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 **TransCore, LP**, a Delaware corporation authorized to do business in the State of Colorado ("**Consultant**") (collectively the "**Parties**").

W I T N E S S E T H:

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

WHEREAS, the City desires to purchase hardware, software, software upgrades, support, maintenance and related equipment for the Gatekeeper software which operates the Automated Vehicle Identification (AVI) revenue control system, and will require professional services for the same, and such other work as may be requested by the City, at Denver International Airport; and

WHEREAS, Consultant 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:

1. LINE OF AUTHORITY:

The Chief Executive Officer of the Department of Aviation or their designee or successor in function (the "**CEO**"), 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 the Parking & Ground Transportation. The relevant Executive Vice President (the " EVP"), or their designee (the "**Director**"), will designate a Project Manager to coordinate professional services under this Agreement. Reports, memoranda, correspondence, and other submittals required of Consultant hereunder shall be processed in accordance with the Project Manager's directions.

2. SCOPE OF WORK AND CONSULTANT RESPONSIBILITIES:

A. Scope of Services. Consultant shall provide professional services and deliverables for the City as designated by the CEO, from time to time and as described in the attached ***Exhibit A*** ("**Scope of Work**"), in accordance with the schedules and budgets set by the City. Without requiring amendment to this Agreement, the City may, through an authorization or similar form issued by the CEO and signed by Consultant, make minor changes, additions, or deletions to the Scope of Work without change to the Maximum Contract Amount.

B. Standard of Performance. Consultant 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.

C. Time is of the Essence. Consultant acknowledges that time is of the essence in its performance of all work and obligations under this Agreement. Consultant shall perform all work under this Agreement in a timely and diligent manner.

D. Subcontractors.

i. In order to retain, hire, and/or contract with an outside subcontractor that is not identified in this Agreement for work under this Agreement, Consultant must obtain the prior written consent of the CEO. Consultant 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.

ii. 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.

iii. 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.

iv. Consultant is subject to Denver Revised Municipal Code ("**D.R.M.C.**") § 20-112, wherein Consultant 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 (D.R.M.C. §§ 20-107 through 20-118).

v. 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 Consultant of its responsibilities under this Agreement, including the work to be performed by the subcontractor.

vi. Notwithstanding the foregoing, for purposes of this Agreement for GateKeeper Software Support and Maintenance, GateKeeper Systems is deemed an approved subcontractor, and upon execution of this Agreement, the CEO or his authorized representative is deemed to have provided written consent.

E. Personnel Assignments.

i. Consultant or its subcontractor(s) shall assign all key personnel identified in this Agreement to perform work under this Agreement ("**Key Personnel**"). Key

Personnel shall perform work under this Agreement, unless otherwise approved in writing by the EVP or their authorized representative. In the event that replacement of Key Personnel is necessary, the City in its sole discretion shall approve or reject the replacement, if any, or shall determine that no replacement is necessary.

ii. It is the intent of the Parties that all Key Personnel perform their specialty for all such services required by this Agreement. Consultant 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.

iii. If, during the Term of this Agreement, the Project Manager determines that the performance of any Key Personnel or other personnel, whether of Consultant or its subcontractor(s), is not acceptable or that any such personnel is no longer needed for performance of any work under this Agreement, the Project Manager shall notify Consultant and may give Consultant notice of the period of time which the Project Manager considers reasonable to correct such performance or remove the personnel, as applicable.

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

3. OWNERSHIP AND DELIVERABLES:

Upon payment to Consultant, all records, data, deliverables, and any other work product prepared by Consultant or any custom development work performed by Consultant for the purpose of performing this Agreement on or before the day of the payment, whether a periodic or final payment, shall become the sole property of the City. Upon request by the City, or based on any schedule agreed to by Consultant and the City, Consultant shall provide the City with copies of the data/files that have been uploaded to any database maintained by or on behalf of Consultant or otherwise saved or maintained by Consultant as part of the services provided to the City under this Agreement. All such data/files shall be provided to the City electronically in a format agreed to by the Parties. Consultant agrees that, upon request of the Senior Vice President, at any time during the term of the Agreement or three years thereafter, it will make full disclosure to the City of the means, methods, and procedures used in performance of services hereunder. Upon written request from the City, Consultant shall deliver any information requested pursuant to this Section within ten (10) business days in the event a schedule or otherwise agreed-upon timeframe does not exist.

4. TERM AND TERMINATION:

A. Term. The Term of this Agreement shall commence on October 24, 2022, and shall expire one (1) year from the Effective Date, unless terminated in accordance with the terms stated herein (the "**Expiration Date**"). The Term of this Agreement may be extended for one year, on the same terms and conditions, by written notice from the CEO to Consultant. However, no extension of the Term shall increase the Maximum Contract Amount stated below.

B. If the Term expires prior to Consultant completing the work under this Agreement, subject to the prior written approval of the CEO, this Agreement shall remain in full force and effect until the completion of any services commenced prior to the Expiration Date. Consultant has no right to compensation for services performed after the Expiration Date without such express approval from the CEO.

C. Suspension and Termination.

i. Suspension. The City may suspend performance of this Agreement at any time with or without cause. Upon receipt of notice from the EVP, Consultant shall, as directed in the notice, stop work and submit an invoice for any work performed but not yet billed. Any milestones or other deadlines contained in this Agreement shall be extended by the period of suspension unless otherwise agreed to by the City and Consultant. The Expiration Date shall not be extended as a result of a suspension.

ii. Termination for Convenience. The City may terminate this Agreement at any time without cause upon thirty (30) days' written notice to Consultant.

iii. Termination for Cause. In the event Consultant fails to perform any provision of this Agreement, the City may either:

a. Terminate this Agreement for cause with ten (10) business days prior written notice to Consultant; or

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

iv. Opportunity to Cure. Upon receiving the City's notice of breach pursuant to Section 4(C)(iii)(b), Consultant shall have five (5) business days to commence remedying its defective performance. If Consultant diligently cures its defective performance to the City's satisfaction within a reasonable time as determined by the City, then this Agreement shall not terminate and shall remain in full force and effect. If Consultant fails to cure the breach to the City's satisfaction, then the City may terminate this Agreement pursuant to Section 4(C)(iii)(a).

v. Compensation for Services Performed Prior to Suspension or Termination Notice. If this Agreement is suspended or terminated, the City shall pay Consultant the reasonable cost of only those services performed to the satisfaction of the CEO prior to the notice of suspension or termination. Consultant shall submit a final invoice for these costs within thirty (30) days of the date of the notice. Consultant has no right to compensation for services performed after the notice unless directed to perform those services by the City as part of the suspension or termination process or as provided in Section 4(C)(vi) below.

vi. Reimbursement for Cost of Orderly Termination. In the event of Termination for Convenience of this Agreement pursuant to Section 4(C)(ii), Consultant may request reimbursement from the City of the reasonable costs of orderly termination associated with the Termination for Convenience as part of its submittal of costs pursuant to Section 4(C)(v). In no event shall the total sums paid by the City pursuant to this

Agreement, including Sections 4(C)(v) and (C)(vi), exceed the Maximum Contract Amount.

vii. No Claims. Upon termination of this Agreement, Consultant shall have no claim of any kind against the City by reason of such termination or by reason of any act incidental thereto except as follows: if the Termination is for Convenience of City, Consultant shall be entitled to reimbursement for the reasonable cost of the Work to the date of termination, including multiplier, and reasonable costs of orderly termination, provided request for such reimbursement is made no later than six (6) months from the effective date of termination. Consultant shall not be entitled to loss of anticipated profits or any other consequential damages as a result of termination.

D. Remedies. In the event Consultant materially breaches this Agreement, Consultant shall be liable to the City for all costs of correcting the work without additional compensation, including but not limited to additional costs incurred by the City, its tenants, or its other contractors arising out of Consultant's defective work. These remedies are in addition to, and do not limit, the remedies available to the City in law or in equity. These remedies do not amend or limit the requirements of Section 8 and Section 9 otherwise provided for in this Agreement.

5. 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 Consultant under the terms of this Agreement for any amount in excess of the sum of **One Million Fifty-Eight Thousand Dollars and Zero Cents** (**$1,058,000.00**) ("**Maximum Contract Amount**"). Consultant shall perform the services and be paid for those services as provided for in this Agreement up to the Maximum Contract Amount.

B. Limited Obligation of City. The obligations of the City under this Agreement shall extend only to monies appropriated and encumbered for the purposes of this Agreement. Consultant 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 Consultant solely from funds of the 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 Consultant's Fee. Rates are set forth in ***Exhibit B*** ("**Rates**").

E. Payment Schedule. Subject to the Maximum Contract Amount, for payments required under this Agreement, the City shall pay Consultant's fees and expenses in accordance with this Agreement. The charges for time and materials, services, and any expenses as described in this Agreement will be invoiced each month for charges for the upcoming month. 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.

F. Invoices. On or before the fifteenth (15th) day of each month, Consultant 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 Consultant under this Agreement. In submitting an Invoice, Consultant shall comply with all requirements of this Agreement and:

i. 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;

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

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

iv. 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;

v. 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;

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

vii. Submit each Invoice via email to ContractAdminInvoices@flydenver.com.

viii. Late Fees. Consultant 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.

ix. Travel Expenses. Travel and any other expenses are not reimbursable unless such expenses are related to and in furtherance of the purposes of Consultant's engagement, are in accordance with this Agreement, and Consultant receives prior written approval of the EVP or their authorized representative.

G. Adjustment of Fees: (i) Effective on the first year anniversary of the Effective Date of this Agreement, and on each subsequent yearly anniversary, the fees paid to Consultant hereunder shall be increased annually for each Contract Year during the term of this Agreement by application of TransCore, L.P. Agreement for the Gatekeeper Software; Support & Maintenance Contract Number PLANE-202262949 using the following formulae, where "Index" (or "CPI") is as defined as set forth in the paragraph below. The Fee Adjustment using the CPI shall involve changing the base payment by the percent change in the level of the CPI between the reference period and a subsequent time period. This will be calculated by first determining the index point change between the two periods and then the percent change.

H. CPI Index: "Index" shall mean the annual Consumer Price Index (CPI-U) for All Items and All Consumers for the Denver-Aurora-Lakewood, Colorado Metropolitan Area as maintained by the U.S. Bureau of Labor Statistics (1982-1984 = 100), for the Annual period of each calendar year. If the United States Bureau of Labor Statistics shall discontinue issuing the Index for the Denver-Aurora-Lakewood Metropolitan, then the wage adjustments provided for in this Agreement using the Index shall be made on the basis of changes in the U.S. national city average CPI-U for all items and all consumers, if available, or if not, using the most comparable and recognized cost-of-living index then issued and available which is published by the United States Government.

I. Adjustment of Fees

Effective October 24, 2023 fees paid to Consultant hereunder shall be increased annually for each Contract Year during the term of this Agreement by application of the following formulae, where "Index" is as defined in Section 5 G of this Agreement,

$$\text{Original Annual Maintenance Fee} \times \frac{\text{Annual Index 2022}}{\text{Annual Index 2021}} = \text{New Annual Maintenance Fee } 10/24/2023–10/23/2024$$

In no event shall the adjustment of fees paid to the Consultant by use of the CPI increase more than 6% in any given year. If the CPI percentage change is calculated as a negative then Fees shall remain the same as the previous year.

J. The Agreement for the option year (year two (2)) of the term shall be subject to a (CPI) adjustment at the beginning of the option year should the City decide to take the option year. To the extent that the term of this Agreement extends beyond the initial term as defined in Section 4 of this Agreement, this Agreement shall be adjusted at the beginning of each extended annual period, by the annual percentage increase in the U.S. Government's Consumer Price Index (CPI-U) All Urban Consumers. Notwithstanding the above, a flat percentage increase can be provided pending mutual agreement. Any increase agreed upon shall be no more than 6% in a given year.

K. Disputed. 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 EVP or their authorized representative determines the amount invoiced exceeds the amount owed based upon the work satisfactorily performed. The City shall pay any undisputed items contained in an Invoice. City shall notify Consultant within five (5) calendar days of any disputed invoice amount to provide Consultant the opportunity to correct any noted deficiency. If such deficiencies are not corrected by Consultant, or if Consultant affirms the accuracy of the invoice and City continues to dispute the amount, then such disputes concerning payments under this provision shall be resolved in accordance with procedures set forth in Section 9.

L. Carry Over. If Consultant'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 Consultant if the CEO determines such fees are reasonable and appropriate and provides written approval of the expenditure.

6. MWBE, WAGES AND PROMPT PAYMENT:

A. Minority/Women Business Enterprise.

i. This Agreement is subject to D.R.M.C., Article III, Divisions 1 and 3 of Chapter 28, designated as §§ 28-31 to 28-40 and 28-51 to 28-90 (the "**MWBE Ordinance**") and any Rules or Regulations promulgated pursuant thereto.

This project has been reviewed by the Division of Small Business Opportunity ("DSBO") and it has been determined that it is not subject to Denver Revised Municipal Code ("D.R.M.C."), Article III, Divisions 1 and 3 of Chapter 28, designated as §§ 28-31 to 28-40 and 28-51 to 28-90 (the "MWBE Ordinance") and any Rules or Regulations promulgated pursuant thereto, and therefore will not have an MWBE goal assigned. While the work performed under this Agreement is not subject to the MWBE Ordinance, the Director of DSBO encourages all participants in City projects to seek independent partnerships with SBEs, MBEs, WBEs, and other business enterprises in supply chain activities, prime/subcontractor partnerships, and joint ventures for all contracts and purchase orders. The City reserves the right to reevaluate the work under this Agreement and apply the requirements of the MWBE Ordinance to this contract if DSBO determines that the MWBE Ordinance is applicable. Under D.R.M.C. § 28-68, Consultant 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 agreement modifications, or as otherwise described in D.R.M.C. § 28-70, Consultant acknowledges that:

a. If required by DSBO, Consultant shall develop and comply with a Utilization Plan in accordance with D.R.M.C. § 28-63. Along with the Utilization Plan requirements, Consultant 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.

b. If Agreement modifications are issued under the Agreement, Consultant 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 agreement, upon any of the bases discussed in D.R.M.C. § 28-70, regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.

c. If amendments or other agreement modifications are issued under the Agreement that include an increase in the scope of work of this Agreement, which increases the dollar value of the Agreement, 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.

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

e. Failure to comply with these provisions may subject Consultant to sanctions set forth in D.R.M.C. § 28-76 of the MWBE Ordinance.

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

B. Prompt Pay of MWBE Subcontractors. For agreements of one million dollars ($1,000,000.00) and over to which D.R.M.C. § 28-135 applies, Consultant is required to comply with the Prompt Payment provisions under D.R.M.C. § 28-135, with regard to payments by Consultant to MWBE subcontractors. If D.R.M.C. § 28-135 applies, Consultant shall make payment by no later than thirty-five (35) days from receipt by Consultant of the subcontractor's invoice.

C. Prevailing Wage. To the extent required by law, Consultant shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, D.R.M.C. §§ 20-76 through 20-79, 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.

i. 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, Consultant will receive no additional compensation for increases in prevailing wages or fringe benefits.

ii. Consultant shall provide the Auditor with a list of all subcontractors providing any services under the Agreement.

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

iv. Consultant 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.

v. If Consultant fails to pay workers as required by the Prevailing Wage

Ordinance, Consultant 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 Consultant fails to pay required wages and fringe benefits.

D. City Minimum Wage. To the extent required by law, Consultant shall comply with and agrees to be bound by all requirements, conditions, and the City determinations regarding the City's Minimum Wage Ordinance, D.R.M.C. §§ 20-82 through 20-84, 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, Consultant expressly acknowledges that Consultant is aware of the requirements of the City's Minimum Wage Ordinance and that any failure by Consultant, 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.

E. City Prompt Pay.

i. The City will make monthly progress payments to Consultant for all services performed under this Agreement based upon Consultant's monthly invoices or shall make payments as otherwise provided in this Agreement. The City's Prompt Payment Ordinance, D.R.M.C. §§ 20-107 to 20-118 applies to invoicing and payment under this Agreement.

ii. Final Payment to Consultant shall not be made until after the Project is accepted, and all certificates of completion, record drawings, reproducible copies, and other deliverables are delivered to the City, and the Agreement is otherwise fully performed by Consultant. The City may, at the discretion of the EVP, withhold reasonable amounts from billing and the entirety of the final payment until all such requirements are performed to the satisfaction of the EVP

7. INSURANCE REQUIREMENTS:

A. Consultant 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 must be received and accepted by the City before any airport access or work commences.

B. Consultant shall ensure and document that all subcontractors performing services or providing goods hereunder procure and maintain insurance coverage that is appropriate to the primary business risks for their respective scopes of performance. At minimum, such insurance must conform to all applicable requirements of DEN Rules and Regulations Part 230 and all other applicable laws and regulations.

C. The City in no way warrants or represents the minimum limits contained herein are sufficient to protect Consultant from liabilities arising out of the performance of the terms and conditions of this Agreement by Consultant, its agents, representatives, employees, or subcontractors. Consultant shall assess its own risks and maintain higher limits and/or broader coverage as it deems appropriate and/or prudent. Consultant 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 Consultant; (ii) damage, theft, or destruction of Consultant'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.

8. DEFENSE AND INDEMNIFICATION:

A. Consultant hereby agrees to defend, indemnify, reimburse and hold harmless the 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 the City for any negligent acts or omissions of Consultant or its subcontractors either passive or active, including the City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City. In no event shall the liability of Consultant for any Claims, as defined herein or for cumulative damages for non-performance or substandard performance, as defined in Attachment 1 Exhibit A, Scope of Work, exceed three-times (3x) the Maximum Contract Amount in the aggregate for the Term of this Agreement. For professional liability claims, indemnification responsibility is limited to Consultant's proportionate share of the negligence.

B. Consultant's duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether Claimant has filed suit on the Claim. Consultant's duty to defend and indemnify the City shall arise even if the City is the only party sued by claimant.

C. Consultant will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of the City shall be in addition to any other legal remedies available to the City and shall not be considered the City's exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of Consultant under the terms of this indemnification obligation. Consultant shall obtain, at its own expense, any additional insurance that it deems necessary for the City's

protection.

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

9. 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 the right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

10. GENERAL TERMS AND CONDITIONS:

A. Status of Consultant. Parties agree that the status of Consultant 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 Consultant or its personnel are employees or officers of the City under D.R.M.C. Chapter 18 for any purpose whatsoever.

B. Assignment. Consultant 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. Any attempt by Consultant to assign or transfer its rights hereunder without such prior written consent shall, at the option of the CEO, automatically terminate this Agreement and all rights of Consultant hereunder.

C. Compliance with all Laws and Regulations. Consultant 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, Executive Orders, and rules and regulations of the City.

D. Compliance with Patent, Trademark and Copyright Laws.

i. Consultant 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. Consultant 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 Consultant prepares any documents which specify any material, equipment, process or procedure which is protected, Consultant shall disclose such patents, trademarks and copyrights in such documents.

ii. Pursuant to Section 8, Consultant 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.

E. Notices.

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

by Consultant to:

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

And by the City to:

TransCore, LP
150 4TH Ave North, Suite 1200
Nashville, TN 37219
Attn: Michael Mauritz

ii. 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 any 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)(ii).

iii. 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 for work-related communications and transmittals at the City's direction.

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 Consultant. 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. No assent expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

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 Consultant, 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 Consultant 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 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.

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

ii. Consultant 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. Consultant 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 EVP or their authorized representative, along with any City agency, or any person or firm under contract with the City doing work which affects Consultant's work.

O. No Authority to Bind City to Contracts. Consultant has no authority to bind the

City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City as required by the City Charter and ordinances.

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

Q. Severability. In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

R. Taxes and Costs. Consultant 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.

S. Environmental Requirements. Consultant, 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.

i. 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), per – and polyfluoroalkyl substances (PFAS), 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.

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

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

iv. In the case of a release, spill or leak as a result of Consultant's activities

under this Agreement, Consultant shall immediately control and remediate the contaminated media to applicable federal, state and local standards. Consultant 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 Consultant of any pollutant or hazardous material.

T. Non-Exclusive Rights. This Agreement does not create an exclusive right for Consultant to provide the services described herein at DEN. The City may, at any time, award other agreements to other contractors or consultants for the same or similar services to those described herein. In the event of a dispute between Consultant and any other party at DEN, including DEN itself, as to the privileges of the parties under their respective agreements, CEO shall determine the privileges of each party and Consultant agrees to be bound by CEO's decision.

11. RECORD RETENTION 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. Consultant 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. No Discrimination in Employment. In connection with the performance of work under the Agreement, the Consultant may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Consultant shall insert the foregoing provision in all subcontracts.

C. Advertising and Public Disclosures. Consultant shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the EVP or their 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. Consultant shall notify the EVP in advance of the date and time of any such presentations. Nothing herein, however, shall preclude Consultant'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, nor preclude Consultant from identifying City as a customer and providing a brief synopsis of the Scope of Work Consultant provides(d) for the City, when responding to any public agency's Requests for Qualifications or Proposals.

D. Colorado Open Records Act.

i. Consultant 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 Consultant agrees that it will fully cooperate with the City in the event of a request or lawsuit arising

under such act for the disclosure of any materials or information which Consultant asserts is confidential or otherwise exempt from disclosure. Any other provision of this Agreement notwithstanding, all materials, records, and information provided by Consultant to the City shall be considered confidential by the City only to the extent provided in CORA, and Consultant agrees that any disclosure of information by the City consistent with the provisions of CORA shall result in no liability of the City.

ii. In the event of a request to the City for disclosure of such information, the City shall make a good faith effort to advise Consultant of such request in order to give Consultant the opportunity to object to the disclosure of any material Consultant may consider confidential, proprietary, or otherwise exempt from disclosure. In the event Consultant 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. If City decides to not file such an application, City shall so inform Consultant with sufficient notice to allow Consultant to independently seek judicial intervention, including but not limited to equitable relief, prior to City's disclosure of information. In the event a third party files a lawsuit to compel disclosure, the City may tender all such material to the court for judicial determination of the issue of disclosure. In both situations, Consultant agrees it will either waive any claim of privilege or confidentiality or intervene in such legal process to protect materials Consultant does not wish disclosed. In the event the City files such application to the Denver District Court, or a third party files a lawsuit to compel disclosure, Consultant 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 Consultant'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.

E. Examination of Records and Audits.

i. 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 Consultant's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Consultant 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. 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 Consultant to make disclosures in violation of state or federal privacy laws. Consultant shall at all times comply with D.R.M.C. §20-276.

ii. Additionally, Consultant 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 , shall have the right to examine any pertinent books, documents, papers and records of Consultant related to Consultant's performance of this Agreement, including communications or correspondence related to Consultant'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.

iii. 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 Consultant which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. Consultant further agrees that such records will contain information concerning the hours and specific services performed along with the applicable federal project number.

F. Use, Possession or Sale of Alcohol or Drugs. Consultant 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 Consultant from City facilities or participating in City operations.

G. City Smoking Policy. Consultant 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.

H. Conflict of Interest.

i. Consultant and its subsidiaries, affiliates, subcontractors, principals, or employees shall not engage in any transaction, work, activity or conduct which would result in a conflict of interest. A conflict of interest occurs when, for example, because of the relationship between two individuals, organizations or one organization (including its subsidiaries or related organizations) performing or proposing for multiple scopes of work for the City, there is or could be in the future a lack of impartiality, impaired objectivity, an unfair advantage over one or more firms competing for the work, or a financial or other interest in other scopes of work.

ii. 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 Consultant written notice which describes such conflict. If, during the course of the Agreement, the City determines that a potential conflict of interest exists or may exist, Consultant 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.

iii. Consultant has a continuing duty to disclose, in writing, any actual or potential conflicts of interest including work Consultant is performing or anticipates

performing for other entities on the same or interrelated project or tasks. Consultant must disclose, in writing, any corporate transactions involving other companies that Consultant knows or should know also are performing or anticipate performing work at DEN on the same or interrelated projects or tasks. In the event that Consultant fails to disclose in writing actual or potential conflicts, the CEO in their sole discretion, may terminate the Agreement for cause or for its convenience.

I. No Employment of A Worker Without Authorization to Perform Work Under The Agreement

i. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "**Certification Ordinance**").

ii. The Consultant certifies that:

a. At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.

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

c. It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Consultant that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

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

e. If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Consultant shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

f. It will comply with a 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.

iii. The Consultant is liable for any violations as provided in the Certification Ordinance. If the Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If this Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the City. Any termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying the Consultant from submitting bids or proposals for future contracts with the City.

12. INTELLECTUAL PROPERTY INDEMNIFICATION AND LIMITATION OF LIABILITY:

Consultant shall (i) defend City against any third-party claim that the Work, or materials provided by Consultant to City infringe a patent, copyright or other intellectual property right, and (ii) pay the resulting costs and damages finally awarded against City by a court of competent jurisdiction or the amounts stated in a written settlement signed by Consultant. The foregoing obligations are subject to the following: the City (a) notifies the Consultant promptly in writing of such claim, (b) grants the Consultant sole control over the defense and settlement thereof subject to the final approval of the City Attorney, and (c) reasonably cooperates in response to request for assistance. Should such a claim be made, or in the Consultant's opinion be likely to be made, the Consultant may, at its option and expense, (1) procure for the City the right to make continued use thereof, or (2) replace or modify such so that it becomes non-infringing. If the preceding two options are commercially unreasonable, then Consultant shall refund the portion of any fee for the affected Work. The Consultant shall have no indemnification obligation to the extent that the infringement arises out of or relates to: (a) the use or combination of the subject Work and/or materials with third party products or services, (b) use for a purpose or in a manner for which the subject Work and/or materials were not designed in accordance with Consultant's standard documentation; (c) any modification to the subject Work and/or materials made by anyone other than the Consultant or its authorized representatives, if the infringement claim could have been avoided by using the unaltered version of the Work and/or materials, (d) any modifications to the subject Work and/or materials made by the Consultant pursuant to the City's specific instructions, or (e) any technology owned or licensed by the indemnitee from third parties. THIS SECTION STATES THE INDEMNITEE'S SOLE AND EXCLUSIVE REMEDY AND THE INDEMNITOR'S ENTIRE LIABILITY FOR THIRD PARTY INFRINGEMENT CLAIMS.

13. INTELLECTUAL PROPERTY RIGHTS; OWNERSHIP OF HARDWARE AND SOFTWARE:

A. Ownership. The City and Consultant intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, data, products, inventions, and any other work or recorded information, exclusive of software and ideas created by the Consultant and developed solely for and paid for by the City pursuant to this Agreement, in preliminary or final forms and on any media (collectively, "**Materials**"), shall

belong to the City. The Consultant shall disclose all such items to the City. 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 Consultant 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 Consultant by City under the terms of this Agreement, title to the hardware shall automatically pass to the City.

B. License Grant: Gatekeeper Systems, Inc., via the Consultant, will grant the City the software license attached hereto as **Exhibit D**.

C. Reservation of Rights: Consultant reserves all rights not expressly granted to City in this Agreement. Except as expressly stated, nothing herein shall be construed to: (1) directly or indirectly grant to a receiving party any title to or ownership of a providing party's intellectual property rights in services or materials furnished by such providing party hereunder, or (2) preclude such providing party 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 Consultant has the right to use any City provided materials solely for the benefit of City in connection with the Work performed hereunder for City.

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

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

B. The Consultant further agrees to release, indemnify and save harmless the City, its officers, agents and employees, pursuant to Paragraph 8, "Defense and Indemnification," and Paragraph 20, "Intellectual Property Indemnification and Limitation of Liability," from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which violates or infringes upon any patent, trademark, copyright or software license protected by law, except in cases where the Consultant's personnel are working under the direction of City personnel and do not have direct knowledge or control of information regarding patents, trademarks, copyrights and software licensing.

15. DATA CONFIDENTIALITY:

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

B. The disclosing Party agrees to make known to the receiving Party, and the receiving Party agrees to receive Confidential Information solely for the purposes of this Agreement. All Confidential Information delivered pursuant to this Agreement: (i) shall not be distributed, disclosed, or disseminated in any way or form by the receiving Party to anyone except its own employees, corporate partners, affiliates and alliance partners who have a need to know said Confidential Information; (ii) shall be treated by the receiving Party with the same degree of care to avoid disclosure to any third Party as is used with respect to the receiving Party's own information of like importance which is to be kept confidential.

C. These obligations shall not apply, however, to any information which: (i) is already in the public domain or becomes available to the public through no breach of this Agreement by the receiving Party; or (ii) was in the receiving Party's possession prior to receipt from the disclosing Party; or (iii) is received by the receiving Party independently from a third Party free to disclose such information; or (iv) is subsequently independently developed by the receiving Party as proven by its written records; or (v) is disclosed when such disclosure is compelled pursuant to legal, judicial, or administrative proceeding, or otherwise required by law, subject to the receiving Party giving all reasonable prior notice to the disclosing Party to allow the disclosing Party to seek protective or other court orders.

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

16. SENSITIVE SECURITY INFORMATION:

Consultant acknowledges that, in the course of performing its work under this Agreement, Consultant 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. Consultant 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. Consultant understands any questions it may have regarding its obligations with respect to SSI must be referred to DEN's Security Office.

17. DEN SECURITY:

A. Consultant, its officers, authorized officials, employees, agents, subcontractors, and those under its control, shall comply with safety, operational, or security measures required of Consultant or the City by the FAA or TSA. If Consultant, 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, Consultant 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. Consultant 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 Consultant and/or its agents will be deducted directly from the invoice for that billing period.

B. Consultant 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 Consultant. The fee/fine will be deducted from the invoice at time of billing.

18. 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 Airport System. As applicable, Consultant shall comply with the Standard Federal Assurances identified in Appendix.

19. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:

A. Attachments. This Agreement consists of Section 1 through 20 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Appendix: Standard Federal Assurances
Exhibit A: Scope of Work
Exhibit B: Rates
Exhibit C: Insurance Requirements
Exhibit D: Software License

B. Order of Precedence. In the event of an irreconcilable conflict between a provision of Section 1 through 20 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
Section 1 through Section 20 hereof
Exhibit A
Exhibit B
Exhibit C
Exhibit D

20. 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 Consultant 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-202262949-00
Contractor Name: TRANSCORE LP

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:

Attorney for the City and County of Denver

By: _____

REGISTERED AND COUNTERSIGNED:

By: _____

By: _____

Contract Control Number: PLANE-202262949-00
Contractor Name: TRANSCORE LP

By: DocuSigned by: Michael Mauritz 256307BD14714BC...

Name: Michael Mauritz
(please print)

Title: Senior Vice President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

APPENDIX

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" or means the Party of the Second Part as set forth in the Contract.

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.

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);
- 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;

APPENDIX

Federal Aviation Administration Required Contract Provisions

ALL CONTRACTS – NON-AIP FUNDED

- 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).

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

The *Contractor* has full responsibility to monitor compliance to the referenced statute or regulation. The *Contractor* 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.

EXHIBIT A

Scope of Work

General Description

Under this Statement of Work (SOW), TransCore, in conjunction with its Subcontractor GateKeeper Systems Inc (GateKeeper), shall maintain in good working order the computer software licensed to the City and County of Denver Department of Aviation which operates Denver International Airport (DEN, herein after referred to as "Covered Software." Covered Software includes:

- Commercial Vehicle Management (CVM) software
- CVM Vendor Website
- Lane Controller Computer software and firmware
- GateKeeper monitoring software

These software applications are being used in the operation of the Automated Vehicle Identification (AVI) System at the Denver International Airport. This contract is solely for the support of the covered software and hardware/equipment configuration, no hardware support is included other than twice a year preventative maintenance visits.

The parties agree and consent to the following general provisions:

- DEN is responsible for coordinating the activities of all the parties (DEN, NexGen, TransCore, and GateKeeper). However, it is anticipated that TransCore and GateKeeper need to maintain their current working relationship and ability to communicate and request actions of either party to accomplish necessary support tasks.

- DEN and TransCore agree to and understand that TransCore shall monitor all actions for its Subcontractor GateKeeper while GateKeeper is providing software maintenance or any other work-related services upon DEN 's premises.

I. First Responder Designation and Support Matrix

It is recognized that both DEN and TransCore may be the "first responder" to system monitoring, events, problems, malfunctions, errors, and any other activities relating to the Covered Software. The following matrix describes overall system level components and who the expected first responder is and what escalation activities entail regarding the production environment:

A Support Procedure document will be created jointly by DEN and TransCore. This document will designate DEN 's System Administrator and will include standard and out of business hours communication procedures along with current phone number and email address information.

AVI System Responsibility Matrix

Description	System Issue First Responder/ Monitor	Service Now Ticket	Field Respond	Remote Respond	**Fix/ Correct	Document
			ACTION			
GSI Application Health	TC	TC	N/A	TC	TC	TC
Server Operating System	DEN	DEN	DEN	DEN	DEN	DEN
PROPWorks processes and interfaces	DEN	DEN	N/A	DEN	DEN	DEN
SQL DB Health***	DEN	DEN	N/A	DEN	DEN	DEN
Storage Health/ Array	DEN	DEN	DEN	DEN	DEN	DEN
Backup	DEN	DEN	N/A	DEN	DEN	DEN
Restore	DEN	DEN	DEN	TC	TC	DEN
Virtual Memory	DEN	DEN	N/A	TC	DEN	DEN
Virtual Processor{s)	DEN	DEN	DEN	TC	DEN	DEN
MSMQ size/ health	DEN	DEN	DEN	TC	DEN	DEN
Firewall	DEN	DEN	DEN	TC	DEN	DEN
*Website Op'I Status	DEN	DEN	N/A	TC	TC	DEN
Network	DEN	DEN	DEN	DEN	DEN	DEN
*Physical cabling	DEN	DEN	DEN	DEN	DEN	DEN
*AVI Reader	DEN	DEN	DEN	TC	DEN	DEN
*AVI Lane Controller	DEN	DEN	DEN	TC	DEN	DEN
*Reader--> Lane Controller	DEN	DEN	DEN	TC	DEN	DEN
*Lane Controller--> Host	DEN	DEN	DEN	TC	DEN	DEN
Trip Builds complete	DEN	DEN	N/A	TC	TC	DEN
*Light Functionality	DEN	DEN	DEN	TC	DEN	TC
GT Admin Op'I Status	DEN	DEN	N/A	TC	TC	TC
GT Reports Op'I Status	DEN	DEN	N/A	TC	TC	TC
Batch CVMS -->	DEN	DEN	N/A	TC	TC	TC
Gatekeeper Integration / APIs	DEN	DEN	DEN	TC	TC	TC

NOTES:

1. Item assignments represent initial response. Other parties will have responsibility for action/input/documentation as needed to close-out an item.
2. All TransCore/GateKeeper troubleshooting shall be completed remotely, with the physical work completed by DEN at the direction of TransCore/GateKeeper.

1. Parties identified as "first responder" in matrix will be responsible for the monitoring tools needed to monitor that area of the system.

2. For the items identified below, DEN monitoring can be augmented with alerts generated out of the monitoring application used by Gatekeeper.AVI Reader
    a. AVI Lane Controller
    b. Reader to Lane Controller
    c. Lane Controller to Host

3. Because of access restrictions, TransCore cannot currently monitor the processes below. This access must be addressed and maintained in order for TransCore to assume monitoring responsibility.
    a. Verify monitoring software is running
    b. Verify Accounting Transfer (PropWorks interface) service is running

* Assign DEN Parking Contractor as 1st responder, per initial contract.

** All parties recognize primary party listed may rely on efforts of other entities to provide final fix/correct action. The understanding of DEN is that if DEN is primary responsible party, they can escalate to TransCore/GateKeeper as needed for remote assistance. If physical presence at DEN by TransCore or GateKeeper is needed for fix/correct action, additional charges may apply.

*** Assumes full TransCore access to monitor server. Refer to PROPWorks processes and interface item for exceptions.

As indicated for each element of the system responsibility matrix, DEN and TransCore will monitor various system component status as assigned, receive system-generated alerts, text messages, email messages or other notifications and shall be responsible for performing preliminary diagnoses of the problem, documenting the system behavior and/or system problem and contacting the appropriate service provider to respond and take the necessary steps to return the system to normal operating condition.

Both TransCore and DEN will make every reasonable effort to notify (using processes identified in this work scope) each other in the event of a known incident or anomaly that is happening that may be degrading service in the AVI and Commercial Vehicle Management System. Both TransCore and DEN responders need to advise the other in the event of an incident to make sure the other party is doing everything in their realm of responsibility to return the entire system to normal operations in a timely fashion. It is expected that some repair activities will require action by both parties and collaboration on underlying issue will expedite the repair.

Originating responder is responsible to monitor the status of the problem, communicate to other stakeholders, and ensure the problem is fixed by the appropriate resolving entity and document that the system has returned to normal operations.

Notification Process - Refer to Section V.

II. **Software Support Services**

TransCore shall maintain and provide software support for the Covered Software and assist DEN personnel in maintaining the described software to eliminate or correct software malfunctions and return the software to normal operation. TransCore will further assist DEN personnel with the diagnosis of any system software problems with the Covered Software, or any other software that relates to the performance of this Agreement. The categories of software support to be provided under this Agreement shall include:

- **Response to System Problems.** TransCore shall provide on-line remote and phone support as stated in Sections V and VII of this SOW to DEN personnel each month for the period of the Agreement to remotely diagnose and make required changes to TransCore's software as well as other system components. All TransCore support and developer personnel shall be qualified and shall be technically competent with the Covered Software, or any other software or software components that relate to this SOW. All system malfunctions, glitches or errors will be reported as specified in Section 7.

- **System Monitoring:** TransCore will conduct weekly remote checks of the Covered Software. TransCore shall verify to DEN personnel in writing that the system is operating normally and shall identify any maintenance tasks that need to be completed. TransCore shall contact the appropriate DEN staff to coordinate the completion of any required items. TransCore shall configure a server monitoring and alert package Servers Alive for system problems or other errors and conditions related to server monitoring. As assigned in the responsibility matrix, TransCore shall monitor the components that they have full and sufficient access to twenty-four (24) hours a day and seven (7) days a week. All system malfunctions, glitches or errors will be reported as specified in Section 7. TransCore will attend, by phone, status updates with DEN on a scheduled periodic basis and, when necessary, any specific meetings.

- **Software Reporting:** TransCore shall provide DEN a written monthly report describing the performance of the Covered Software, or any other software related to the performance of the AVI system. This monthly report shall be submitted to the appropriate DEN staff member at the initiation of performance of this Agreement. This report shall include all service requests, problems, fixes, and activities worked on for the period. Additionally, TransCore shall maintain and generate an alert log which specifies any problems, malfunctions, abnormalities, glitches, or any other failures with the described software and the actions taken to resolve the incident.

- **System Review:** TransCore shall make two separate one-day site visits to DEN to review the system operation with the Ground Transportation and IT staff and provide a one four-hour training class or discussions with these individuals on system operation or problems. The trips will occur on mutually agreeable dates

- **Maintaining and Updating Non-TransCore Software:** TransCore shall upgrade, at no charge to the Software Owner, the Covered Software and the CVM as part of one of the regularly scheduled upgrades. The Software Owner shall assist TransCore with these software or data system updates.

III. **Maintenance Tasks**

TransCore will provide / perform software and routine system maintenance for the Covered Software between the hours of 11 pm to 4 am, Monday through Thursday Mountain Standard Time (MST). On Friday, TransCore shall only provide maintenance for emergency patches or any other similar type of situations.

IV. Response to System Problems

DEN shall provide prior to the performance of the Agreement a list of personnel authorized to request assistance from TransCore.

- GateKeeper Notification:
  - If an emergency arises the authorized individual (or process designee) should call GateKeeper at the Dedicated Software Support Phone number:

    (866) 688-3404

  - GateKeeper's Support Line, is answered 24/7 each day of the year, operator will record the information about the request or problem and immediately contact the best available TransCore specialist to respond.
  - For routine questions, GateKeeper may also be contacted directly at its general number: (651) 365-0700 during regular office hours of 8:00 am to 5:00 pm Central Standard Time, Monday- Friday or by sending an email to support@gksys.com
  - Escalation: if the response is not satisfactory or the support line is not answered, contact the assigned GateKeeper contact as listed in the Support Procedure Document.

- DEN Notification:
  - TransCore/Gatekeeper shall notify DEN of system problems via calling DEN Service Desk at:

    (303) 342-2012.

  - Escalation: (303) 342-4888
  - In accordance with the Support Procedure document referenced in Section I.

- DEN Service Desk staff will record the information about the request or incident and immediately contact the appropriate line management resolver group to respond.

V. Response Time

TransCore shall provide DEN priority support response times. TransCore shall respond within the remedial support time specified in Section VI. TransCore

covenants that its actions will be directed by reasonable and prudent steps to minimize the loss of data for the AVI System with the understanding that some risks do exist for its response time and these actions may have unanticipated consequences.

Incidents involving revenue loss shall take the highest severity/priority level and personnel from both parties shall work to resolve the matter as timely as possible.

VI. Remedial Support

Upon identification of a system error, defect, malfunction, or nonconformity in the Covered Software, TransCore shall respond as provided below:

- **Severity 1, a Major Incident:** A Severity 1 incident is considered to be a major incident. A major incident is defined as an unplanned interruption to an IT service that impacts or produces an emergency situation in which the Covered Software is inoperable and results in significant loss of revenue, the Covered Software catastrophically fails, there is a service impact that limits the ability to access an enterprise service for multiple business units or a large number of customers, clients, or users.

- **RESPONSE:** TransCore shall respond immediately by assigning a qualified staff member to diagnose and correct a Severity 1 problem as soon as reasonably possible, but in any event, a response via phone will be provided within one (1) hour. TransCore shall exercise due diligence to resolve Severity 1 problems in less than four (4) hours. TransCore shall be in constant contact with the System Owner or the System Owner's designee informing the System Owner or the System Owner's designee about the incident and the progress in resolving the Severity 1 issue. The resolution will be delivered to DEN as a work-around or as an emergency software fix.
  If, according to the sole discretion of the System Owner or the System Owner's designee decides that TransCore delivered an acceptable work-around for a Severity 1 incident, the severity classification will drop to a Severity 2. At the conclusion of a Severity 1 incident, TransCore will document and provide a Root Cause Analysis to DEN. TransCore shall provide DEN the Root Cause Analysis within 10 business days of the incident.

- **Severity 2:** A Severity 2 incident is an incident that produces a detrimental situation in which performance (throughput or response) of the Covered Software degrades substantially under reasonable loads that there is a severe impact on use; the Covered Software is usable, but materially incomplete; one or more mainline functions or commands is inoperable; or DEN staff are unable to conduct their job properly, DEN patrons are inconvenienced in a significant way and this perception is common place.

- **RESPONSE:** TransCore shall respond immediately by assigning a qualified member of its staff to diagnose and correct a Severity 2 problem as soon as reasonably possible, but in any event, a response via phone will be provided within four (4) hours. TransCore will exercise due diligence to resolve Severity 2 incident within three (3) days. The resolution will be delivered to DEN in the same format as a Severity I incident. If, according to the sole discretion of the System Owner or the System Owner's designee it is decided, that TransCore delivered an acceptable work-around for a Severity 2 incident, the severity

classification will drop to a Severity 3. At the conclusion of a Severity 2 incident, TransCore will document and provide a Root Cause Analysis to DEN. TransCore shall provide DEN the Root Cause Analysis within 10 business days of the incident.

- **Severity 3:** A Severity 3 incident is an incident that produces an inconvenient situation in which the Covered Software is usable for DEN staff or patrons, but does not provide a function in the most convenient or expeditious manner, and the user suffers little or no significant impact.

- **RESPONSE:** TransCore shall respond immediately by assigning a qualified member of its staff to diagnose and correct a Severity 3 problem as soon as reasonable possible, but in any event, TransCore will respond within one business day. TransCore will exercise due diligence to resolve a Severity 3 incident. If, according to the sole discretion of the System Owner or the System Owner's designee it is decided, that TransCore delivered an acceptable work-around for a Severity 3 incident, the severity classification will drop to a Severity 4.

- **Severity 4:** A Severity 4 incident is an incident that produces a noticeable situation in which the Covered Software is affected in some way that is reasonably correctable by a documentation change or by a future, regular release from TransCore.

- **RESPONSE:** TransCore will provide, as agreed by the parties, a fix or fixes for Severity 4 problems in future maintenance releases. TransCore shall provide DEN a written report about any fixes or maintenance

VII. Maintenance Services

During the term of this Agreement, TransCore shall maintain the Covered Software by providing software updates. Any updates shall follow DEN established change and configuration management processes and applicable procedures. This requires that all changes be communicated to applicable DEN personnel in writing prior to any maintenance or configuration changes being performed.

Reasonable attempts shall be taken to utilize DEN incident and change request tools whether in replacement of or in addition to service provider systems for such activities. DEN personnel will utilize Service Now for tracking, reporting, and communicating status for any and all maintenance services either initiated by DEN or service provider.

Maintenance Services shall include the following:

- Fix/repair all CVM system problems.

- 24/7 telephone support number that is always monitored and answered.

- Bi-weekly teleconference support meetings.

- Assisting DEN in organizing an efficient monitoring approach for the system, including monitoring alerts generated via the GateKeeper monitoring software, and automated utilities.

- Providing analysis of system changes being considered or implemented by DEN, e.g. routine configuration changes, reader/lane controller configuration, etc.

- Repairs, modifications to system operation and configuration settings.

- Diagnostic analysis as required by DEN staff on the cause of system behavior.

- Updating document of system events, support activities, root cause analysis, etc.

- Coordination of stakeholders response to system problems.

- Attendance at two system review meetings at DEN.

- **Hardware Preventative Maintenance:. Two** separate one week visits will be conducted to review the field hardware and confirm the operation of the TransCore furnished equipment. Tasks to be performed include:
    - Check the reader for error lights. Reset if needed
    - Check reader voltages.
    - Inspect antenna for damage and alignment. Adjust if needed.
    - Inspect cabinet condition.
    - Monitor traffic and reader operation. Tune lane if needed.
    - Check reader output operation (gates and lights).
    - Check with Landside for AVI issues and address.

- **Software Bugs or Software Patches:** TransCore shall provide any and all software bug fixes or software patches to the current installed version of the Covered Software. Bugs and patches shall be deployed in a development/test environment prior to being applied to production environments and follow best practices.

- **Software Modifications:** TransCore shall provide any and all modifications to keep the Covered Software compatible with the version of the operating system installed on the system servers. TransCore shall perform compatibility testing on any new Service Packs, patches, or hotfixes issued by the Operating System (OS) manufacturer and notify DEN when the software is ready for service pack, patch, or hotfix installation. DEN shall install Critical Updates at their discretion using industry best practices including creating backups.

- **Software Configuration:** TransCore shall make routine configuration changes to the system as needed by DEN for items such as, but not limited to, routine Trip Configuration, Trip Rates, Operator Types, Service Types, Readers, Lane Controllers, or any other type of routine configurations needed to properly operate, the Covered Software for performance under this Agreement.

- **Upgrade:** If DEN chooses to take the one year extension of the term option TransCore will provide one upgrade of the GateKeeper Commercial Vehicle

Management (CVM) and Vendor Website software at no cost if available.The upgrades will be the latest production release of the software and do not include any changes to the server environment, operating systems, lane equipment, or other modifications unless covered under a separate proposal. The upgrade schedule will be developed jointly between GateKeeper and DEN Ground Transportation and IT Departments.

- **Spares:** TransCore shall provide and keep a current and complete parts list and the breakdowns that identify each hardware component as well as ordering information for these parts. TransCore shall furnish a recommended inventory of parts list for system maintenance. In the event a component is no longer available, TransCore shall identify a compatible replacement solution that shall fulfill the overall functionality of the affected item.

- **As-Built Documentation:** TransCore shall provide and keep current the reader check-list throughout the term of the contract. These as-built documents should address both associated AVI hardware and software aspects of the system. Any changes to the system shall be updated and provided to DEN as part of the change management process.

VIII. Software Version License

Throughout the term of this Agreement, DEN shall receive a fully paid perpetual license for all new versions of the TransCore CVM software without additional costs.

- TransCore Software warrants that any of its software distributed to DEN are "backward compatible," which means DEN does not need to purchase a new version of TransCore's software once a new version is implemented.

- TransCore covenants to provide support services for previous releases of TransCore software for a minimum period of twenty-four (24) months following the general availability of a new software release or software update. After written notice is provided to DEN after 24 months, TransCore shall have no further responsibility for supporting and maintaining the prior releases.

IX. Services Not Included

This SOW shall not include any of the following:

- Custom programming services.
- Hardware.
- Training other than what is specifically covered in this Agreement.
- Implementation of new servers; reconfiguration of the existing server environment, including operating system and SQL Server upgrades.
- Repair of Owner provided LAN/WAN equipment.
- Repair of Owner provided servers.

- On-site support not required under the terms of this agreement.
- Support for software not defined as Covered Software

X. Additional Services

If deemed necessary by DEN for additional services, TransCore will provide a technical and cost proposal describing the additional services, how they will be provided, a schedule for completion, a firm fixed price, or the time and materials cost estimate for those services.

Any and all additional services shall be made in writing and the parties shall agree to execute an Additional Services Authorization.

XI. Access and Security Requirements

TransCore covenants to provide stringent cyber security regarding, but not limited to passwords, system data, file transfer capabilities, and remote log-in-capabilities. TransCore will maintain stringent security practices to ensure access to DEN's network system only for the purposes of this Agreement and will comply with DEN's standard security procedures.

Information accessed by TransCore employees as a result of accessing DEN's network, software, programs, passwords, or any other technical program shall be deemed confidential information pursuant to the terms of the Software License Agreement executed concurrently between the parties hereto.

TransCore, GateKeeper, their respective agents, personnel, subcontractors, or assignees shall be required to adhere to and completed the following security requirements prior to accessing DEN systems:

- Acceptable Use Policy
- Account and Password Management Standard
- Change Management Process
- IT User Agreement
- Remote Access Security Standard
- System Administrator Security Standard
- Confidentiality Agreement
- Airport Security Agreement

TransCore, GateKeeper, their respective agents, personnel, assignees, or subcontractors consent and agree to these listed security requirements or any other type of security or employee requirement deemed necessary by DEN. DEN shall provide all necessary security or employment forms to TransCore and GateKeeper. TransCore, GateKeeper, their respective agents, personnel, assignees, or subcontractors consent and agree these listed security or employee requirements are subject to change at will by DEN.

XII. Owner Responsibilities

DEN agrees to and consents that DEN personnel making a request for assistance shall provide sufficient information regarding the software problem experienced, adequately describe the problem, and the current operating condition of the software. In addition, DEN agrees to provide, at its expense, remote access to the system by high speed network connection for diagnosis and/or software modifications to the system. After system changes, DEN shall verify proper operation.

XIII. Non-Performance or Substandard Performance

The specific criteria in which TransCore's performance and any associated deductions for non-performance or substandard performance under the Agreement will be determined are on page 9 of this SOW in Table 1 Non-Performance or Substandard Performance.

TABLE 1- NON-PERFORMANCE OR SUBSTANDARD PERFORMANCE		
Criteria	**Measurement**	**Damage Amount (See Note)**
TransCore shall provide staff member(s) for an Emergency Response or a Major Incident.	TransCore shall respond within 24 hours of an Emergency Response or a Major Incident by providing written notice to the appropriate DEN staff member.	TransCore shall be charged $1,000.00 per day in which there is no response to the emergency or major incident.
TransCore shall conduct weekly remote checks and provide written weekly reports that the software is operating normally.	TransCore shall provide a written weekly report that the Covered Software is operating normally and identifies any Covered Software maintenance tasks that need to be completed,	DEN shall withhold payment if the report is not provided and shall charge TransCore $500.00 every day until the report is provided.
TransCore shall complete the repair or replacement of defective Covered Software or any defect within the CVM or any other program associated with this Agreement.	TransCore shall provide a monthly report of all services calls closed during the previous month showing, for each priority, the actual service level achieved.	DEN shall withhold payment if the report is not provided and shall charge TransCore $500.00 every day until the report is provided.
Loss of and/or inability to collect revenue by DEN resulting from inoperable, defective or damaged covered software and/or hardware associated with this Agreement.	Any loss of revenue and/or inability of DEN to collect revenue resulting from a failure of any software or hardware associated with this agreement, resulting from i) any negligent or intentional act or omission by TransCore and/or any subcontractor to TransCore, or 2) nonperformance or substandard performance by TransCore or any subcontractor to TransCore of any	Actual damages and/or damages in an amount otherwise agreed to by the parties.

	obligation under this Agreement and Scope of Work.	
Note: Cumulative damages shall not exceed 3 x contract value. Any damages shall be proportional to TransCore's responsibility for issue, as negotiated between the Airport and TransCore.		

End Scope of Work

Exhibit B

RATES AND CHARGES

Annual Maintenance Fee

Year	Term	Annual Maintenance Fees
1	x/x/2022 - y/y/2023	$367451.22
2 (Optional)	x/x/2023 - y/y/2024	

Footnotes:

[1]The annual maintenance fees for Year 2 shall have a CPI adjustment to the prior year in accordance with Section 5G-J (Adjustment of Fees) of this Agreement.

Preventative Maintenance Trip

The cost of the Preventative Maintenance Trip in Year l is **$12,042.00,** the price for Year 2 will be $12,042.00 with an appropriate CPI adjustment. No equipment cost is included; it is assumed that any necessary equipment will be provided by the DEN. The cost for two preventative maintenance trips is included in the annual maintenance fee provided above.

Emergency Response Trip

The cost of each 2-day Emergency Response Trip is **$8,300.00** the price for Year 2 will be $8,300.00 an appropriate CPI adjustment. No equipment cost is included; it is assumed that any necessary equipment will be provided by DIA. The cost for emergency response trips are not included in the annual maintenance fee provided above.

EXHIBIT C

CITY AND COUNTY OF DENVER
INSURANCE REQUIREMENTS FOR DEPARTMENT OF AVIATION
PROFESSIONAL SERVICES AGREEMENT

A. Certificate Holder and Submission Instructions

Contractor must provide a Certificate of Insurance as follows:

Certificate Holder: CITY AND COUNTY OF DENVER
Denver International Airport
8500 Peña Boulevard
Denver CO 80249
Attn/Submit to: [insert specific DEN email address for the given contract]

- ACORD Form (or equivalent) certificate is required.
- Contractor must be evidenced as a Named Insured party.
- Electronic submission only, hard copy documents will not be accepted.
- Reference on the certificate must include the City-assigned Contract Number, if applicable.

The City may at any time modify submission requirements, including the use of third-party software and/or services, which may include an additional fee to the Contractor.

B. Defined Terms

1. "Agreement" as used in this exhibit refers to the contractual agreement to which this exhibit is attached, irrespective of any other title or name it may otherwise have.
2. "Contractor" as used in this exhibit refers to the party contracting with the City and County of Denver pursuant to the attached Agreement.

C. Coverages and Limits

1. Commercial General Liability
   Contractor shall maintain insurance coverage including bodily injury, property damage, personal injury, advertising injury, independent contractors, and products and completed operations in minimum limits of $1,000,000 each occurrence, $2,000,000 products and completed operations aggregate; if policy contains a general aggregate, a minimum limit of $2,000,000 annual policy aggregate must be maintained.

   a. Coverage shall include Contractual Liability covering liability assumed under this Agreement (including defense costs assumed under contract) within the scope of coverages provided.
   b. Coverage shall include Mobile Equipment Liability, if used to perform services under this Agreement.
   c. If a "per location" policy aggregate is required, "location" shall mean the entire airport premises.

2. Business Automobile Liability
   Contractor 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 Contractor 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. If transporting waste, hazardous material, or regulated substances, Contractor shall carry a Broadened Pollution Endorsement and an MCS 90 endorsement on its policy.
d. If Contractor does not own any fleet vehicles and Contractor's owners, officers, directors, and/or employees use their personal vehicles to perform services under this Agreement, Contractor shall ensure that Personal Automobile Liability including a Business Use Endorsement is maintained by the vehicle owner, and if appropriate, Non-Owned Auto Liability by the Contractor. This provision does not apply to persons solely commuting to and from the airport.
e. If Contractor will be completing all services to DEN under this Agreement remotely and not be driving to locations under direction of the City to perform services this requirement is waived.

3. Workers' Compensation and Employer's Liability Insurance
Contractor shall maintain the coverage as required by statute for each work location and shall maintain 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. Colorado Workers' Compensation Act allows for certain, limited exemptions from Worker's Compensation insurance coverage requirements. It is the sole responsibility of the Contractor to determine their eligibility for providing this coverage, executing all required documentation with the State of Colorado, and obtaining all necessary approvals. Verification document(s) evidencing exemption status must be submitted with the Certificate of Insurance.

4. Property Insurance
Contractor is solely responsible for any loss or damage to its real or business personal property located on DEN premises including, but not limited to, materials, tools, equipment, vehicles, furnishings, structures and personal property of its employees and subcontractors unless caused by the sole, gross negligence of the City. If Contractor carries property insurance on its property located on DEN premises, a waiver of subrogation as outlined in Section F will be required from its insurer.

5. Technology Errors and Omissions
Contractor shall maintain a minimum limit of $1,000,000 per occurrence and $1,000,000 annual policy aggregate including cyber liability, network security, privacy liability and product failure coverage.

a. Coverage shall include, but not be limited to, 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, 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.

6. Excess/Umbrella Liability
Combination of primary and excess coverage may be used to achieve minimum required coverage limits. Excess/Umbrella policy(ies) must follow form of the primary policies with which they are related to provide the minimum limits and be verified as such on any submitted Certificate of Insurance.

D. Reference to Project and/or Contract
The City Project Name, Title of Agreement and/or Contract Number and description shall be noted on the Certificate of Insurance, if applicable.

E. Additional Insured

For all coverages required under this Agreement (excluding Workers' Compensation, Employer's Liability and Professional Liability, if required), Contractor'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.

F. Waiver of Subrogation

For all coverages required under this Agreement (excluding Professional Liability, if required), Contractor'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.

If Contractor will be completing all services to the City under this Agreement remotely and not be traveling to locations under direction of the City to perform services, this requirement is waived specific to Workers' Compensation coverage.

G. 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. Such notice shall be sent thirty (30) calendar 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) calendar days prior.
3. If such written notice is unavailable from the insurer or afforded as outlined above, Contractor shall provide written notice of cancellation, non-renewal and any reduction in required coverage to the Certificate Holder within three (3) business days of receiving such notice by its insurer(s) and include documentation of the formal notice received from its insurer(s) as verification. Contractor shall replace cancelled or nonrenewed policies with no lapse in coverage and provide an updated Certificate of Insurance to DEN.
4. In the event any general aggregate or other aggregate limits are reduced below the required minimum per occurrence limits, Contractor will procure, at its own expense, coverage at the requirement minimum per occurrence limits. If Contractor cannot replenish coverage within ten (10) calendar days, it must notify the City immediately.

H. Cooperation

Contractor agrees to fully cooperate in connection with any investigation or inquiry and accept any formally tendered claim related to this Agreement, whether received from the City or its representative. Contractor's failure to fully cooperate may, as determined in the City's sole discretion, provide cause for default under the Agreement. The City understands acceptance of a tendered claim does not constitute acceptance of liability.

I. Additional Provisions

1. Deductibles or any type of retention are the sole responsibility of the Contractor.
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. Coverage required may not contain an exclusion related to operations on airport premises.
4. 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.
5. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City under all policies where Additional Insured status is required.
6. If the Contractor procures or maintains insurance policies with coverages or limits beyond those stated herein, such greater policies will apply to their full effect and not be reduced or limited by the minimum requirements stated herein.

7. 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 reporting period placed for three years (eight years for construction-related agreements) beginning at the time work under this Agreement is completed or the Agreement is terminated, whichever is later.
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 an authorized representative and must be submitted to the City at the time Contractor 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 of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements shall not act as a waiver of Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. All coverage requirements shall be enforced unless waived or otherwise modified in writing by DEN Risk Management. Contractor is solely responsible for ensuring all formal policy endorsements are issued by their insurers to support the requirements.
11. The City shall have the right to verify, at any time, all coverage, information, or representations, and the insured and its insurance representatives shall promptly and fully cooperate in any such audit the City may elect to undertake including provision of copies of insurance policies upon request. In the case of such audit, the City may be subject to a non-disclosure agreement and/or redactions of policy information unrelated to verification of required coverage.
12. No material changes, modifications, or interlineations to required insurance coverage shall be allowed without the review and written approval of DEN Risk Management.
13. Contractor shall be responsible for ensuring the City is provided updated Certificate(s) of Insurance prior to each policy renewal.
14. Contractor's failure to maintain required insurance shall be the basis for immediate suspension and cause for termination of this Agreement, at the City's sole discretion and without penalty to the City.

J. Part 230 and the DEN Airport Rules and Regulations

If the minimum insurance requirements set forth herein differ from the equivalent types of insurance requirements in Part 230 of the DEN Airport Rules and Regulations, the greater and broader insurance requirements shall supersede those lesser requirements, unless expressly excepted in writing by DEN Risk Management. Part 230 applies to Contractor and its subcontractors of any tier.

EXHIBIT **D** - LICENSE AGREEMENT

SOFTWARE LICENSE AGREEMENT

THIS AGREEMENT (the "Agreement") dated as of August 8, 2022, by and between **Gatekeeper Systems, Inc.** ("GSI") and the City and County of Denver, Department of Aviation (''Licensee").

A. GSI has developed certain Parking computer software ("Software") and the accompanying documentation ("User Manuals"), which Software and User Manuals together are the "Licensed Products".

B. Licensee desires to obtain from GSI a license to use the Licensed Products at Licensee's airport facility.

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained herein, the parties agree as follows:

1. GRANT OF SOFTWARE LICENSE. GSI hereby grants to Licensee a nonexclusive, perpetual, fully paid license to use the Licensed Products in the operation of Licensee's airport facility. Licensee may not use the Software in a service bureau environment, or distribute, rent, lease, transfer, or sublicense the Licensed Products.

2. DELIVERABLES. Upon execution of this Agreement GSI will deliver to Licensee the Licensed Products in object code formats, together with all related User Manuals.

3. MAINTENANCE AND SUPPORT. GSI may choose to offer maintenance and support services (“Maintenance") for the Licensed Products. If Maintenance is offered by GSI, Licensee may, but is not obligated to, purchase Maintenance at GSI's prevailing price.

4. OWNERSHIP.

Ownership of the Licensed Products and associated patents, copyrights, and applications therefore will remain with GSI.

5. LIMITED WARRANTY, WARRANTY DISCLAIMERS, LIMITATIONS OF LIABILITY, AND INDEMNIFICATION.

(a) GSI warrants that for a period of twelve (12) months from the date of delivery and thereafter for as long as Licensee maintains paid up annual Maintenance, the Software will substantially meet its specifications as described in the User Manuals. As sole remedy for any breach of this limited warranty, GSI shall promptly correct material errors or replace any defective media. GSI does not warrant that operation of the Licensed Products will be uninterrupted or error free. EXCEPT AS EXPRESSLY SET FORTH ABOVE, GSI MAKES NO WARRANTY WITH RESPECT TO THE LICENSED PRODUCTS, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(b) GSI will indemnify, defend, and hold Licensee harmless from and against all loss, cost and expense, including court costs and attorneys fees, resulting from claims that the Licensed Products or the use thereof permitted hereunder infringes upon any third party patent, trademark, copyright, trade secret or other statutory or non-statutory proprietary right, exclusive of any such claim based upon enhancements and/or modifications thereto by Licensee or any third party other than GSI, provided, however, that (i) Licensee shall have

given GSI prompt written notification of such claim, suit, demand, or action; (ii) Licensee shall cooperate with GSI in the defense and settlement thereof; and (iii) GSI shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof. In the event any portion of the Licensed Products is determined to be so infringing, GSI shall at its option, either procure for Licensee a license to use the infringing portion or substitute a non-infringing portion which performs in substantially the same function and manner as the infringing portion. GSI will also extend such indemnification for any personal injury, death, or damage to tangible personal property (which tangible personal property does not include computer files), caused solely by GSI's employees who may be on Licensee's premises performing work under this Agreement, not to exceed the amount of GSI's available insurance coverage.

6. **CONFIDENTIALITY.** "Confidential Information" means all information and material to which the party hereto has access in connection with this Agreement including, but not limited to, all Software (in both source code and object code format), documentation, User Manuals, financial, marketing and customer data and information, technical information, and any other material or information that is either marked as confidential or is disclosed under circumstances that one would reasonably expect it to be confidential. Confidential Information shall not include

information which: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; (d) is independently developed by the other party; or (e) is disclosed by operation or requirement of law, including as may be required under the provisions of the Colorado Open Records Act (CORA), C.R.S. § 24-72-201, *et seq.*

During the term of this Agreement and thereafter, each party shall use the same degree of care that it uses to protect its own confidential information of a like nature, but in no case less than a reasonable degree of care, to protect the confidentiality of the other's Confidential Information and avoid unauthorized disclosure of such Confidential Information to third parties. Neither party acquires any rights in the other's Confidential Information other than a limited right to use such Confidential Information solely for the purposes contemplated by this Agreement.

Each party represents that it has, and agrees to maintain, an appropriate agreement with each of its employees who may have access to any Confidential Information, or that its employees are bound by confidentiality obligations, sufficient to enable each party to comply with all of the terms of this Agreement.

7. RIGHT TO COPY. The Licensed Products are licensed, not sold. Title and copyrights in and to the Licensed Products, accompanying printed materials, and any copies Licensee is permitted to make herein are owned by GSI or its suppliers and are protected by United States copyright laws and international treaty provisions. Therefore, Licensee must treat the licensed Products like any other copyrighted material except that Licensee may copy the Software for the purpose of replacing worn or deteriorated copies, archive, or emergency restart and security purposes only. Licensee will reproduce GSI's copyright notice and proprietary and restrictive legends on all copies of the Software and any modifications thereof. Copies of User Manuals may be made for internal use only.

8. TAXES. Licensee shall be responsible for all taxes on the Licensed Products, exclusive of taxes based solely on GSI's net income. Licensee will reimburse GSI for all sales, use, or excise taxes assessed by any taxing authority, whether such taxes are invoiced initially to Licensee or assessed retroactively based upon audits by any governmental taxing authority.

9. DEFAULT AND TERMINATION. If either party defaults in the performance of any of its obligations hereunder, and such default continues for thirty (30) days after receipt of notice from the non-defaulting party, the non-defaulting party shall have the right to terminate this License. Upon termination of the License granted in this Agreement, Licensee shall, at GSI's request, either return all copies of the Licensed Products to GSI or demonstrate to GSI that such copies have been destroyed.

10. DISPUTE RESOLUTION. - Deleted.

11. MISCELLANEOUS.

(a) This Agreement and the rights and licenses granted hereunder may be assigned by either party to a successor in interest. This Agreement and the rights and license hereunder may not otherwise be assigned by a party without the prior express written permission of the other party, which consent will not be unreasonably withheld. Subject to the preceding sentence, this Agreement will be binding upon and inure to the benefit of the parties and their successors and assigns.

(b) This Agreement will be governed by and construed in accordance with the laws of the State of Colorado without application of principles of choice of laws.

(c) All notices which either party is required or may desire to give the other party hereunder shall be given by addressing the communication to the party's last known business address and sent by United States Certified Mail, return receipt requested, or by commercial delivery service. Such notices shall be deemed given on the date of receipt (or refusal) of delivery.

(d) Neither GSI nor Licensee shall be responsibility to the other for failure to fulfill their obligations under this Agreement due to acts of God, acts of nature, strikes, walkouts, lockouts, or any other causes beyond its control.

(e) The parties are and shall be independent contractors to one another, and nothing herein shall be deemed to cause this Agreement to

create an agency, partnership, or joint venture between the parties. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between GSI and either Licensee or any employee or agent of either party. GSI shall bear sole responsibility for payment of compensation, personnel related taxes and benefits to its personnel.

(f) If any provision of this Agreement is or becomes or is deemed invalid, illegal, or unenforceable in any jurisdiction, (i) such provision will be deemed amended to conform to the applicable laws of such jurisdiction so as to be valid and enforceable or, if it cannot be so amended without materially altering the intention of the parties, it will be stricken, (ii) the validity, legality and enforceability of such provision will not in any way be affected or impaired thereby in any other jurisdiction, and (iii) the remainder of this Agreement will remain in full force and effect.

(g) No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will

be effective unless given in a signed writing. No waiver of any such right will be deemed a waiver of any other right hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date first above written.

GateKeeper Systems, Inc.

By: Brian Richardson

Its: President

City and County of Denver Department of Aviation

By:

Its: Director, Commercial Transportation