERS AND LICENSORS FOR ANY LOSS OR DAMAGES RELATING TO THE SERVICES PROVIDED HEREUNDER EXCEED THE TOTAL FEES ACTUALLY PAID TO YVRAA FOR SUCH SERVICES.

8.3 THE LIMITATIONS IN THIS ARTICLE APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS OF LIABILITY IN THIS ARTICLE ARE MATERIAL PARTS OF THE BARGAIN BETWEEN THE PARTIES, AND THAT PRICES FOR THE SERVICES WOULD BE HIGHER WITHOUT THEM. THIS ARTICLE WILL SURVIVE ANY EXPIRATION OR TERMINATION OF THE AGREEMENT.

9. Term and Termination

9.1 Subject to earlier termination as provided in this Agreement, the term of this Agreement will commence on the Effective Date and will expire 30 days after Customer's acceptance of the Implementation Services.

APPENDIX 1
TO IMPLEMENTATION SERVICES AGREEMENT

DESCRIPTION OF IMPLEMENTATION SERVICES

As used in this Agreement, references to "Implementation Services" shall mean all of the services set out below:

1.   Consulting Services

1.1   Prior to delivery of the Kiosks to the Customer, YVRAA shall:

(a)   work with USCBP and Customer to develop the Implementation Plan for the deployment and installation of the Kiosks;

(b)   provide advice and assistance to Customer relating to the layout, installation and operation of the Kiosks; and

(c)   provide advice and assistance to Customer with respect to identifying the network infrastructure requirements for Kiosk operation.

2.   Deployment/Configuration Services:

2.1   Upon delivery of the Kiosks to the Customer, YVRAA shall:

(a)   configure and unit test the Production Kiosks at the Customer's facilities, and coordinate their integration into Customer's network infrastructure;

(b)   coordinate and implement the integration of the Production Kiosks into USCBP's Lookup and Referral Service via wide area network connection and system security layers; and

(c)   complete end-to-end testing, on-site certification and commissioning of the Production Kiosks at the Customer site(s) listed on the Cover Page, in coordination with USCBP.

3.   Training Services

3.1   Prior to Go-Live, YVRAA shall:

(a)   provide access to the Kiosk documentation to Customer;

(b)   if the Customer has entered into a Maintenance and Support Services Agreement with YVRAA providing it access to the "Replacement Parts Program", provide the Customer with basic training on the removal and reinstallation of certain Kiosk parts; and

(c)   commence providing the Customer with its standard training services in respect of the use of the Kiosks at the Customer site(s) listed on the Cover Page, which shall conclude not more than 48 hours following Go-Live.

This **Maintenance and Support Services Agreement** (the "Agreement"), a part of the **APC Kiosk Supply & Support Contract Suite** made between YVRAA and the Customer establishes the terms and conditions under which YVRAA will provide Customer the maintenance and support services described in Appendix 1 to this Agreement ("Maintenance Services"). Capitalized terms used but not defined in this Agreement have the meanings assigned to them elsewhere in the Reference Documents. The parties agree as follows:

1. Defined Terms

1.1   In this Agreement:

(a)   "Business Hours" means 8:00 a.m. to 4:00 p.m. (Vancouver time), Monday through Friday, excluding statutory holidays observed in the Province of British Columbia and other designated YVRAA holidays;

(b)   "Defective Hardware" means any failure of the Hardware contained in the Kiosk to operate in substantial conformity with the Documentation published from time to time, other than as a result of misuse by the Customer or its users, or as a result of the Customer's failure to fulfill its obligations set out in the Agreement or this Appendix;

(c)   "Maintenance Period" means, subject to earlier termination as provided herein, the initial term of this Agreement as specified in *Part 1 – Goods, Services and Payments*, (commencing on the Go Live date), plus any renewals or extensions thereof made pursuant to Section 4.1 of this Agreement, below;

(d)   "Maintenance Releases" means bug fixes, patches, and other error corrections to the Software designed to enable the Software to conform to the Documentation and that are made generally available by YVRAA during the Maintenance Period at no additional cost to users of the Software;

(e)   "Mandatory Safety Release" means updates, error corrections, or modifications to the Software that YVRAA requires users of the Software to install and that are made available by YVRAA during the Maintenance Period at no additional cost to users of the Software;

(f)   "Purchase Options" means software applications or modules not included in the Software or releases of the Software that include new features or functionality and that are released and marketed by YVRAA as additional products;

(g)   "Remedial Support" means corrective actions taken to improve or remedy the issue currently afflicting the Kiosk;

(h)   "Remote Diagnostics" means electronic actions and methods taken to investigate the Kiosk without physically being near the Kiosk;

(i)   "Replacement Parts" means the selection of spare Hardware parts provided by YVRAA to the Customer hereunder, to be retained and used by the Customer during the Term as authorized by YVRAA, and to be returned to YVRAA at the end of the Term.

(j)   "Software Correction" means commercially reasonable efforts to resolve a reproducible Software Error by:

(i)   assisting Customer by telephone or electronic mail to answer questions and diagnose problems with the Software; and

(ii)   undertaking diagnosis and, where possible, commencing corrective measures on the Software via remote access to Customer's facilities;

(k)   "Software Error" means any reproducible failure of the Software to operate in substantial conformity with the Documentation published from time to time, other than as a result of misuse by the Customer or its users, or as a result of the Customer's failure to fulfill its obligations set out in the Agreement or this Appendix; and

(l)   "Upgrade Release" means upgrades, enhancements and improvements to the features or functionality of the Software that are released and marketed by YVRAA during the Maintenance Period as "Upgrade Releases".

2. Maintenance Services

2.1   During the Maintenance Period, YVRAA will use commercially reasonable efforts to provide the Maintenance Services in the manner described in Appendix 1 to this Agreement.

2.2   Unless specifically listed in Appendix 1, Maintenance Services do not include any installation, deployment, configuration or support for any hardware or software not supplied by YVRAA.

2.3   Maintenance Services shall be delivered remotely; YVRAA will not be required to render any Maintenance Services on-site at Customer facilities.

3. Additional Kiosk Acquisition

3.1   Prior to the expiration of the first year following the Go Live Date, Customer may acquire from YVRAA additional Kiosks for use at the Customer's facility at the same prices as set forth on page 1 of Part 1 hereof.

4. Term and Termination

4.1   Subject to earlier termination, at the end of the initial Maintenance Period specified in *Part 1 – Goods, Services and Payments,* this Agreement will automatically renew for consecutive one year periods unless either party gives written notice to the other party

not less than 30 days before the end of the then-current Maintenance Period (whether initial or subsequent) that it will not renew this Agreement, in which event this Agreement will terminate at the end of the then-current Maintenance Period. No less than 60 days before the end of the initial Maintenance Period or any renewal or extension thereof, YVRAA may deliver to Customer a:

(a)   quotation specifying any increase in the fees payable during the subsequent to the Maintenance Period for Maintenance Services; and

(b)   list of Hardware parts YVRAA has deemed to be outdated, together with a list of new Hardware parts whose acquisition will be a condition of YVRAA's provision of acquisition of Maintenance Services after the end of the then-current Maintenance Period

Should YVR not deliver the quotation described in 4.1(a), then the Maintenance Fee payable in the subsequent Maintenance Period for Maintenance Services shall be the same as those payable in the then-current Maintenance Period. Should YVR not deliver the list described in 4.1(b), then the Customer shall not be obliged to purchase any new Hardware as a precondition of YVRAA's supply of Maintenance Services in the Maintenance Period following the then-current Maintenance Period. The parties agree that Customer has no obligation to acquire Maintenance Services after the end of the initial Maintenance Period.

4.2   Additionally, Customer acknowledges that USCBP may change its requirements relating to the Kiosks, which may result in the need for the Customer to modify the Kiosks or to adopt different hardware or software, in connection with continued Kiosk use. In such case, YVRAA may deliver to Customer a list of Kiosk modifications and/or new hardware or software components (collectively "**Upgrades**") YVRAA believes necessary to permit continued use of the Kiosks for a USCBP-approved purpose, whose acquisition will be a condition of YVRAA's continued provision of Maintenance Services following the coming into force of USCBP's new requirements. In the event that the Customer wishes to obtain such Upgrades from YVR, the parties shall, within 30 days of YVR's issuance of such list, promptly negotiate a new agreement related thereto. In the event that Customer does not wish to obtain Upgrades, then following the coming into force of USCBP's new requirements either party may terminate this Agreement upon 30 days' notice to the other.

4.3   No termination of this Agreement will relieve Customer of its obligation to pay any amount(s) due with respect to this Agreement prior to the effective date of termination.

5.   Payments

In exchange for the Maintenance Services, Customer will pay to YVRAA the Maintenance Services Fees. Fees payable under the Suite, which include Maintenance Services Fees, shall be paid by the Customer at the time set forth Part 1–Goods, Services and Payments Schedule.

6.   Customer Responsibilities

6.1   Customer and YVRAA share a common goal to minimize disruptions to Customer's operations caused by Software Errors and by Defective Hardware. Customer understands that in order to achieve this goal, it must perform its responsibilities under this Agreement (including Appendix 1) and the Reference Documents, as well as the following responsibilities specific to the provision of Maintenance Services:

(a)   on or before the start of the initial Maintenance Period, Customer must designate up to 2 individuals as Customer's primary contacts and will identify such individuals in writing to YVRAA. Customer will have the right to replace any primary contact from time to time upon identifying a new individual to YVRAA;

(b)   Customer must operate Customer's software, hardware and other equipment, must provide for and ensure the availability of back-up equipment and services upon product failure, must design and implement a reasonable and effective disaster recovery plan, must take reasonable actions to safeguard the Kiosks as well as all data and removable storage media, and must reload Software and data in the event of a failure;

(c)   in order for YVRAA personnel to analyze and diagnose Software Errors effectively, Customer must perform the following initial research and problem isolation activities:

         (i)   review available system-level documentation and user manuals;

         (ii)   isolate Software Errors to a specific area of the Software such as the particular software module within the application;

         (iii)   collect all of the required documentation, such as error codes and steps to re-create the Software Error; and

         (iv)   contact YVRAA promptly to report the Software Error.

(d)   Customer must provide YVRAA with timely remote electronic access to Customer's systems as reasonably required by YVRAA in order to facilitate YVRAA's ability to timely perform Maintenance Services (as applicable); and

(e)   Customer will be solely responsible for performing daily operation and maintenance duties regarding the Hardware, (including cleaning, printer restocking, print jam recovery and similar tasks) and providing maintenance and technical support for the Hardware as outlined in the "APC Kiosk Operations and Maintenance Guide" (provided to the Customer contemporaneously with Kiosk implementation) and that YVRAA bears no responsibility for performing these duties, or for any costs associated therewith. Notwithstanding anything else contained herein, all issues and errors that relate to such functions and tasks will be the sole responsibility of the Customer. Customer acknowledges that YVRAA reserves the right to update the "APC Kiosk Operations and Maintenance Guide" upon notice to the Customer (acting reasonably),

including to address such items as upgrade of Kiosk Software support and administration software, and changes to peripheral models and suppliers.

7. Implementation of Maintenance Services

7.1 YVRAA will implement all Software Corrections, Maintenance Releases, Mandatory Safety Releases and Upgrade Releases to the Software from time to time in accordance with this Agreement and Customer understands and agrees that Customer's failure to access and use the most current version of the Software, may render the Software non-conforming with applicable Documentation and/or applicable laws, and Customer hereby agrees to assume all risks therefrom and hereby releases YVRAA from any loss, liability or claim resulting from such failure. Additionally, Customer understands and agrees that in the event of Customer's failure to repair or replace Defective Hardware, including as provided hereunder, Customer agrees to assume all risks therefrom and hereby releases YVRAA from any loss, liability or claim resulting from such failure. This Section will survive any expiration or termination of this Agreement.

8. Limited Warranty

8.1 YVRAA warrants that it will perform the Maintenance Services in a professional manner and using qualified personnel. YVRAA's sole obligation and Customer's sole remedy for any breach of this warranty is for YVRAA to promptly and at its own expense re-perform the applicable Maintenance Services as warranted. EXCEPT AS EXPRESSLY SET OUT IN THIS SECTION, YVRAA MAKES, AND CUSTOMER RECEIVES, NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, REGARDING OR RELATING TO THE MAINTENANCE SERVICES. YVRAA SPECIFICALLY DISCLAIMS, AND CUSTOMER WAIVES, ALL IMPLIED WARRANTIES, REPRESENTATIONS AND CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF YVRAA HAS BEEN INFORMED OF SUCH PURPOSE) AND ANY OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE, WITH RESPECT TO THE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION, CUSTOMER ASSUMES SOLE RESPONSIBILITY FOR: (A) DETERMINING THAT THE MAINTENANCE SERVICES MEET THE BUSINESS REQUIREMENTS OF CUSTOMER AND (B) THE RESULTS OBTAINED FROM THE MAINTENANCE SERVICES. THIS SECTION WILL SURVIVE ANY EXPIRATION OR TERMINATION OF THE AGREEMENT.

9. Indemnity

9.1 YVRAA shall indemnify and keep indemnified and hold harmless Customer from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Customer as a result of or in connection with any action, demand or claim that the Maintenance Services infringe the intellectual property rights of any third party (an "IPR Claim"), provided that YVRAA shall have no such liability if the Customer:

(a) does not notify YVRAA in writing setting out full details of any IPR Claim of which it has notice as soon as is reasonably possible;

(b) makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of YVRAA (which shall not be unreasonably withheld or delayed);

(c) does not let YVRAA at its request and own expense have the conduct of or settle all negotiations and litigation arising from IPR Claim; or

(d) does not, at YVRAA's request and own expense, give YVRAA all reasonable assistance in the circumstances described above.

9.2 If any IPR Claim is made against the Customer, YVRAA shall promptly and at its own expense re-perform the Maintenance Services to make them non-infringing, while giving equivalent service; however, if, YVRAA having used its reasonable endeavours, cannot do so on reasonable terms, YVRAA shall refund the Maintenance Services Fees paid by Customer. Apart from the indemnity given by YVRAA above, this shall be Customer's sole remedy in respect of the Maintenance Services infringing intellectual property rights.

10. Limitation on Liability

10.1 IN NO EVENT WILL YVRAA OR ITS SUPPLIERS OR LICENSORS BE LIABLE UNDER CONTRACT (INCLUDING FUNDAMENTAL BREACH), TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL LOSSES OR DAMAGES OR FOR ANY LOSSES OR DAMAGES RESULTING FROM LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF USE, LOSS OF OR DAMAGE TO DATA, OR DAMAGES FOR PURE ECONOMIC LOSS, HOWEVER CAUSED, WHETHER FORESEEABLE OR NOT, EVEN IF YVRAA IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2 IN NO EVENT WILL THE TOTAL LIABILITY OF YVRAA AND ITS SUPPLIERS AND LICENSORS FOR ANY LOSS OR DAMAGES RELATING TO THE MAINTENANCE SERVICES EXCEED THE TOTAL MAINTENANCE SERVICES FEES ACTUALLY PAID TO YVRAA.

10.3 THE LIMITATIONS IN THIS ARTICLE APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS OF LIABILITY IN THIS ARTICLE ARE MATERIAL PARTS OF THE BARGAIN BETWEEN THE PARTIES, AND THAT PRICES FOR THE SERVICES WOULD BE HIGHER WITHOUT THEM. THIS ARTICLE WILL SURVIVE ANY EXPIRATION OR TERMINATION OF THE AGREEMENT.

APPENDIX 1
TO MAINTENANCE AND SUPPORT SERVICES AGREEMENT

DESCRIPTION OF MAINTENANCE SERVICES

As used in this Agreement, references to "Maintenance Services" shall mean the provision of Mandatory Safety Releases, the Maintenance Releases, the Technical Support and the provision of goods under the Replacement Parts Program, all described below:

1. **Mandatory Safety and Maintenance Releases**

1.1 YVRAA will implement and remotely install all Mandatory Safety Releases and Maintenance Releases as and when made commercially available.

2. **Upgrade Releases and Purchase Options**

2.1 From time to time YVRAA may offer to provide Upgrade Releases and Purchase Options to Customer, along with associated professional services. YVRAA has no obligation to make any such offer(s). All Upgrade Releases, Purchase Options and related services will be provided at the prices and upon the terms set forth in any agreement made between the parties.

3. **Technical Support**

3.1 YVRAA will provide technical support for the Software as follows:

(a) <u>Standard Telephone Support</u>. YVRAA will provide Customer will access to its call center via a telephone number for use by Customer in reporting Software Errors.

(b) <u>Remote Diagnostic and Remedial Support</u>. YVRAA will provide Remote Diagnostics and Remedial Support for the Software.

Such technical support is available 24 hours a day, 7 days a week, 365 days per year, at no additional cost to the Customer during the term of the Maintenance and Support Services Agreement.

3.2 Software Errors shall be categorized by the parties using the following table:

Severity level	Description
3	a Software Error affecting more than 50% of Customer Kiosks that significantly impairs the performance or prevents the performance of any critical program functions, and that cannot be circumvented or avoided by Customer on a temporary basis
2	a Software Error affecting more than 30% of Customer Kiosks that (a) does not prevent or significantly impair the performance of any critical program functions; or (b) if preventing or significantly impairing the performance of any critical program functions, such prevention or impairment can be circumvented or avoided by Customer on a temporary basis
1	any Software Error or Documentation issue that does not fall into the foregoing categories.

3.3 If there is any dispute between YVRAA and Customer as to the severity level of a reported Software Error, then the classification of that Software Error by YVRAA in good faith will be final and binding on the parties.

3.4 Once Customer reports a Software Error to YVRAA, YVRAA will, subject to the exceptions set forth below, use reasonable commercial efforts to assess and commence corrective action on the reported Software Error based on the assigned Severity Level, as follows:

Severity level	Response time for initial assessment of Software Error (from time report received by YVRAA)	Corrective action
3	within 30 minutes during Business Hours and within 2 hours outside of Business Hours	commencing as soon as possible after the initial assessment of the Software Error and continuing until a Software Correction has been completed or until the Software Error is no longer classified as Severity Level 3.
2	by end of next business day	YVRAA will initiate a resolution to the Software Error within a reasonable period of time after the initial assessment and will continue to develop a Software Correction during Business Hours until the Software Error is no longer classified as Severity Level 2.

| 1 | within 5 business days | YVRAA will initiate a resolution to the Software Error within a reasonable period of time after the initial assessment and, where possible, will deliver an appropriate correction as part of a future Maintenance Release or Documentation release. |

3.5 Customer acknowledges and agrees that a Software Correction may consist of one or more Maintenance Releases or temporary work-arounds that are designed to resolve the Software Error, to provide an interim solution to the business impediment caused by that Software Error, or to reduce the Severity Level of that Software Error. If the Severity Level of a Software Error is reduced, then YVRAA will continue corrective action in accordance with the reduced Severity Level. YVRAA will notify Customer promptly if it is unable to resolve any Software Error.

3.6 The following events are exceptions to YVRAA's response time and correction action commitments set out above:

(a) Software Errors that arise from a Customer's failure to fulfill its obligations set out in the Agreement or this Appendix;

(b) the failure of equipment (including but not limited to hardware, network servers, routers, firewalls, or other peripheral desktops or thin clients and printers) whether or not supplied by YVRAA;

(c) Software Errors resulting from software and hardware defects of access devices and systems not supplied by YVRAA that provide service to and from the Software;

(d) outage or degradation of Software use resulting from outages or service degradations in the internet access or other data services related to any third party delivering services to Customer;

(e) outages due to Force Majeure Events;

(f) outage or degradation of Software use during any period in which YVRAA is implementing or remotely installing Mandatory Safety Releases or Maintenance Releases;

(g) other Maintenance Services undertaken by YVRAA at Customer's request that require a system shutdown and/or reboot;

(h) instances where YVRAA is not granted access to the Customer resources or systems to provide Maintenance Services; and

(i) negligence of the Customer or third parties authorized by Customer, other than YVRAA.

4. Replacement Parts Program

4.1 Contemporaneously with the delivery of Implementation Services under the Implementation Services Agreement, YVRAA will use commercially reasonable efforts to:

(a) deliver the Replacement Parts, DAP (Incoterms, 2010) the Customer's Business Address;

(b) ensure that the packaging is sufficient to protect the Replacement Parts in the course of handling, shipping and storage, and YVRAA shall pay for packing and packaging relating the provision of the Replacement Parts to the Customer; and

(c) include packing slips, commercial invoices, customs declarations, and certificates of origin with each Replacement Parts shipment.

4.2 Title to the Replacement Parts shall not pass from YVRAA to Customer upon delivery; the Replacement Parts shall be provided by YVRAA to the Customer as a bailment until installation by the Customer pursuant to Section 4.3 of this Appendix, below.

4.3 During the Term, if the Customer identifies Defective Hardware in the Kiosks, it shall promptly contact YVRAA to discuss the issue. If, amongst the Replacement Parts:

(a) there is a replacement for the Defective Hardware, then upon YVRAA's direction and approval, the Customer shall:

(i) remove the Defective Hardware from the Kiosk, installing a replacement therefor from the stock of Replacement Parts (at which point, such part ceases to be an Additional Part, and title to such part passes to the Customer); and

(ii) promptly make the Defective Hardware available for packaging and shipping to YVRAA, CIP (Incoterms 2010) YVRAA's Business Address;

and upon receipt of the Defective Part from the Customer, YVRAA shall promptly provide the Customer with a replacement therefor, at no cost.

(b) there is a no replacement for the Defective Hardware, or there is an insufficient quantity thereof, then the Customer shall order replacement parts from YVRAA, and YVRAA will endeavour to provide to the Customer within two full business days of any request thereof.

Upon request, the Customer shall provide reasonable information and assistance to YVRAA at no cost to assist YVRAA efforts to obtain recovery under warranties offered by the manufacturer of Defective Hardware;

4.4 The Customer acknowledges and agrees that:

(a)   it shall be responsible for all risks to the Replacement Parts while in its possession;

(b)   it shall not make any use of Replacement Parts except as directed by YVRAA;

(c)   any:

     (i)   damage to or losses of Replacement Parts prior to Kiosk installation; or

     (ii)   return to YVRAA of allegedly defective parts that, in the view of YVRAA acting reasonably, do not constitute Defective Parts;

may result in a charge to the Customer equal to the replacement cost of the Replacement Parts or returned parts (as the case may be) plus YVRAA administrative fees and shipping costs, which charges shall be paid promptly by the Customer upon receipt of an invoice from YVRAA with respect thereto;

(d)   upon the end of the Term, howsoever occasioned, it shall promptly make the Replacement Parts available for packaging and shipping to YVRAA, CIP (Incoterms 2010) YVRAA's Business Address; and

(e)   it waives any rights or claims it has arising from or related to the Defective Hardware.

5.   Optional Language Modules - Support

5.1   If the Customer has selected Optional Language Modules as set out in Part 1–Goods, Services and Payments Schedule, then during the Maintenance Period, in the event that YVRAA makes changes to the on-screen text displayed to Kiosk end users, YVRAA shall ensure that such changes are also made for all text-to-speech Kiosk functionality in each of the Customer's Optional Language Modules that are supported by the native operating system text-to-speech converter used by the Kiosk.