

## AGREEMENT FOR PROFESSIONAL SERVICES

**THIS AGREEMENT FOR PROFESSIONAL SERVICES** (“**Agreement**”) is made and entered into as of the date stated on the City’s signature page below (the “**Effective Date**”) by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado acting on behalf of its Department of Aviation (the “**City**”), and **MATERNA IPS USA CORP.**, a Delaware corporation authorized to do business in the State of Colorado (“**Contractor**”) (collectively the “**Parties**”).

### WITNESSETH:

**WHEREAS**, the City owns, operates, and maintains Denver International Airport (“**DEN**”); and

**WHEREAS**, Contractor has provided to City Hybrid Self-Bag Drops (SBDs) and check-in kiosks (CUSS) as an integrated part of the Great Hall Completion Project for the DEN; and

**WHEREAS**, the City requires support and maintenance for the SBDs and CUSS and Contractor will provide such maintenance and support to include a Service Desk, Level 1 (L1) Hardware Maintenance Support, Level 2 (L2) Site Administration Technical support and Level 3 (L3) Software License and Software Technical Support for Airline Applications, the Common Use Software Operating System, and management of the infrastructure and management of the technology based in the Amazon Cloud; and

**WHEREAS**, this procurement qualifies for the Sole Source Exception under Executive Order No. 8, including Memorandum No. 8B and, therefore was not competitively bid; and

**WHEREAS**, Contractor is qualified, willing, and able to perform the services, as set forth in this Agreement in a timely, efficient, and economical manner; and

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

### ARTICLE I. LINE OF AUTHORITY

The Chief Executive Officer of the Department of Aviation (the “**CEO**”), his/her designee or successor in function, authorizes and directs all work performed under this Agreement. Until otherwise notified in writing by the CEO, the CEO has delegated the authority granted herein to Airport Infrastructure Management. The relevant Senior Vice President (the “**SVP**”) or his/her designee (the “**Director**”), will designate a Project Manager to coordinate professional services under this Agreement. Reports, memoranda, correspondence, and other submittals required of Contractor hereunder shall be processed in accordance with the Project Manager directions.

## ARTICLE II. SCOPE OF WORK AND CONTRACTOR RESPONSIBILITIES

**A. Scope of Services.** Contractor will provide professional services and provide deliverables for the City as described in this Agreement, including the attached *Exhibit A* (“**Scope of Work**”) in accordance with schedules and budgets set by the City.

**B. Task Orders.** In addition to the work set forth in the Scope of Work, the Project Manager may issue task orders for additional work to be completed under this Agreement (“**Task Orders**”). The terms of each Task Order must include but are not limited to information regarding schedule, staffing, and pricing.

**C. Standard of Performance.** Contractor shall faithfully perform the work required under this Agreement in accordance with the standard of care, skill, efficiency, knowledge, training, and judgment provided by highly competent professionals who perform work of a similar nature to the work described in this Agreement. Contractor shall perform its work in accordance with this Contract, including any Acceptance Criteria or other requirements set forth in the Scope of Work or applicable Task Order.

**D. Time Is of the Essence.** City and Contractor acknowledge that time is of the essence in its performance of all work and obligations under this Agreement.

**E. Subcontractors.**

1. In order to retain, hire, and/or contract with an outside subcontractor for work under this Agreement, Contractor must obtain the prior written consent of the CEO or the CEO’s designee, except that Contractor may continue with any subcontractor engaged to work pursuant to the Materna Subcontract. Contractor shall request the CEO’s approval in writing and shall include a description of the nature and extent of the services to be provided, the name, address and professional experience of the proposed subcontractor, and any other information requested by the City.

2. The CEO shall have the right to reject any proposed outside subcontractor deemed by the CEO to be unqualified or unsuitable for any reason to perform the proposed services. The CEO shall have the right to limit the number of outside subcontractors and/or to limit the percentage of work to be performed by them.

3. Any final agreement or contract with an approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make any claim of payment against the City or to file or claim any lien or encumbrance against any City property arising out of the performance or non-performance of this Agreement and/or the subcontract.

4. Contractor is subject to Denver Revised Municipal Code (“**D.R.M.C.**”) § 20-112, wherein Contractor shall pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven (7) days after receipt of any payment from the City. Any late payments are subject to a late payment penalty as provided in the Denver Prompt Payment Ordinance (§§ 20-107 through 20-118).

5. This Section, or any other provision of this Agreement, shall not create any contractual relationship between the City and any subcontractor. The City's approval of a subcontractor shall not create in that subcontractor a right to any subcontract. The City's approval of a subcontractor does not relieve Contractor of its responsibilities under this Agreement, including the work to be performed by the subcontractor.

**F. Key Personnel Assignments.**

1. Contractor or its subcontractor(s) shall assign all key personnel identified in the Scope of Work or relevant Task Order(s) to perform work under this Agreement (“**Key Personnel**”). Key Personnel shall perform the designated work under this Agreement, unless otherwise approved in writing by the SVP or his/her authorized representative.

2. It is the intent of the Parties that all Key Personnel perform their specialty for all such services required by this Agreement. Contractor and its subcontractor(s) shall retain Key Personnel for the entire Term of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed.

3. If, during the Term of this Agreement, the Project Manager determines that the performance of any Key Personnel is not acceptable, the Project Manager shall notify Contractor and may give Contractor notice of the period of time which the Project Manager considers reasonable to correct such performance.

4. If Contractor fails to correct such performance, then the City may revoke its approval of the Key Personnel in question and notify Contractor that such Key Personnel will not be retained on this project. Within ten (10) days of receiving this notice, Contractor shall use its best efforts to obtain adequate substitute personnel who must be approved in writing by the Project Manager. Contractor's failure to obtain the Project Manager's approval shall be grounds for Termination for Cause in accordance with Article V, Section C.2.

**ARTICLE III. OWNERSHIP AND RIGHTS**

**A. Ownership.** All property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, plans, drawings, reports, other submittals and any other work or recorded information originally created by the Contractor specifically and exclusively for the City pursuant to this Agreement and identified in the Scope of Work or any Task Order as “City-Owned Intellectual Property”, in preliminary or final forms and on any media (collectively, “Materials”), shall belong to the City. The Parties shall describe and disclose with specificity all such Materials in the Scope of Work or Task Order. The Materials shall not include any of Contractor's rights to intellectual property created by Contractor prior to the effective date of the Materna Subcontract or otherwise created by Contractor outside the scope of the Materna Subcontract or this Agreement. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, et seq., the Materials are a “work made for hire” and all ownership of copyright in the Materials shall vest in the City at the time the Materials

are created. To the extent that the Materials are not a “work made for hire,” the Contractor hereby sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark and other intellectual property rights in perpetuity. Upon the City’s written concurrence that the hardware and software are satisfactorily installed and payment to the Contractor by the City under the terms of this Agreement, title to the hardware.

**B. License.** Subject to the terms and conditions of this Agreement, Contractor will grant City all licenses necessary for both parties’ performance of this Agreement.

**C. Reservation of Rights.** Contractor reserves all rights not expressly granted to the City in this Agreement. Except as expressly stated, nothing herein shall be construed to: (1) directly or indirectly grant to the City any title to or ownership of Contractor’s intellectual property rights in services or materials furnished by Contractor hereunder, or (2) preclude Contractor from developing, marketing, using, licensing, modifying or otherwise freely exploiting services or materials that are similar to or related to the Work or materials provided hereunder. Notwithstanding anything to the contrary herein, City acknowledges that Contractor has the right to use any City provided materials solely for the benefit of City in connection with the Work performed hereunder for the City.

#### **ARTICLE IV. LIMITED WARRANTY**

Contractor warrants that the Materna Products shall conform to the product specifications set forth in this Agreement, including any Task Orders issued pursuant to this Agreement, during the 12-month period commencing from the date on which the Materna Products go live (“Warranty Period”). Contractor’s sole obligation and responsibility to the City under this Warranty is to remedy, at no cost to the City, any defect in the Materna Products for failure to comply with the product specifications which defects are reported in writing to the Contractor during the Warranty Period. This warranty does not apply if the Materna Products are (1) damaged and the damage, in whole or in part, was caused by any person other than Contractor, (2) damaged due to improper operation or use by the City, (3) damaged due to misuse or abuse other than as specified or intended, (4) damaged or malfunction caused by alteration or tampering, or any other reason beyond the control of the Contractor, (5) damaged resulting from movement of Materna Products after installation, (6) malfunction or breakdown of Materna Products due to attachment to, or addition to or use of products not supplied or authorized by Materna, and (7) damage, malfunction or breakdown due to improper operating environment, including temperature, humidity, dust or static change.

Except for the Limited Warranty stated above, Contractor disclaims and the City waives all warranties on the Materna products furnished pursuant to this Agreement, including but not limited to all implied warranty of merchantability and fitness for a particular purposes and purchases of the Materna products are “as is” and “with all faults.”

## ARTICLE V. TERM AND TERMINATION

**A. Term.** The Term of this Agreement shall commence on the Effective Date and shall expire FIVE (5) years from the Effective Date, unless terminated in accordance with the terms stated herein (the “**Expiration Date**”). If the Term expires prior to Contractor completing the work under this Agreement, subject to the prior written approval of the CEO or his/her authorized representative, this Agreement shall remain in full force and effect until the completion of any services commenced prior to the Expiration Date. Contractor has no right to compensation for services performed after the Expiration Date without such express approval from the CEO or his/her authorized representative.

**B. Suspension.** The City may suspend performance of this Agreement or any Task Order issued pursuant to this Agreement at any time with or without cause. Upon receipt of notice from the Director, Contractor shall stop work as directed in the notice and shall submit an invoice for any work performed (i.e., services provided, licenses issued, and goods produced) but not yet billed. Any milestones or other deadlines contained in the Task Order shall be extended by the period of suspension unless otherwise agreed to by the City and Contractor. The Expiration Date shall not be extended as a result of a suspension.

### **C. Termination.**

1. Termination for Convenience. The City may terminate this Agreement or any Task Order at any time without cause with at least ninety (90) days prior written notice to Contractor.

2. Termination for Cause. In the event Contractor fails to perform any provision of this Agreement or any Task Order, the City may either:

a. Terminate this Agreement or any Task Order for cause with ten (10) days prior written notice to Contractor; or

b. Provide Contractor with written notice of the breach and allow Contractor an Opportunity to Cure.

3. Opportunity to Cure. Upon receiving the City’s notice of breach pursuant to Section C.2.b of this Article, Contractor shall have ten (10) days to commence remedying its defective performance. If Contractor diligently cures its defective performance to the City’s satisfaction within a reasonable time as determined by the City, then this Agreement or the Task Order shall not terminate and shall remain in full force and effect. If Contractor fails to cure the breach to the City’s satisfaction, then the City may terminate this Agreement or the Task Order pursuant to Section C.2.a of this Article.

4. Compensation for Services Performed Prior to Termination Notice. If this Agreement is terminated, the City shall pay Contractor the reasonable cost of only those services performed to the satisfaction of the CEO or his/her authorized representative prior to the notice of termination. Contractor shall submit a final invoice for these costs within thirty (30) days of the date of the notice of termination

5. Reimbursement for Cost of Orderly Termination. In the event of Termination for Convenience of this Agreement or any Task Order pursuant to this Article, Section C.1., Contractor may obtain reimbursement from the City of the reasonable costs of materials ordered prior to the notice of termination and goods, the production of which has commenced but has not been completed, and the costs of orderly termination associated with the Termination for Convenience.

6. Final Invoice Upon Termination for Convenience. Contractor shall submit a Final Invoice for all work performed (i.e., services performed, licenses issued and goods produced) prior to the effective date of termination as provided in Section C.4 and C.5 above, within thirty (30) days from the Effective Date of Termination.

7. In no event shall the total sums paid pursuant to this Article exceed the Maximum Contract Amount.

8. No Claims. Upon termination of this Agreement, Contractor shall have no claim of any kind against the City by reason of such termination or by reason of any act incidental thereto. Contractor shall not be entitled to loss of anticipated profits or any other consequential damages as a result of termination.

9. Possession of Goods. Within thirty (30) days of a notice of termination, the City shall take possession of all materials, equipment, tools and facilities owned by the City which the Contractor is using and the Contractor shall deliver to the City all drafts or other documents it has completed or partially completed under this Agreement, together with all other items, materials and documents which have been paid for by the City, and these documents and materials shall be the property of the City.

## ARTICLE VI. COMPENSATION AND PAYMENT

**A. Maximum Contract Amount.** Notwithstanding any other provision of this Agreement, the City shall not be liable under any theory for payment for services rendered and expenses incurred by Contractor under the terms of this Agreement for any amount in excess of the sum of **Twenty Four Million, Seven Hundred Thirty-Seven Thousand, Forty-Two Dollars and Fifteen Cents (\$24,737,042.15)** (“**Maximum Contract Amount**”). Contractor shall perform the services on a fixed price basis up to the Maximum Contract Amount.

**B. Limited Obligation of City.** The obligations of the City under this Agreement shall extend only to monies encumbered for the purposes of this Agreement. Contractor acknowledges and understands the City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City. The City is not under any obligation to make any future encumbrances or appropriations for this Agreement nor is the City under any obligation to amend this Agreement to increase the Maximum Contract Amount above.

**C. Payment Source.** For payments required under this Agreement, the City shall make payments to Contractor solely from funds of the City and County of Denver Airport System

Fund and from no other fund or source. The City has no obligation to make payments from any other source.

**D. Basis for Contractor's Fee.** The City shall pay the Contractor monthly fees mutually agreed upon and set forth in the Schedule in *Exhibit B-1*. Unless otherwise agreed in writing between the parties, the Contractor shall invoice the City monthly, based on the Contractor's Schedule in *Exhibit B-1*. For Task Orders contemplated by Article II B. of this Agreement, Contractor's fee shall be based either on a fixed price agreed to in the Task Order by the Parties or on the time required by Contractor's professionals to complete the services or as otherwise specified in the applicable Task Order. Individual hourly rates are set forth in *Exhibit B-2* ("**Rates**") and vary according to the experience and skill required. The SVP, in his or her sole discretion, may annually adjust the hourly rates on the anniversary of the Effective Date. Hourly rate adjustments shall not exceed the Denver-Aurora-Lakewood Consumer Price Index issued by the U.S. Department of Labor, Bureau of Labor Statistics.

**E. Payment Schedule.** Subject to the Maximum Contract Amount, for payments required under this Agreement, the City shall pay Contractor's fees and expenses in accordance with this Agreement. Unless otherwise agreed to in writing, including in a Task Order, Contractor shall invoice the City on a monthly basis in arrears and the City shall pay each invoice in accordance with Denver's Prompt Payment Ordinance, D.R.M.C. § 20-107, et seq., subject to the Maximum Contract Amount.

1. Late Fees. Contractor understands and agrees interest and late fees shall be payable by the City only to the extent authorized and provided for in the City's Prompt Payment Ordinance.

2. Travel Expenses. Travel and any other expenses are not reimbursable unless such expenses are related to and in furtherance of the purposes of Contractor's engagement and Contractor receives prior written approval of the SVP or his/her authorized representative.

**F. Invoices.** Unless otherwise specified in the applicable Task Order, in accordance with *Exhibits A, B-1* and/or *B-2*, on or before the fifteenth (15th) day of each month, Contractor shall submit to the City a monthly progress invoice containing reimbursable costs and receipts from the previous month for professional services rendered under this Agreement to be audited and approved by the City ("**Invoice**"). Each Invoice shall provide the basis for payments to Contractor under this Agreement. In submitting an Invoice, Contractor shall:

1. Include an executive summary and status report(s) that describe the progress of the services and summarize the work performed during the period covered by the Invoice;

2. Include a statement of recorded hours that are billed at an hourly rate;

3. Include the relevant purchase order ("**PO**") number related to the Invoice;

4. Ensure that amounts shown on the Invoices comply with and clearly reference the relevant services, indicate the hourly rate and multiplier where applicable, and identify the allowable reimbursable expenses;

5. For only those reimbursable costs incurred in the previous month, submit itemized business expense logs and, where billing is based upon receipts, include copies of receipts for all allowable reimbursable expenses;

6. Include the signature of an authorized officer of Contractor, along with such officer's certification they have examined the Invoice and found it to be correct; and

7. Submit each Invoice via email to [ContractAdminInvoices@flydenver.com](mailto:ContractAdminInvoices@flydenver.com) within three (3) calendar days of the invoice date.

**G. Timesheets.** Contractor shall maintain all timesheets kept or created in relation to the services performed under any Task Orders compensated by time and materials payment under this Agreement. The City may examine such timesheets upon the City's request and any other documents required by *Exhibits B-1, B-2*, or any Task Order.

**H. Disputed Invoices.** The City reserves the right to reject and not pay any Invoice or part thereof, including any final Invoice resulting from a Termination of this Agreement, where the SVP or his/her authorized representative determines the amount invoiced exceeds the amount owed based upon the work performed. The City shall pay any undisputed items contained in an Invoice. Disputes concerning payments under this provision shall be resolved in accordance with procedures set forth in Article IX.

**I. Carry Over.** If Contractor's total fees for any of the services provided under this Agreement are less than the amount budgeted for, the amount remaining in the budget may be used for additional and related services rendered by Contractor if the CEO or his/her authorized representative determines such fees are reasonable and appropriate and provides written approval of the expenditure.

## ARTICLE VII. INSURANCE REQUIREMENTS

**A.** Contractor shall obtain and keep in force all of the minimum insurance coverage forms and amounts set forth in *Exhibit C* ("**Insurance Requirements**") during the entire Term of this Agreement, including any extensions of the Agreement or other extended period stipulations stated in *Exhibit C*. All certificates of insurance and any required endorsements must be received and approved by DEN Risk Management before any airport access or work commences.

**B.** Unless specifically excepted in writing by DEN Risk Management, if Contractor shall be using subcontractors to provide any part of the services under this Agreement, Contractor shall do one of the following:

1. Include all subcontractors performing services hereunder as insureds under its required insurance and specifically list on all submitted certificates of insurance required under *Exhibit C*; or

2. Ensure that each subcontractor provides its own insurance coverage in accordance with the requirements set forth in this Agreement.

**C.** The City in no way warrants or represents the minimum limits contained herein are sufficient to protect Contractor from liabilities arising out of the performance of the terms and



conditions of this Agreement by Contractor, its agents, representatives, employees, or subcontractors. Contractor shall assess its own risks and maintain higher limits and/or broader coverage as it deems appropriate and/or prudent. Contractor is not relieved of any liability or other obligations assumed or undertaken pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

**D.** In no event shall the City be liable for any of the following: (i) business interruption or other consequential damages sustained by Contractor; (ii) damage, theft, or destruction of Contractor's inventory, or property of any kind; or (iii) damage, theft, or destruction of an automobile, whether or not insured.

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

#### **ARTICLE VIII. DEFENSE AND INDEMNIFICATION**

**A.** Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“**Claims**”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Contractor or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

**B.** Contractor’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Contractor’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

**C.** Contractor will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation, including but not limited to time expended by the City Attorney Staff, whose costs shall be computed at the rate of two hundred dollars and no cents (\$200.00) per hour of City Attorney time. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

**D.** Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The

Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

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

**F.** Neither party to this Agreement shall be liable for consequential or indirect loss or damage, including loss of data, lost profits, lost business opportunities, lost revenues, goodwill, or anticipated savings. The Contractor's maximum aggregate liability for any breach of this agreement shall not exceed the Maximum Contract Liability divided by the number of years in the contract term (i.e., annual contract value). The Contractor's liability for any claim covered by the insurance policies set forth in *Exhibit C* shall in no event exceed the maximum insurance coverage amount for each respective policy. This paragraph does not apply to Contractor's gross negligence, willful misconduct, indemnity obligations or breach of Contractor's security obligations. The Contractor's obligations set out in this paragraph shall survive the termination of this Agreement.

## **ARTICLE IX. DISPUTES**

All disputes arising under or related to this Agreement shall be resolved by administrative hearing under the procedures described in D.R.M.C. § 5-17 and all related rules and procedures. The determination resulting from said administrative hearing shall be final, subject only to Contractor's right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

## **ARTICLE X. GENERAL TERMS AND CONDITIONS**

**A. Status of Contractor.** Parties agree that the status of Contractor shall be an independent Contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in § 9.1.1(E)(x) of the Charter of the City and County of Denver (the "**City Charter**"). It is not intended, nor shall it be construed, that Contractor or its personnel are employees or officers of the City under D.R.M.C. Chapter 18 for any purpose whatsoever.

**B. Assignment.** Contractor shall not assign, pledge or transfer its duties, obligations, and rights under this Agreement, in whole or in part, without first obtaining the written consent of the CEO or his/her authorized representative. Any attempt by Contractor to assign or transfer its rights hereunder without such prior written consent shall, at the option of the CEO or his/her authorized representative, automatically terminate this Agreement and all rights of Contractor hereunder.

**C. Compliance with all Laws and Regulations.** Contractor and its subcontractor(s) shall perform all work under this Agreement in compliance with all existing and future applicable laws, rules, regulations and codes of the United States and the State of Colorado and with the City Charter, ordinances and rules and regulations of the City.

### **D. Compliance with Patent, Trademark and Copyright Laws.**

1. Contractor agrees that all work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and

codes of the United States, as they may be amended from time to time. Contractor will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission, all releases, and other necessary documents. If Contractor prepares any documents which specify any material, equipment, process or procedure which is protected, Contractor shall disclose such patents, trademarks and copyrights in such documents.

2. Pursuant to Article VIII, Contractor shall indemnify and defend the City from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which infringes upon any patent, trademark or copyright protected by law. Notwithstanding anything herein to the Contrary, Contractor's liability under this Agreement shall not exceed the amounts set forth in Article VIII.F., above.

**E. Notices.**

1. Notices of Termination. Notices concerning termination of this Agreement shall be made as follows:

by Contractor to:

Chief Executive Officer  
Denver International Airport  
Airport Office Building  
8500 Peña Boulevard, 9th Floor  
Denver, Colorado 80249-6340

And by the City to:

Materna IPS USA Corp.  
5323 Millenia Lakes Blvd. Suite 300  
Orlando, FL 32839

2. Delivery of Formal Notices. Formal notices of the termination of this Agreement shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested; express mail (Fed Ex, UPS, or similar service) or package shipping or courier service; or by electronic delivery directed to the person identified above and copied to the Project Manager through the electronic or software system used at the City's direction for Task Order-related and other official communications and document transmittals. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service and electronically transmitted notices by pressing "send" or the equivalent on the email or other transmittal method sufficient to irretrievably transmit the document. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed, delivered or emailed, but such substitutions shall not be effective until actual receipt of written or electronic notification thereof through the method contained in Subsection E.2

3. Other Correspondence. Other notices and day-to-day correspondence between the Parties may be done via email directed to the Project Manager or through the electronic or software system used at the City's direction in writing for Task Order-related communications and document transmittals.

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

**G. No Third-Party Beneficiaries.** The Parties agree that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the City and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any third party. It is the express intention of the Parties that any person or entity other than the City or Contractor receiving services or benefits under this Agreement shall be deemed an incidental beneficiary and shall not have any interest or rights under this Agreement.

**H. Governing Law.** This Agreement is made under and shall be governed by the laws of the State of Colorado. Each and every term, provision and condition herein is subject to the provisions of Colorado law, the City Charter, and the ordinances and regulations enacted pursuant thereto, as may be amended from time to time.

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

**J. Venue.** Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

**K. Cooperation with Other Contractors.**

1. The City may award other contracts for additional work, and Contractor shall fully cooperate with such other contractors. The City, in its sole discretion, may direct Contractor to coordinate its work under this Agreement with one or more such contractors.

2. Contractor shall have no claim against the City for additional payment due to delays or other conditions created by the operation of other contractors. The City will decide the respective rights of the various contractors in order to secure the completion of the work.

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

**M. Force Majeure.** The Parties shall not be liable for any failure to perform any of its obligations hereunder due to or caused by, in whole or in part, fire, strikes, lockouts, unusual delay by common carriers, unavoidable casualties, war, riots, acts of terrorism, acts of civil or military authority, acts of God, judicial action, or any other causes beyond the control of the Parties. The Parties shall have the duty to take reasonable actions to mitigate or prevent further delays or losses resulting from such causes.

**N. Coordination and Liaison.** Contractor agrees that during the term of this Agreement it shall fully coordinate all services that it has been directed to proceed upon and shall make every reasonable effort to fully coordinate all such services as directed by the SVP or his/her authorized representative, along with any City agency, or any person or firm under contract with the City doing work which affects Contractor's work.

**O. No Authority to Bind City to Contracts.** Contractor has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City as required by the City Charter and ordinances.

**P. Information Furnished by the City.** The City will furnish to Contractor information concerning matters that may be necessary or useful in connection with the work to be performed by Contractor under this Agreement. The Parties shall make good faith efforts to ensure the accuracy of information provided to the other Party; however, Contractor understands and acknowledges that the information provided by the City to Contractor may contain unintended inaccuracies. Contractor shall be responsible for the verification of the information provided to Contractor.

**Q. Taxes and Costs.** Contractor shall promptly pay, when due, all taxes, bills, debts and obligations it incurs performing work under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against land, facilities or improvements owned by the City. The City affirms that it is a tax-exempt entity under the Laws of the State of Colorado and this purchase qualifies for the Denver and Colorado sales tax exemption for sales to the United States government, the State of Colorado, its departments and institutions, and its political subdivisions (county and local governmental, school districts and special districts); is a government purchase used only in an official governmental capacity; and will be paid directly by a government agency. Taking into account the City's status, Contractor confirms that all Charges are exclusive of all taxes, levies, duties and assessments ("Taxes") of every nature in effect as of the Effective Date and due in connection with its performance of its obligations under this Agreement. Contractor is responsible for payment of such Taxes to the appropriate governmental authority.

**R. Environmental Requirements.** Contractor, in conducting its activities under this Agreement, shall comply with all existing and future applicable local, state and federal environmental rules, regulations, statutes, laws and orders (collectively "**Environmental Requirements**"), including but not limited to Environmental Requirements regarding the storage, use and disposal of Hazardous or Special Materials and Wastes, Clean Water Act legislation, Centralized Waste Treatment Regulations, and DEN Rules and Regulations.

1. For purposes of this Agreement the terms "Hazardous Materials" shall refer to those materials, including without limitation asbestos and asbestos-containing materials, polychlorinated biphenyls (PCBs), oil or any other petroleum products, natural gas, source material, pesticide, and any hazardous waste, toxic substance or related material, including any substance defined or treated as a "hazardous substance," "hazardous waste" or "toxic substance" (or comparable term) in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sec. 9601 et seq. (1990), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq. (1990)), and any rules and regulations promulgated pursuant to such statutes or any other applicable federal or state statute.

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

3. Contractor agrees to ensure that its activities under this Agreement are conducted in a manner that minimizes environmental impact through appropriate preventive measures. Contractor agrees to evaluate methods to reduce the generation and disposal of waste materials.

4. In the case of a release, spill or leak as a result of Contractor's activities under this Agreement, Contractor shall immediately control and remediate the contaminated media to applicable federal, state and local standards. Contractor shall reimburse the City for any penalties and all costs and expenses, including without limitation attorney's fees, incurred by the City as a result of the release or disposal by Contractor of any pollutant or hazardous material.

## **ARTICLE XI. DIVERSITY, MWBE, WAGES, PROMPT PAY AND OTHER STANDARD CITY PROVISIONS**

**A. Diversity and Inclusiveness.** The City encourages the use of qualified small businesses doing business within the metropolitan area that are owned and controlled by economically or socially disadvantaged individuals. Contractor is encouraged, with respect to the goods or services to be provided under this Agreement, to use a process that includes small businesses when considering and selecting any subcontractors or suppliers.

**B. Minority/Women Business Enterprises.** This Agreement is subject to Article III, Divisions 1 and 3 of Chapter 28, Denver Revised Municipal Code ("D.R.M.C."), designated as §§ 28-31 to 28-40 and 28-51 to 28-90 (the "**MWBE Ordinance**") and any Rules or Regulations promulgated pursuant thereto. The contract goal for MWBE participation established for this Agreement by the Division of Small Business Opportunity ("DSBO") is: ***DSBO has determined that goals are not applicable to this contract.***

Under § 28-68 D.R.M.C., the Contractor has an ongoing, affirmative obligation to maintain for the duration of this Agreement, at a minimum, compliance with its originally achieved level of MWBE participation upon which this Agreement was awarded, unless the City initiates a material alteration to the scope of work affecting MWBEs performing on this Agreement through contract

amendment, or other contract modifications, or as otherwise described in § 28-70 D.R.M.C. The Contractor acknowledges that:

1. If directed by DSBO, the Contractor is required to develop and comply with a Utilization Plan in accordance with § 28-63 D.R.M.C. Along with the Utilization Plan requirements, the Contractor must establish and maintain records and submit regular reports, as directed by DSBO, which will allow the City to assess progress in complying with the Utilization Plan and achieving the MWBE participation goal. The Utilization Plan is subject to modification by DSBO.

2. If contract modifications are issued under the Agreement, the Contractor shall have a continuing obligation to immediately inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract, upon any of the bases discussed in § 28-70, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.

3. If amendments or other contract modifications are issued under the contract that include an increase in the scope of work of this Agreement, which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MWBE at the time of contract award, such amendments or modifications shall be immediately submitted to DSBO for notification purposes.

4. Those amendments or other modifications that involve a changed scope of work that cannot be performed by existing project subcontractors are subject to the original goal. The Contractor shall satisfy the goal with respect to such changed scope of work by soliciting new MWBEs in accordance with § 28-70, D.R.M.C. The Contractor must also satisfy the requirements under §§ 28-64 and 28-73, D.R.M.C., with regard to changes in scope or participation. The Contractor shall supply to the DSBO Director all required documentation described in §§ 28-64, 25-70, and 28-73 D.R.M.C., with respect to the modified dollar value or work under the contract.

5. For contracts of one million dollars (\$1,000,000.00) and over, the Contractor is required to comply with § 28-72, D.R.M.C., as applicable, regarding prompt payment to MWBEs. Payment to MWBE subcontractors shall be made by no later than thirty-five (35) days after receipt of an MWBE subcontractor invoice.

6. Failure to comply with these provisions may subject the Contractor to sanctions set forth in § 28-76 of the MWBE Ordinance.

7. Should any questions arise regarding DSBO requirements, the Contractor should consult the MWBE Ordinance or may contact the Project's designated DSBO representative at (720) 913-1999.

**C. Non-Discrimination Policy.** In connection with the performance of services under this Agreement, Contractor shall not refuse to hire, discharge, promote, demote, or to discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, color, religion, national origin, gender, age, military status, sexual orientation, gender variance,

marital status, and/or physical and mental disability. Contractor further agrees to insert this provision in all subcontracts hereunder.

**D. Prevailing Wage.** To the extent required by law, Contractor shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, §§20-76 through 20-79, D.R.M.C. including, but not limited to, the requirement that every covered worker working on a City owned or leased building or on City-owned land shall be paid no less than the prevailing wages and fringe benefits in effect on the Effective Date of this Agreement.

1. Prevailing wage and fringe rates will adjust on, and only on, the anniversary of the Effective Date of this Agreement. Unless expressly provided for in this Agreement, Contractor will receive no additional compensation for increases in prevailing wages or fringe benefits.

2. Contractor shall provide the Auditor with a list of all subcontractors providing any services under the contract.

3. Contractor shall provide the Auditor with electronically-certified payroll records for all covered workers employed under this Agreement.

4. Contractor shall prominently post at the work site the current prevailing wage and fringe benefit rates. The posting must inform workers that any complaints regarding the payment of prevailing wages or fringe benefits may be submitted to the Denver Auditor by calling 720-913-5000 or emailing auditor@denvergov.org.

5. If Contractor fails to pay workers as required by the Prevailing Wage Ordinance, Contractor will not be paid until documentation of payment satisfactory to the Auditor has been provided. The City may, by written notice, suspend or terminate work if Contractor fails to pay required wages and fringe benefits.

**E. City Minimum Wage.** To the extent required by law, Contractor shall comply with and agrees to be bound by all requirements, conditions, and the City determinations regarding the City's Minimum Wage Ordinance, §§20-82 through 20-84 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid no less than the City Minimum Wage in accordance with the City's Minimum Wage Ordinance. By executing this Agreement, Contractor expressly acknowledges that Contractor is aware of the requirements of the City's Minimum Wage Ordinance and that any failure by Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

**F. Prompt Pay.** The City will make monthly progress payments to the Contractor for all services performed under this Agreement based upon the Contractor's monthly invoices. Such invoices shall be in a form acceptable to the City and shall include detail of the time worked by the Contractor's own personnel, billings from subcontractors, and all other information necessary to assess the Contractor's progress. Invoices shall be accompanied by documentation of expenses for which reimbursement is sought, and all other supporting documentation required by the City.



The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

1. Final Payment to the Contractor shall not be made until after the Project is accepted, and all certificates of completion, record drawings and reproducible copies are delivered to the City, and the Agreement is otherwise fully performed by the Contractor. The City may, at the discretion of the Director, withhold reasonable amounts from billing and the entirety of the final payment until all such requirements are performed to the satisfaction of the Director. However, no deductions shall be made from the Contractor's compensation because of penalty, liquidated damages or other sums withheld from payments to contractor(s)/Contractors.

2. For contracts of one million dollars (\$1,000,000.00) and over, the Contractor is required to comply with the Contractor Prompt Payment provisions under § 28-72, D.R.M.C., with regard to payments by the Contractor to MWBE subcontractors. The Contractor shall make payment by no later than thirty-five (35) days from receipt by the Contractor of the subcontractor's invoice.

**G. Advertising and Public Disclosures.** Contractor shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the SVP or his/her authorized representative. Any oral presentation or written materials related to DEN shall include only presentation materials, work product, and technical data which have been accepted by the City, and designs and renderings, if any, which have been accepted by the City. Contractor shall notify the SVP in advance of the date and time of any such presentations. Nothing herein, however, shall preclude Contractor's transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO, any member or members of Denver City Council, and the Auditor.

**H. Colorado Open Records Act.**

1. Contractor acknowledges that the City is subject to the provisions of the Colorado Open Records Act ("CORA"), C.R.S. §§ 24-72-201 et seq., and Contractor agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such act for the disclosure of any materials or information which Contractor asserts is confidential or otherwise exempt from disclosure. Any other provision of this Agreement notwithstanding, all materials, records, and information provided by Contractor to the City shall be considered confidential by the City only to the extent provided in CORA, and Contractor agrees that any disclosure of information by the City consistent with the provisions of CORA shall result in no liability of the City.

2. In the event of a request to the City for disclosure of such information, time and circumstances permitting, the City will make a good faith effort to advise Contractor of such request in order to give Contractor the opportunity to object to the disclosure of any material Contractor may consider confidential, proprietary, or otherwise exempt from disclosure. In the event Contractor objects to disclosure, the City, in its sole and absolute discretion, may file an application to the Denver District Court for a determination of whether disclosure is required or exempted. In the event a lawsuit to compel disclosure is

filed, the City may tender all such material to the court for judicial determination of the issue of disclosure. In both situations, Contractor agrees it will either waive any claim of privilege or confidentiality or intervene in such legal process to protect materials Contractor does not wish disclosed. Contractor agrees to defend, indemnify, and hold harmless the City, its officers, agents, and employees from any claim, damages, expense, loss, or costs arising out of Contractor's objection to disclosure, including prompt reimbursement to the City of all reasonable attorney's fees, costs, and damages the City may incur directly or may be ordered to pay by such court, including but not limited to time expended by the City Attorney Staff, whose costs shall be computed at the rate of two hundred dollars and no cents (\$200.00) per hour of City Attorney time.

## **I. Examination of Records and Audits.**

1. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations longer than three (3) years. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Contractor to make disclosures in violation of state or federal privacy laws. Contractor shall at all times comply with D.R.M.C. §20-276.

2. Additionally, Contractor agrees until the expiration of three (3) years after the final payment under the Agreement, any duly authorized representative of the City, including the CEO or his or her representative, shall have the right to examine any pertinent books, documents, papers and records of Contractor related to Contractor's performance of this Contract, including communications or correspondence related to Contractor's performance, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program.

3. In the event the City receives federal funds to be used toward the services performed under this Agreement, the Federal Aviation Administration ("FAA"), the Comptroller General of the United States and any other duly authorized representatives shall have access to any books, documents, papers and records of Contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. Contractor further agrees that such records will contain information concerning the hours and specific services performed along with the applicable federal project number.

**J. Use, Possession or Sale of Alcohol or Drugs.** Contractor shall cooperate and comply with the provisions of Denver Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring Contractor from City facilities or participating in City operations.

**K. City Smoking Policy.** Contractor and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99 and the Colorado Indoor Clean Air Act, prohibiting smoking in all City buildings and facilities.

**L. Conflict of Interest.**

1. Contractor and its subsidiaries, affiliates, subcontractors, principals, or employees shall not engage in any transaction, activity or conduct which would result in a conflict of interest. Contractor represents that it has disclosed any and all current or potential conflicts of interest, including transactions, activities, or conduct that would affect the judgment, actions, or work of Contractor by placing Contractor's own interests, or the interest of any party with whom Contractor has a contractual arrangement, in conflict with those of the City.

2. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement if such a conflict exists, after it has given Contractor written notice which describes such conflict. Contractor shall have thirty (30) days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

**M. Prohibition Against Employment of Illegal Aliens to Perform Work Under this Agreement.**

1. The Agreement is subject to § 8-17.5-101, C.R.S., and D.R.M.C. § 20-90 and Contractor is liable for any violations as provided in said statute and ordinance.

2. Contractor certifies that:

a. 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.

b. 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.

3. Contractor also agrees and represents that:

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

b. It shall not enter into a contract with a subcontractor or subcontractor that fails to certify to Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

c. 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.

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

e. If it obtains actual knowledge that a subcontractor or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and the City within three (3) days. Contractor will also then terminate such subcontractor or subcontractor if within three (3) days after such notice the subcontractor or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subcontractor or subcontractor provides information to establish that the subcontractor or subcontractor has not knowingly employed or contracted with an illegal alien.

f. 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.

## **ARTICLE XII. SENSITIVE SECURITY INFORMATION**

Contractor acknowledges that, in the course of performing its work under this Agreement, Contractor may be given access to Sensitive Security Information (“**SSI**”), as material is described in the Code of Federal Regulations, 49 C.F.R. Part 1520. Contractor specifically agrees to comply with all requirements of the applicable federal regulations, including but not limited to, 49 C.F.R. Parts 15 and 1520. Contractor understands any questions it may have regarding its obligations with respect to SSI must be referred to the DEN’s Security Office.

## **ARTICLE XIII. DEN SECURITY**

**A.** Contractor, its officers, authorized officials, employees, agents, subcontractors, and those under its control, shall comply with safety, operational, or security measures required of Contractor or the City by the FAA or TSA. If Contractor, its officers, authorized officials, employees, agents, subcontractors or those under its control, fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against the City, then, in addition to any other remedies available to the City, Contractor shall fully reimburse the City any fines or penalties levied against the City, and any attorney fees or related costs paid by

the City as a result of any such violation. Contractor must pay this amount within fifteen (15) days from the date of the invoice or written notice. Any fines and fees assessed by the FAA or TSA against the City due to the actions of Contractor and/or its agents will be deducted directly from the invoice for that billing period.

**B.** Contractor is responsible for compliance with Airport Security regulations and 49 C.F.R. Parts 1542 (Airport Security) and 14 C.F.R. Parts 139 (Airport Certification and Operations). Any and all violations pertaining to Parts 1542 and 139 resulting in a fine will be passed on to and borne by Contractor. The fee/fine will be deducted from the invoice at time of billing.

#### **ARTICLE XIV. FEDERAL RIGHTS**

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes and the expenditure of federal funds for the extension, expansion or development of the Denver Municipal Airport System. As applicable, Contractor shall comply with the Standard Federal Assurances identified in Appendix 1.

#### **ARTICLE XV. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE**

**A. Attachments.** This Agreement consists of Article I through XVI which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

- Appendix 1: Standard Federal Assurances
- Exhibit A: Scope of Work
- Exhibit B-1: Schedule of Values
- Exhibit B-2: Hourly Rates
- Exhibit C: Insurance Requirements

**B. Order of Precedence.** In the event of an irreconcilable conflict between a provision of Article I through XVI and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

- Appendix 1
- Article I through XVI hereof
- Task Orders
- Exhibit A
- Exhibit B-1
- Exhibit B-2
- Exhibit C

#### **ARTICLE XVI. CITY EXECUTION OF AGREEMENT**

**A. City Execution.** This Agreement is expressly subject to, and shall become effective upon, the execution of all signatories of the City and, if required, the approval of Denver

City Council. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same.

**B. Electronic Signatures and Electronic Records.** The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City and/or Contractor in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[SIGNATURE PAGES FOLLOW]**

**Contract Control Number:** PLANE-202158293-00  
**Contractor Name:** MATERNA IPS USA CORP

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

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

PLANE-202158293-00  
MATERNA IPS USA CORP

DocuSigned by:  
*Gary McDonald*  
By: 23B87535396E41A

Name: Gary McDonald  
(please print)

Title: PRESIDENT  
(please print)

ATTEST: [if required]

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

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

Title: \_\_\_\_\_  
(please print)



## APPENDIX 1

### Standard Federal Assurances

#### Federal Aviation Administration Required Contract Provisions

##### ALL CONTRACTS – NON-AIP FUNDED

Federal laws and regulations require that recipients of federal assistance (Sponsors) include specific contract provisions in certain contracts, requests for proposals, or invitations to bid.

Certain provisions must be included in all sponsor contracts, regardless of whether or not the contracts are federally-funded. This requirement was established when a sponsor accepted the Airport Improvement Program (AIP) grant assurances.

As used in these Contract Provisions, “Sponsor” means The City and County of Denver, Department of Aviation, and “Contractor” or “Consultant” means the Party of the Second Part

##### GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

##### Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

## APPENDIX

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

## APPENDIX

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

#### **Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of the Airport Improvement Program grant assurances.

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and

## APPENDIX

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, Sponsor will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*

C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the Sponsor will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of Sponsor and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

#### **Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Sponsor pursuant to the provisions of the Airport Improvement Program grant assurances.

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, Sponsor will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*

C. With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, Sponsor will there upon revert to and vest in and become the absolute property of Sponsor and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

#### **FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if

## **APPENDIX**

### **Federal Aviation Administration Required Contract Provisions**

#### **ALL CONTRACTS – NON-AIP FUNDED**

given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The [*contractor / consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*contractor / consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

#### **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

# Scope of Work for Managed Services Exhibit A



## 1. Materna Background

Materna will provide Hybrid Self-Bag Drops (SBDs) and check-in kiosks as an integrated part of the Great Hall Completion Project for the Denver International Airport (DEN). The Ticketing Pods and check-in areas of the Great Hall are designed to decrease the wait-time of passenger that is typically needed to complete the check-in process with their airline. The Materna SBD solution will provide for a passenger experience that is faster and more independent. Materna's scope under the Professional Services Contract will complement the re-design and renovation of Denver's Great Hall. Materna's scope under the Managed Services Contract will provide the Service Desk, Level 1 (L1) Hardware Maintenance Support, Level 2 (L2) Site Administration Technical support and Level 3 (L3) Software License and Software Technical Support for Airline Applications, the Common Use Software Operating System, and management of the infrastructure and management of the technology based in the Amazon Cloud. This Scope of work defines these services and may be accomplished in one or more Task Orders issued pursuant to this Agreement.

## 2. Supported Environments

### 2.1 Self-Bag Drop Units

Materna provides the following equipment ("Materna Equipment") to DEN installed by Hensel Phelps, DEN's general contractor, in the ticketing "Pod." Additionally, there is an onsite spare parts pool for quick swap out of equipment that has failed or needs repair in conjunction with the Warranty that comes with the Materna Equipment. The Materna Equipment was installed and listed below is the equipment list that will be maintained in this contract.

- (86) Electrical cabinets
- (86) Solid surface millwork ticket counter
- (43) Integrated Kiosks for WN without biometric MOD Cameras
- (43) Integrated Kiosks for UA with biometric MODI Cameras
- (84) Takeaway belts with integral scales
- (2) Odd or Oversize Takeaway Belts with integral scale
- (8) Single belt Scanner Arches
- (38) Double Belt Scanner Arches
- (88) Scanner Arch Frames for Sick Scanning equipment
- (86) High Speed Shutter Doors
- Tub detection software per airline
- (2) Odd or Oversize single belt scanner Arches
- (1) Self-bag drop enabling airline testing
- (1) Free-standing kiosk enabling airline testing
- All components to ensure delivery of SBDs and kiosks and their functionality, e.g., payment devices, printers, boarding pass scanners, bag tag scanners and other equipment to ensure passenger processing.
- (2) Biometric Matching Servers

# Scope of Work for Managed Services Exhibit A



- Biometric Solutions to support UA Biometric Uses, to include one or more of the following:
  - 1:1 Matching for Transportation Security Administration's (TSA) Bag Drop requirements
  - 1:n Matching for Customs and Border Protection Traveler Verification System (CBP/TVS)
  - 1:n Matching for Digital Identity created through a 3<sup>rd</sup> party application such as CLEAR, Airside Mobile or others.

The Materna Equipment to be provided as additional stock or for future use includes the following ("Additional Stock Items"):

- (2) Electrical cabinets
- (2) Solid surface millwork ticket counters
- (2) Integrated Kiosks (integrated into above Millwork Ticket Counters)
- (4) Takeaway belts with integral scales
- (2) Double Belt Scanner Arches
- (5) Free standing check-in kiosks
- Remaining spare part components from the delivery of SBDs and check-in kiosks to be used later.

In addition to the Materna Equipment, at DEN's sole discretion, Materna will provide optional equipment and services (altogether "Optional Items") that can be installed on the SBDs and check-in kiosks as associated services, as defined by DEN in additional Tasks Orders such as:

- (1) Additional Biometrics Equipment.
- (2) Additional Touchless.Connect Environment.

Under Hardware Warranty, DEN is entitled to receive hardware asset replacements, free of charge, when an installed device shows a hardware defect.

Hardware is provided with 12-month warranty from time of commissioning, based on each phase of work. Phase one will have its own warranty 12-month period and subsequent phases will have their own separate 12-month warranty period.

## 2.2 Common Use Self Service Kiosks

The Materna Equipment to be provided for the Common Use Self Service Kiosks are as follows:

- (10) Free standing check-in kiosks
- (3) Baggage Scales (turn over to GC for incorporation in repack stations)
- All associated printers, payment devices, ADA equipment, etc.

## 2.3 Common Use Terminal Equipment

This Common Use Terminal Equipment (CUTE) is provided by DEN in MOD 2 will be supported by Materna as part of the L1 Hardware Support.

# Scope of Work for Managed Services Exhibit A



## 3. Support Levels

### 3.1 Materna Service Desk

Materna will establish a dedicated Service Desk to receive and manage the calls from the airlines. The representative on the Service Desk will request information from the caller and then dispatch the local technicians to the place where technical support is required. The Service Desk will record the call in the ServiceNow for tracking and statistical analysis.

The primary objective of the Service Desk is to provide a single point of contact between the Materna products and the services being provided and the airlines. The Service Desk will operate daily (24x7x365) to handle incoming incidents via phone, email or portal utilizing the Information Technology Service Management (ITSM) Tool, ServiceNow, which is currently licensed to the DEN. The responsibilities of this team are:

- Logging all relevant incidents details and assigning priority codes.
- Providing first line investigation and diagnosis.
- Resolving incidents when contact whenever possible.
- Escalation incidents that they cannot resolve.
- Keeping end users informed of progress.
- Closing all resolved incidents.
- Conducting customer/user satisfaction call backs or surveys.
- Updating the knowledge base.

### 3.2 Level 1, Hardware Maintenance Support

L1 provides basic onsite hardware maintenance support at the airline incident location, when notified by the Service Desk, for troubleshooting, such as printer configurations, break/fix replace and repair, general repair of hardware and escalation to L2 and/or L3 support. Lower level trained technical personnel solve known problems and fulfill service requests by following scripts/instructions. Also, when required, they may escalate the issue to IT application support or call for 3<sup>rd</sup> party vendor maintenance, as instructed and needed.

The onsite L1 Technicians also provide a significant amount of regular, targeted, and thorough Preventative Maintenance services. The results of these actions lower incidents of failure and therefore, less potential disruption to the airline partners throughout the airport's terminal(s). Additionally, active, and intentional preventative maintenance work results in cost savings, with a reduced incidence of equipment breakdown and corresponding repair expense for DEN. While preventative maintenance services are being performed, technicians will ensure that the airline clients receive a high level of customer care.

The performance of Preventative Maintenance occurs following a rotating schedule as depicted below by accomplishing daily routine cleaning, unique weekly maintenance checks, and semi-annual maintenance evaluation of each piece of equipment. These are accomplished for:

- Self-bag drop Hybrid Units and associated components.
- Conveyor belts
- Scanner arches and associated components
- Self-service check-in kiosks and associated components
- Scales



# Scope of Work for Managed Services Exhibit A



- Common use workstations

## 3.3 Level 2, System Administration Technical Support

L2 System Administration Technicians provide in-depth technical support for the airline staff in response to incidents. These are experienced and knowledgeable technicians who will assess issues and provide solutions for problems that cannot be handled by L1 technicians. L2 technicians generally handle more complex hardware or software configuration issues, troubleshooting, software installation and routine airline application issues under the guidance of L3 software support engineers.

## 3.4 Level 3, Software License and Software Technical Support

L3 Software Engineering support is provided to support license and complex technical software issues with the Common Use Self-Service (CUSS) operating system, airline applications and all matters related to the AWS cloud infrastructure. L3 support Engineers are experts in software troubleshooting that have been escalated from L1 and L2 support teams including configuration, database administration, repair of servers, network, infrastructure, email/file shares and other infrastructure and software issues. Once identification of the root cause occurs, new fixes are provided through remote access or with documentation used by L1 and L2 onsite personnel.

## 4. Service Level Agreements

The following Service Level Agreements are in place to support both hardware and software.

### 4.1 Service Level Agreement for L1 and L2

This section defines the service level agreement (SLA) for the types of hardware used by the airlines.

#### 4.1.1 Common Use Counters

Response and restore times for check-in agent counter equipment:

Reaction	Operational Hours (flights operating)	Non-Operational Hours (flights not operating)
Acknowledgement	5 Minutes	15 Minutes
Response	will begin within 15 minutes	2 hours on site to begin working on issue
Restoral	60 Minutes	60 Minutes after arriving at site where incident is reported.

#### 4.1.2 Common Use Self-service Check-in Kiosks

Response and restore times for self-service kiosk check-in equipment:

# Scope of Work for Managed Services Exhibit A



Reaction	Operational Hours (flights operating)	Non-Operational Hours (flights not operating)
Acknowledgement	5 Minutes	15 Minutes
Remote Diagnosis and Repair (if applicable)	will begin within 15 minutes	
Response	15 minutes	2 hours on site to begin working on issue
Restoral	60 Minutes	60 Minutes after arriving at site where incident is reported

#### 4.1.3 Common Use Self Bag Drop Systems

Response and restore times for self-service baggage check-in equipment:

Reaction	Operational Hours (flights operating)	Non-Operational Hours (flights not operating)
Acknowledgement	5 Minutes	15 Minutes
Remote Diagnosis and Repair (if applicable)	will begin within 15 minutes	
Response	15 minutes	2 hours to begin working on issue
Restoral	60 Minutes	60 Minutes after arriving at site where incident is reported

#### 4.2 SLA for L3 Software License and CUSS

The entire Software Support is comprised of several support layers. Specifically, these layers are the **Software Warranty Agreement**, **Software Update Service** and **Service Level Agreement** describing general definitions and processes provided to DEN as part of the Managed Service Contract.

Materna will provide the following software service level agreement based on the severity of the fault and calculates both response and restore times for the onsite systems for Common Use Counters, Common Use Self Service Check-in Kiosks and Common Use Self-Bag Drop Systems.

# Scope of Work for Managed Services Exhibit A



## 4.2.1 Faults

Faults or incidents are determined based on the following information that is reported by the airline to the Local Service Desk and then escalated to the Service Desk at Headquarters. These faults shall be managed according to the severity of the problem. The definitions of the levels of severity for software problems requiring Engineering intervention are as follows:

There are three fault categories.	
Priority 1: (Critical Fault)	A service is completely interrupted, i.e., the entire system is not usable.
Priority 2: (Major Fault)	A system or service is partly disturbed, but generally still available.
Priority 3: (Minor Fault)	The problem has little or no effect on the systems' or services' operation.

L1 and L2 hardware support Technicians will also be providing initial analysis of hardware or software problems reported by the airlines, when and if necessary, escalate the ticket to the L3 Engineers.

### 4.2.1.1 Response

Response time is calculated on the time the call is acknowledged and logged (ticket created) into the ServiceNow database and when the Engineer or Technician acknowledges receipt of the ticket. These responses times will be monitored on a regular basis and regular reporting will be made available.

### 4.2.1.2 Restore

The Restore Time is calculated by the duration that it takes to solve an incident or provide a work around for service recovery. This is the maximum duration of time. In some situations, the resolution is a work around with the final resolution of the actual incident escalated to the next service level. For example, the root cause may be a software issue that is fixed later with a software update. If the work around allows for the continued use of the equipment, then this ticket is resolved, and a new ticket is opened.

The restore time commences from the acceptance of the incident announcement by Materna as documented in the ServiceNow Tool and ends at restoration of the service. Exactness of reporting the incident is key to ensuring complete and accurate monthly reporting. Information not properly reported may cause a reduction in the duration of the response or restore times as the Technician waits for additional information.

## 4.2.2 Software Warranty – Software Update Service – Service Level Agreement

For clarification purposes, the terms Warranty, Software Update Service and Service Level Agreement (SLA) are described as follows.

### 4.2.2.1 Software Warranty

Under warranty, DEN is entitled to receive **software corrections** without additional charges, where deviations between the defined and the actual behavior of the licensed software are considered as a Fault.

# Scope of Work for Managed Services Exhibit A



Software is provided with a 12-month warranty from time of commissioning, based on each phase of work. Phase one will have its own warranty 12-month period and subsequent phases will have a separate 12-month warranty period.

## Warranty Restore Time Definitions

Fault Priority	Restore Times
1	24 Hours
2	Not available
3	Not available

**Note:** Fault Priorities are listed in Section 6.2.1.

### 4.2.2.2 Software Update Services

DEN is granted a non-exclusive and non-negotiable right to use the delivered software and documentation updates without a time limit. The update service covers the software updates resulting from the latest version of Materna's Product Release Plan. This will include Materna's continued improvement of the product, such as corrections of software faults and adaptations to changed environments including new releases of Operating Systems.

### 4.2.3 SLA for L3 Software License and CUSS Software Support

The following are provided to DEN for the Software License and CUSS Software Support. While the normal operating times for work are listed in local German Times, depending on the Fault Level, defined in Section 4.2.1, after hours support is always available based on the declared fault level. The local Service Desk will forward all software issues to the HQ Service Desk either by calling or using Service Now.

Service	Availability	
Service Support Desk	24 hours/7days	
Technical Support	15 hours/7days, 05:30am – 8:30pm (0930PM – 1230PM MT)	
Development Support	10 hours / 5days, 07:30am – 5:30pm (1130PM – 0930AM MT)	
Fault/Incident Priority	Response Times	Restore Times
1	30 Minutes	1 Hour
2	45 Minutes	8 Hours
3	60 Minutes	15 Working Days

**Note:** Fault Priorities are listed in Section 4.2.1.

# Scope of Work for Managed Services Exhibit A



## Software Update Service Definition

Type	Delivery Times
Hotfix	6 Hours
Minor Release	When available
Major Release	As per roadmap

Hotfixes describe a work-around to restore the service or features if a software bug is affecting airline service. When security issues in Materna software are impacting service, a hotfix can be issued to change configuration to prevent an exploitation of that vulnerability. In other cases, a hotfix can be a new software version, which fixes critical bug. Decisions to change configurations or deploy software hotfixes directly will be agreed mutually with DEN change management evaluating operational risks. Delivery time will be mutually agreed upon between Materna and DEN through the Change Management process.

## 5. Airline Integration

The airlines that are currently serving DEN use a mixture of common-use equipment supplied by Materna and includes airline proprietary equipment. In the planned new construction, this mixture will remain the fabric of the environment which Materna will design into the new look and feel of the Great Hall, including the work in Level 6 Mod 2 Phase 1.

Materna will work with DEN to ensure that all airlines have certified applications for both the SBDs and check-in kiosks. If one of DEN's top seven (7) airlines does not have an application, Materna will provide the SBD application with basic customization as part of this scope. For all other airlines, Materna will provide the SBD application with customization requested by the airline based on agreed upon pricing and timelines. Materna also work with DEN to develop the check-in application for use in common use kiosks.

## 6. Common Use Self-Service (CUSS) v1.5 Operating System

Materna will provide and install the Common Use Self-Service (CUSS) v1.5 Platform as the operating system for both the SBDs and the check-in kiosks. Materna will complete this installation once hardware, data, and electrical work are complete as a part of its CUSS agreement which is in the Professional Services Contract but maintained in the Managed Services Contract.

## 7 Network Design and Amazon Cloud Infrastructure

### 7.1 Network Design Inclusions

The Materna network design specifications for the Network design of the Amazon Cloud Infrastructure and the associated Managed Services will be conducted are in a detailed technical document. In general terms, the following sections define this network solution and services provided by Materna.

#### 7.1.1 Managed Services, Cloud, and Infrastructure Management

- High-Level Architecture

# Scope of Work for Managed Services Exhibit A



- Server and Infrastructure Elements
- Server, Infrastructure and Cloud Operations
- Cloud setup
- Backend Environments for SBD
- Backend Environments for Check-In
- Availability of Cloud Based Backend Services

## 7.1.2 Application Management

- Application Management of the Backend
- Release Deployment
- Deployment of Patches and Hot Fixes
- Rollback process
- Operating System Maintenance
- Software Deployment on Self-Bag Drop or CUSS Self-Service Check-in Kiosks
- High Level Overview
- Grouping of Kiosks
- Various Rollout/Deployment/Scheduling Methods
- Rollback

## 7.1.3 Business Process Monitoring

- High Level Monitoring Overview
- Kiosk Component Monitoring
- Backend Monitoring
- Failure Modes and Effects Analysis Process
- Creating the FMEA
- Reactive Maintenance
- Predictive Maintenance

## 7.1.4 Service & Provider Management

- ITIL Service Management Tools
- ITIL Service Management Processes
- Service Support Desk & Incident Management
- Incident Analysis
- Incident Management Process

# Scope of Work for Managed Services Exhibit A



- Incident Ticket Management
- Incident Assignment, Forwarding & Tracking
- Incident Status Model
- Major Incident Announcement and Processing
- Problem Management
- Identification of a Problem
- Important Criteria in Problem Management
- Tasks and Benefits of Problem Management
- Priority Matrix
- Tool Support Problem Management
- Change Management
- Request for Change
- Change Advisory Board Process
- Assumptions regarding RFC
- Specialization of Change Management
- Change Management Key Performance Indicators (KPI) and Reporting
- Multi Provider Management
- Maintenance and Maintenance Announcements
- Service Manager
- Service Review Meetings
- Service Escalation Support
- Audit/Service-Review Support
- Knowledge Management
- Known Error Database
- Configuration Management Database
- Reporting
- Capacity Reporting
- KPI Reporting
- Root Cause Analysis

## 7.1.5 Key Performance Indicators

- Service Credits

# Scope of Work for Managed Services Exhibit A



- Incident Response

## 7.1.6 Additional Agreements

- Remote Operation
- Information Technology Service Management ITSM System Integration
- Additional DEN Requirements



# Exhibit B-1

Denver International Airport

Materna IPS USA Corp.



## Schedule of Values

Application for Progress  
Payment No.

Pay Period:

ITEM NO.	ITEM DESCRIPTION	ORIGINAL CONTRACT				CHANGE ORDER SUMMARY				REVISION QUANTITIES				REVISED QUANTITIES		CURRENT ESTIMATE		TOTAL TO DATE		PERCENT COMPL.
		QUANTITY	UNIT	UNIT PRICE	AMOUNT	C.O. NO.	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT		
<b>01</b>	<b>Year 1</b>				<b>2,029,295.89</b>			<b>0.00</b>			<b>2,029,295.89</b>		<b>0.00</b>		<b>0.00</b>		<b>0.00</b>		<b>0%</b>	
01A	License and CUSS Software Support for L3 Support	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01B	Service Desk L1 Hardware Maintenance Support and L2 System Admin Support	12	Month	149,384.58	1,792,614.96			0.00	12	149,384.58	1,792,614.96		0.00	0	0.00	0	0.00	0	0.00	0%
01C	Scale Calibration	2	Each	0.00	0.00			0.00	2	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01D	AWS Cloud Hosting	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01E	Service Provider Management for Airlines	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01F	Airline Integration	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01G	Optional Biometric Functionality	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01H	Biometrics License for SBD and Kiosk	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01I	Touchless Connect Support	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01J	Annual software support for Biometrics and Touchless Connect	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
01K	Contingency	12	Month	19,632.57	235,990.84			0.00	12	19,632.57	235,990.84		0.00	0	0.00	0	0.00	0	0.00	0%
<b>02</b>	<b>Year 2</b>				<b>5,051,679.53</b>			<b>0.00</b>			<b>5,051,679.53</b>		<b>0.00</b>		<b>0.00</b>		<b>0.00</b>		<b>0%</b>	
02A	License and CUSS Software Support for L3 Support	12	Month	117,127.60	1,405,531.25			0.00	12	117,127.60	1,405,531.25		0.00	0	0.00	0	0.00	0	0.00	0%
02B	Service Desk L1 Hardware Maintenance Support and L2 System Admin Support	12	Month	152,985.52	1,835,826.24			0.00	12	152,985.52	1,835,826.24		0.00	0	0.00	0	0.00	0	0.00	0%
02C	Scale Calibration	2	Each	2,611.25	5,022.50			0.00	2	2,611.25	5,022.50		0.00	0	0.00	0	0.00	0	0.00	0%
02D	AWS Cloud Hosting	12	Month	80,595.75	967,149.00			0.00	12	80,595.75	967,149.00		0.00	0	0.00	0	0.00	0	0.00	0%
02E	Service Provider Management for Airlines	12	Month	54,540.25	654,483.00			0.00	12	54,540.25	654,483.00		0.00	0	0.00	0	0.00	0	0.00	0%
02F	Airline Integration	17	Each	27,051.47	459,875.00			0.00	17	27,051.47	459,875.00		0.00	0	0.00	0	0.00	0	0.00	0%
02G	Optional Biometric Functionality	12	Month	24,177.08	290,125.00			0.00	12	24,177.08	290,125.00		0.00	0	0.00	0	0.00	0	0.00	0%
02H	Biometrics License for SBD and Kiosk	12	Month	9,626.46	115,517.50			0.00	12	9,626.46	115,517.50		0.00	0	0.00	0	0.00	0	0.00	0%
02I	Touchless Connect Support	12	Month	3,202.10	38,425.20			0.00	12	3,202.10	38,425.20		0.00	0	0.00	0	0.00	0	0.00	0%
02J	Annual software support for Biometrics and Touchless Connect	12	Month	3,668.75	44,025.00			0.00	12	3,668.75	44,025.00		0.00	0	0.00	0	0.00	0	0.00	0%
02K	Contingency	12	Month	19,632.57	235,990.84			0.00	12	19,632.57	235,990.84		0.00	0	0.00	0	0.00	0	0.00	0%
<b>03</b>	<b>Year 3</b>				<b>5,424,244.90</b>			<b>0.00</b>			<b>5,424,244.90</b>		<b>0.00</b>		<b>0.00</b>		<b>0.00</b>		<b>0%</b>	
03A	License and CUSS Software Support for L3 Support	12	Month	119,946.35	1,439,356.25			0.00	12	119,946.35	1,439,356.25		0.00	0	0.00	0	0.00	0	0.00	0%
03B	Service Desk L1 Hardware Maintenance Support and L2 System Admin Support	12	Month	156,680.06	1,880,160.68			0.00	12	156,680.06	1,880,160.68		0.00	0	0.00	0	0.00	0	0.00	0%
03C	Scale Calibration	2	Each	2,674.03	5,148.06			0.00	2	2,674.03	5,148.06		0.00	0	0.00	0	0.00	0	0.00	0%
03D	AWS Cloud Hosting	12	Month	82,610.64	991,327.73			0.00	12	82,610.64	991,327.73		0.00	0	0.00	0	0.00	0	0.00	0%
03E	Service Provider Management for Airlines	12	Month	55,903.76	670,845.08			0.00	12	55,903.76	670,845.08		0.00	0	0.00	0	0.00	0	0.00	0%
03F	Airline Integration	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
03G	Optional Biometric Functionality	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
03H	Biometrics License for SBD and Kiosk	12	Month	9,667.12	116,405.43			0.00	12	9,667.12	116,405.43		0.00	0	0.00	0	0.00	0	0.00	0%
03I	Touchless Connect Support	12	Month	3,282.15	39,385.83			0.00	12	3,282.15	39,385.83		0.00	0	0.00	0	0.00	0	0.00	0%
03J	Annual software support for Biometrics and Touchless Connect	12	Month	3,668.75	44,025.00			0.00	12	3,668.75	44,025.00		0.00	0	0.00	0	0.00	0	0.00	0%
03K	Contingency	12	Month	19,632.57	235,990.84			0.00	12	19,632.57	235,990.84		0.00	0	0.00	0	0.00	0	0.00	0%
<b>04</b>	<b>Year 4</b>				<b>5,551,345.52</b>			<b>0.00</b>			<b>5,551,345.52</b>		<b>0.00</b>		<b>0.00</b>		<b>0.00</b>		<b>0%</b>	
04A	License and CUSS Software Support for L3 Support	12	Month	122,945.01	1,475,340.16			0.00	12	122,945.01	1,475,340.16		0.00	0	0.00	0	0.00	0	0.00	0%
04B	Service Desk L1 Hardware Maintenance Support and L2 System Admin Support	12	Month	160,470.80	1,925,649.59			0.00	12	160,470.80	1,925,649.59		0.00	0	0.00	0	0.00	0	0.00	0%
04C	Scale Calibration	2	Each	2,638.38	5,276.76			0.00	2	2,638.38	5,276.76		0.00	0	0.00	0	0.00	0	0.00	0%
04D	AWS Cloud Hosting	12	Month	84,675.91	1,016,110.92			0.00	12	84,675.91	1,016,110.92		0.00	0	0.00	0	0.00	0	0.00	0%
04E	Service Provider Management for Airlines	12	Month	57,301.35	687,616.20			0.00	12	57,301.35	687,616.20		0.00	0	0.00	0	0.00	0	0.00	0%
04F	Airline Integration	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
04G	Optional Biometric Functionality	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
04H	Biometrics License for SBD and Kiosk	12	Month	10,113.80	121,365.57			0.00	12	10,113.80	121,365.57		0.00	0	0.00	0	0.00	0	0.00	0%
04I	Touchless Connect Support	12	Month	3,364.21	40,370.48			0.00	12	3,364.21	40,370.48		0.00	0	0.00	0	0.00	0	0.00	0%
04J	Annual software support for Biometrics and Touchless Connect	12	Month	3,668.75	44,025.00			0.00	12	3,668.75	44,025.00		0.00	0	0.00	0	0.00	0	0.00	0%
04K	Contingency	12	Month	19,632.57	235,990.84			0.00	12	19,632.57	235,990.84		0.00	0	0.00	0	0.00	0	0.00	0%
<b>05</b>	<b>Year 5</b>				<b>5,681,675.41</b>			<b>0.00</b>			<b>5,681,675.41</b>		<b>0.00</b>		<b>0.00</b>		<b>0.00</b>		<b>0%</b>	
05A	License and CUSS Software Support for L3 Support	12	Month	126,018.64	1,512,223.66			0.00	12	126,018.64	1,512,223.66		0.00	0	0.00	0	0.00	0	0.00	0%
05B	Service Desk L1 Hardware Maintenance Support and L2 System Admin Support	12	Month	164,360.61	1,972,327.29			0.00	12	164,360.61	1,972,327.29		0.00	0	0.00	0	0.00	0	0.00	0%
05C	Scale Calibration	2	Each	2,704.34	5,408.68			0.00	2	2,704.34	5,408.68		0.00	0	0.00	0	0.00	0	0.00	0%
05D	AWS Cloud Hosting	12	Month	86,792.81	1,041,513.69			0.00	12	86,792.81	1,041,513.69		0.00	0	0.00	0	0.00	0	0.00	0%
05E	Service Provider Management for Airlines	12	Month	58,733.88	704,806.61			0.00	12	58,733.88	704,806.61		0.00	0	0.00	0	0.00	0	0.00	0%
05F	Airline Integration	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
05G	Optional Biometric Functionality	12	Month	0.00	0.00			0.00	12	0.00	0.00		0.00	0	0.00	0	0.00	0	0.00	0%
05H	Biometrics License for SBD and Kiosk	12	Month	10,366.64	124,399.71			0.00	12	10,366.64	124,399.71		0.00	0	0.00	0	0.00	0	0.00	0%
05I	Touchless Connect Support	12	Month	3,448.31	41,379.74			0.00	12	3,448.31	41,379.74		0.00	0	0.00	0	0.00	0	0.00	0%
05J	Annual software support for Biometrics and Touchless Connect	12	Month	3,668.75	44,025.00			0.00	12	3,668.75	44,025.00		0.00	0	0.00					

**Exhibit B-2 Hourly Rates**

Item	Hourly Rate Range
<b>Materna Labor Costs</b>  <b>Additional Labor Costs for Materna On-Site Supervisory Personnel</b>	
Denver Senior Project Manager	\$170-\$200
Quality Manager	\$140-\$160
Airline Integration Manager	\$150-\$170
<b>Materna HQ Support Personnel</b>	
Developer	\$165-\$185
Network engineer	\$190-\$210
Procurement	\$100-\$120
Product Management	\$165-\$185
Project Management	\$145-\$165
Quality Assurance	\$140-\$160
Service Engineer	\$185-\$205
Technical Project Management - Lead Engineer	\$150-\$170
Technical Field Advisor - Engineer	\$140-\$160

**EXHIBIT C**

**CITY AND COUNTY OF DENVER  
INSURANCE REQUIREMENTS FOR DEPARTMENT OF AVIATION  
INFRASTRUCTURE MAINTENANCE AGREEMENT**

**A. Certificate Holder**

The certificate shall be issued to: CITY AND COUNTY OF DENVER  
Denver International Airport  
8500 Peña Boulevard, Suite 8810  
Denver CO 80249  
Attn: Risk Management

**B. Acceptable Certificate of Insurance Form and Submission Instructions**

Please read these requirements carefully to ensure proper documentation and receipt of your certificate(s) of insurance.

- ACORD FORM (or equivalent) certificate is required.
- SUBMIT via emailed in pdf format to: [contractadmininvoices@flydenver.com](mailto:contractadmininvoices@flydenver.com)
- ELECTRONIC CERTIFICATES are required, hard copy documents will not be accepted.
- THIRD PARTY SOFTWARE may be implemented during the term of this Agreement to manage insurance compliance and documents with required use by Vendor of such system.
- REFERENCE on the certificate must include the DEN assigned Contract Number.

**C. Coverages and Limits**

1. Commercial General Liability:

Vendor shall maintain insurance coverage including bodily injury, property damage, personal injury, advertising injury, independent contractors, and products and completed operations in minimum limits of \$5,000,000 each occurrence, \$5,000,000 products and completed operations aggregate; if policy contains a general aggregate, a minimum \$5,000,000 annual per location aggregate must be maintained.

- a. Such insurance shall also provide contractual liability covering liability assumed under this Agreement (including defense costs assumed under contract) within the scope of coverages provided.
- b. Such insurance shall include Mobile Equipment Liability, if such equipment will be used to perform services under this Agreement.

2. Business Automobile Liability:

Vendor shall maintain a minimum limit of \$1,000,000 combined single limit each occurrence for bodily injury and property damage for all owned, leased, hired and/or non-owned vehicles used in performing services under this Agreement.

- a. If operating vehicles unescorted airside at DEN, a \$10,000,000 combined single limit each occurrence for bodily injury and property damage is required.
- b. If Vendor does not have blanket coverage on all owned and operated vehicles and will require unescorted airside driving privileges, then a schedule of insured vehicles (including year, make, model and VIN number) must be submitted with the Certificate of Insurance.
- c. The policy must not contain an exclusion related to operations on airport premises
- d. If transporting waste, hazardous material, or regulated substances, Vendor shall carry a Broadened Pollution Endorsement and an MCS 90 endorsement on its policy.

- e. If Vendor is an individual or represents that Vendor does not own any motor vehicles and Vendor's owners, officers, directors, and employees use their personal vehicles for business purposes, Personal Automobile Liability insurance coverage will be accepted provided it includes a business use endorsement.
  - f. If Vendor will be completing all services to DEN under this Agreement remotely this requirement will be waived.
3. **Workers' Compensation and Employer's Liability Insurance:**

Vendor shall maintain workers compensation coverage in compliance with the statutory requirements of the state(s) of operation and Employer's Liability insurance with limits no less than \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

  - a. If Vendor is a sole proprietor, Workers' Compensation and Employer's Liability is exempt under the Colorado Workers' Compensation Act. It is the sole responsibility of the Vendor to determine their eligibility for providing this coverage and executing all required documentation with the State of Colorado.
4. **Professional Liability (Errors and Omissions) Insurance:**

Consultant shall maintain a minimum limit of \$1,000,000 each claim and annual aggregate, providing coverage for all applicable professional services outlined in this Agreement.
5. **Technology Errors and Omissions, Network Security, and Privacy Liability (Cyber):**

Vendor shall maintain a limit no less than \$2,000,000 each claim and annual aggregate; \$2,000,000 each claim and annual aggregate.

  - a. Coverage shall include, but not be limited to, professional misconduct or lack of ordinary skill, liability arising from theft, dissemination and/or use of personal, private, confidential, information subject to a non-disclosure agreement, including information stored or transmitted, privacy or cyber laws, damage to or destruction of information, intentional and/or unintentional release of private information, costs associated with breach notification, credit monitoring, PCI and regulatory fines and penalties, alteration of information, extortion and network security, introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon, advertising injury, personal injury (including invasion of privacy) and intellectual property offenses related to internet.
  - b. Vendor shall maintain such insurance for an additional period of one (1) year following termination of this Agreement.
6. **Installation Floater:**

Vendor shall provide coverage with a limit equal to the full insurable value of materials and equipment and be written on a Special Covered Cause of Loss Form including theft, faulty workmanship, mechanical or electrical damage during testing and labor costs to repair damaged work, and soft costs. The policy shall cover property while located at the project site, at temporary locations, or in transit; and name the City as the loss payee on the policy, as its interests may appear. Coverage shall remain in force until acceptance of the work by the City.
7. **Property Insurance – Business Personal Property:**

Vendor is solely responsible for any loss or damage to their business personal property or personal property of its employees, including, without limitation, furnishings, materials, tools, and equipment. If Vendor carries property insurance on its personal property located on DEN premises, a waiver of subrogation as outlined in Section E will be required from its insurer.

8. Excess/Umbrella Liability:

Combination of primary and excess coverage may be used to achieve minimum required coverage limits. Excess policy(es) must follow form of the primary policies with which they are related to provide the minimum limits.

**D. Additional Insured**

For all coverages required under this Agreement (excluding Workers' Compensation, Employer's Liability, Cyber Liability and Professional Liability), Vendor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, successors, agents, employees and volunteers as Additional Insureds by policy endorsement.

**E. Waiver of Subrogation**

For all coverages required under this Agreement, Vendor's insurer(s) shall waive subrogation rights against the City and County of Denver, its elected and appointed officials, successors, agents, employees and volunteers by policy endorsement.

**F. Notice of Material Change, Cancellation or Nonrenewal**

Each certificate and related policy shall contain a valid provision requiring notification to the Certificate Holder in the event any of the required policies be canceled or non-renewed or reduction in required coverage before the expiration date thereof.

1. Such notice shall reference the DEN assigned contract number related to this Agreement.
2. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal or reduction in required coverage unless due to non-payment of premiums for which notice shall be sent ten (10) days prior.
3. If such written notice is unavailable from the insurer or afforded as outlined above, Vendor shall provide written notice of cancellation, non-renewal and any reduction in required coverage to the Certificate Holder within seven (7) business days of receiving such notice by its insurer(s) and include documentation of the formal notice received from its insurer's as verification.

**G. Additional Provisions**

1. Deductibles, Self-Insured Retentions, or any other type of retention are the sole responsibility of the Vendor.
2. Defense costs shall be in addition to the limits of liability. If this provision is unavailable that limitation must be evidenced on the Certificate of Insurance.
3. A severability of interests or separation of insureds provision (no insured vs. insured exclusion) is included under all policies where Additional Insured status is required.
4. Provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City shall be provided on policies which the City requires Additional Insured status.
5. The insurance requirements under this Agreement shall be the greater of (i) the minimum limits and coverage specified hereunder or (ii) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Lessee. It is agreed that the insurance requirements set forth herein shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums set forth in this Agreement.
6. All policies shall be written on an occurrence form. If an occurrence form is unavailable or not industry norm for a given policy type, claims-made coverage will be accepted by the City provided the retroactive date is on or before the Agreement Effective Date or the first date when any goods or services were provided to the City, whichever is earlier, and continuous coverage will be maintained or an extended discovery period of three years beginning at the time work under this Agreement is completed or the Agreement is terminated, whichever is later.
7. Vendor shall advise DEN 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 Vendor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

8. Certificates of Insurance must specify the issuing companies, policy numbers and policy periods for each required form of coverage. The certificates for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf and must be submitted to the City at the time the Vendor signed this Agreement.
9. The insurance shall be underwritten by an insurer licensed or authorized to do business in the State of Colorado and rated by A.M. Best Company as A- VIII or better.
10. Certificate of Insurance and Related Endorsements: The City's acceptance or approval of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Vendor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's acceptance or approval of any submitted insurance certificate is subject to the approval of DEN Risk Management or its designee. All coverage requirements specified in the certificate shall be enforced unless waived or otherwise modified in writing by DEN Risk Management. Vendor is solely responsible for ensuring they are in compliance with all insurance requirements and that all formal policy endorsements are issued by their insurers to support the requirements herein.
11. The City shall have the right to verify or confirm, at any time, all coverage, information or representations, and the insured and its insurance providers shall promptly and fully cooperate in any such audit the City may elect to undertake.
12. No material changes, modifications or interlineations to insurance coverage required by this Agreement shall be allowed without the review and written approval of DEN Risk Management.
13. Vendor shall be responsible for ensuring DEN is provided updated Certificate(s) of Insurance ten (10) days prior to each policy renewal.
14. Vendor's failure to maintain the insurance required by this Agreement shall be the basis for immediate termination of this Agreement at DEN's sole discretion and without penalty to the City.