AGREEMENT

THIS AGREEMENT ("**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 **FLASHPARKING INC.**, a Delaware corporation, whose address is 2500 Bee Caves Road, Bldg. 3, Suite 400, Austin TX 78746, and who is authorized to do business in the State of Colorado ("**Contractor**") (collectively the "**Parties**").

W I T N E S S E T H:

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

WHEREAS, City desires to obtain Parking Access Revenue Control Systems ("**PARCS**"), consisting of mechanical, electrical and electronic hardware and computer software; and

WHEREAS, City desires to obtain PARCS as well as obtain professional and technical support services for the maintenance and operation of the PARCS to assure their satisfactory operation and to avoid disruptions in the Airport's parking facilities operations; and to be operated at DEN; and

WHEREAS, the City is permitted, pursuant to Denver Revised Municipal Code ("**D.R.M.C.**") § 20-64.5 and the City's Executive Order 8, to purchase such products and/or services with the assent of the awarded Contractor; and

WHEREAS, the Parties desire to enter into this Agreement for the purpose of establishing the terms and conditions by which the Contractor may provide the City with PARCS equipment and services, as more particularly set forth in this Agreement and setting the maximum aggregate amount to be expended pursuant to this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the recitals set forth above and 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 DEN Parking and Transportation. The relevant Senior Vice President (the "**SVP**"), 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 Contractor hereunder shall be processed in accordance with the Project Manager's directions.

2. SCOPE OF WORK AND CONTRACTOR RESPONSIBILITIES:

A. Scope of Services. Contractor 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**") and in accordance with Task Orders, schedules and budgets set by the City. Without requiring an amendment to this Agreement, the City may, through a Task Order or similar form issued by the SVP and signed by the Contractor, make minor changes, additions, or deletions to the Scope of Work without change to the Maximum Contract Amount.

B. Standard of Performance.

i. Contractor shall faithfully perform the work required under this Agreement in accordance with the standard of care, skill, efficiency, knowledge, training, and judgment provided by highly competent professionals who perform work of a similar nature to the work described in this Agreement.

ii. Contractor shall be liable to the City for all acts and omissions of Contractor and its employees, subcontractors, agents and any other party with whom Contractor contracts to perform any portion of the work under this Agreement, including any design elements of any authorized Task Order.

C. Time is of the Essence. Contractor acknowledges that time is of the essence in its performance of all work and obligations under this Agreement. Contractor 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, Contractor must obtain the prior written consent of the Senior Director. Contractor shall request the Senior Director'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 Senior Director shall have the right to reject any proposed outside subcontractor deemed by the Senior Director to be unqualified or unsuitable for any reason to perform the proposed services. The Senior Director 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. Contractor is subject to D.R.M.C. § 20-112, wherein Contractor shall pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven (7) days after receipt of any payment from the City. Any late payments are subject to a late payment penalty as provided in the Denver Prompt Payment Ordinance (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 Contractor of its responsibilities under this Agreement, including the work to be performed by the subcontractor.

E. Personnel Assignments.

i. Contractor or its subcontractor(s) shall assign all key personnel identified in this Agreement, including Task Order(s), to perform work under this Agreement ("**Key Personnel**"). Key Personnel shall perform work under this Agreement, unless otherwise approved in writing by the Senior Director 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. Contractor and its subcontractor(s) shall retain Key Personnel for the entire Term of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed.

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

iv. If Contractor fails to correct such performance, then the City may revoke its approval of the Key Personnel or other personnel in question and notify Contractor that such Key Personnel or other personnel will not be retained on this Project. Within ten (10) days of receiving this notice, Contractor shall use commercially reasonable efforts to obtain adequate substitute personnel who must be approved in writing by the Project Manager.

3. OWNERSHIP AND DELIVERABLES:

Upon payment to Contractor, all records, data, deliverables, and any other work product prepared by Contractor for DEN shall become the sole property of the City. Upon request by the City, or based on any schedule agreed to by Contractor and the City, Contractor shall provide the City with copies of the data/files that have been uploaded to any database maintained by or on behalf of Contractor or otherwise saved or maintained by Contractor 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. Contractor also agrees to allow the City to review any of the procedures Contractor uses in performing any work or other obligations under this Agreement, and to make available for inspection any and all notes, documents, materials, and devices used in the preparation for or performance of any of the scope of work, for up to three (3) years after termination of this Agreement. Upon written request from the City, Contractor 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 the Effective Date and shall expire FIVE (5) years thereafter, unless terminated in accordance with the terms stated herein (the "**Expiration Date**"). The Term of this Agreement may be extended for two periods of one (1) year each, on the same terms and conditions, by written notice from the CEO to Contractor. However, no extension of the Term shall increase the Maximum Contract Liability stated below.

B. If the Term expires prior to Contractor 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. Contractor has no right to compensation for services performed after the Expiration Date without such express approval from the CEO.

C. Termination

i. Suspension. The City may suspend performance of this Agreement at any time with or without cause. Upon receipt of notice from the Senior Director, Contractor 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 shall be extended by the period of suspension unless otherwise agreed to by the City and Contractor. The Expiration Date shall not be extended as a result of a suspension.

ii. Termination for Convenience. The City may terminate this Agreement at any time without cause upon sixty (60) days prior written notice to Contractor.

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

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

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

v. Opportunity to Cure. Upon receiving the City's notice of material breach pursuant to Section 4(C)(iii)(b), Contractor shall have five (5) days to commence

remedying its defective performance. If Contractor diligently cures its defective performance to the City's satisfaction within a commercially reasonable time, then this Agreement shall not terminate and shall remain in full force and effect. If Contractor fails to cure the material breach to the City's satisfaction, then the City may terminate this Agreement pursuant to Section 4(C)(iii)(a).

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

vii. Buy Out Payment for Termination for Convenience. In the event of Termination for Convenience of this Agreement pursuant to Section 4(C)(ii), the City shall pay Contractor an amount equal to $3,819,241.25less (i) the amount of any payments previously made under this Agreement and (ii) all applicable depreciation up to and including the date of termination. Depreciation shall be calculated on a straight-line basis over the length of the Term. Notwithstanding the foregoing, the payment calculated under this clause shall not exceed the maximum amount payable to Contractor hereunder.

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

D. Remedies. In the event Contractor's services hereunder to not meet the standards set forth in this Agreement, Contractor 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 Contractor'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 Contractor under the terms of this Agreement for any amount in excess of the sum of **Twenty-One Million Six Hundred Thirty-Two Thousand Three Hundred Forty-Eight Dollars and Eleven Cents ($21,632,348.11)** ("**Maximum Contract Amount**"). Contractor shall perform the services and be paid for those services as provided for in this Agreement, including in any Task Order(s), 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.

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

C. Payment Source. For payments required under this Agreement, the City shall make payments to Contractor solely from funds of the Airport System Fund and from no other fund or source. The City has no obligation to make payments from any other source.

D. Fee. Initial individual hourly rates and charges, including any applicable multiplier, are set forth in ***Exhibit A***. The Project Manager, in his or her sole discretion, may annually adjust the hourly rates and/or the multiplier on the anniversary of the Effective Date through a Task Order applicable to future work as further provided in the Task Order. Hourly rate adjustments shall not exceed the Denver-Aurora-Lakewood Consumer Price Index issued by the U.S. Department of Labor, Bureau of Labor Statistics.

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

F. Invoices. Unless otherwise provided in the Scope of Work or a Task Order, Contractor shall submit to the City a monthly progress invoice containing reimbursable costs and receipts from the previous month for professional services rendered under this Agreement to be audited and approved by the City ("**Invoice**"). Each Invoice shall provide the basis for payments to Contractor under this Agreement. In submitting an Invoice, Contractor shall comply with all requirements of this Agreement and:

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

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

iii. 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;

iv. 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;

v. Include the signature of an authorized officer, controller or applicable project manager of Contractor, along with such officer's certification they have examined the Invoice and found it to be correct; and

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

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

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

G. Disputed Invoices. The City reserves the right to reject and not pay any Invoice or part thereof, including any final Invoice resulting from a Termination of this Agreement or any Task Order, where the Senior Director 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. Disputes concerning payments under this provision shall be resolved in accordance with procedures set forth in Section 9.

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

6. MWBE, WAGES AND PROMPT PAYMENT:

A. 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, Contractor is required to comply with the Prompt Payment provisions under D.R.M.C. § 28-135, with regard to payments by Contractor to MWBE subcontractors. If D.R.M.C. § 28-135 applies, Contractor shall make payment by no later than thirty-five (35) days from receipt by Contractor of the subcontractor's invoice.

B. Prevailing Wage. To the extent required by law, Contractor shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, 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 the yearly anniversary of the actual date of bid or proposal issuance, if applicable, or the date of the written encumbrance if no bid/proposal issuance date is applicable.

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

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

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

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

C. Compliance With Denver Wage Laws. To the extent applicable to the Contractor's provision of Services hereunder, the Contractor shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City's Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Contractor expressly acknowledges that the Contractor is aware of the requirements of the City's Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

D. City Prompt Pay.

i. The City will make monthly progress payments to Contractor for all services performed under this Agreement based upon Contractor'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 Contractor shall not be made until after the Project is accepted, and all certificates of completion, record drawings and reproducible copies are delivered to the City, and the Agreement is otherwise fully performed by Contractor. The City may, at the discretion of the Senior Director, withhold reasonable amounts from billing and the entirety of the final payment until all such requirements are performed to the satisfaction of the Senior Director.

7. INSURANCE REQUIREMENTS:

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

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

D. In no event shall the City be liable for any of the following: (i) business interruption or other consequential damages sustained by Contractor or (ii) 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. Contractor 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 acts or omissions of Contractor or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

B. Contractor'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. Contractor's duty to defend and indemnify the City shall arise even if the City is the only party sued by claimant and/or claimant alleges that the City's negligence or willful misconduct was the sole cause of claimant's damages.

C. Contractor will defend any and all Claims which may be brought or threatened against 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, including but not limited to time

expended by the City Attorney Staff, whose costs shall be computed at the rate of two hundred dollars and no cents ($200.00) per hour of City Attorney time. Such payments on behalf of 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 Contractor under the terms of this indemnification obligation. Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

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

9. LIMITATION OF THE CONTRACTOR'S LIABILITY:

Except as set forth in an applicable Statement of Work signed by both Parties, to the extent permitted by law, the liability of the Contractor, its Subcontractors, and their respective personnel to the City for any claims, liabilities, or damages relating to this Agreement shall be limited to damages, including but not limited to direct losses, consequential, special, indirect, incidental, punitive or exemplary loss, loss or unauthorized disclosure of City Data, not to exceed three (3) times the Maximum Agreement Amount payable by the City under this Agreement. No limitation on the Contractor's liability to the City under this Section shall limit or affect: (i) the Contractor's indemnification obligations to the City under this Agreement; (ii) any claims, losses, or damages for which coverage is available under any insurance required under this Agreement; (iii) claims or damages arising out of bodily injury, including death, or damage to tangible property of the City; or (iv) claims or damages resulting from the recklessness, bad faith, or intentional misconduct of the Contractor or its Subcontractors.

10. 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.

11. GENERAL TERMS AND CONDITIONS:

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

B. Assignment.

i. Contractor shall not assign, pledge or transfer its duties, obligations, and rights under this Agreement, in whole or in part, without first obtaining the written consent of the CEO. Any attempt by Contractor 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 Contractor hereunder. Consent to assignment by the City shall not be unreasonably withheld, conditioned or delayed by the CEO. Notwithstanding the foregoing, Contractor may assign this Agreement to an affiliate or wholly-owned subsidiary without the written consent of the CEO, provided that such assignment does not violate the prohibitions in Section 10(B)(ii).

ii. **Additional Assignment Provisions.** Notwithstanding anything to the contrary, without City's consent, no other party shall be permitted to acquire Contractor's interests under this Contract, whether in connection with an assignment in the event such party (the proposed assignee) or any person or entity that directly or indirectly owns or controls such party (a) is an entity debarred from doing business with the City or any governmental agency; (b) has been convicted of a violation of any state or federal law directly related to the transaction of business with any public entity and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation; (c) is identified on the OFAC List, or (d) a person with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, rule, regulation or Executive Order of the President of the United States, (in either such case, a "Prohibited Party"). The term "OFAC List" shall mean the list of specially designated nationals and blocked persons and blocked countries subject to financial sanctions that is maintained by the U.S. Treasury Department, Office of Foreign Assets Control and any other similar list maintained by the U.S. Treasury Department, Office of Foreign Assets Control pursuant to any law, rule, regulation or Executive Order of the President of the United States, including, without limitation, trade embargo, economic sanctions, or other prohibitions imposed by Executive Order of the President of the United States.

C. Americans with Disabilities Act ("ADA"). Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA (42 USC § 12101, et. seq) and other federal, state, and local accessibility requirements. Contractor shall not discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns may constitute a material breach of this Agreement. If requested by City, Contractor shall engage a qualified disability consultant to review Contractor's work for compliance with the ADA (and any subsequent amendments to the statute) and all other related federal, state, and local disability requirements, and Contractor shall remedy any noncompliance found by the qualified disability consultant as soon as practicable.

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

E. Compliance with Patent, Trademark and Copyright Laws.

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

ii. Pursuant to Section 8, Contractor shall indemnify and defend the City from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which infringes upon any patent, trademark or copyright protected by law.

F. Notices.

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

by Contractor to:

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

And by the City to:

ATTN: James Dufon
FlashParking Inc.
2500 Bee Caves Road, Bldg. III, Suite 400
Austin, TX 78746

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 (FedEx, UPS, or similar service) or package shipping or courier service; or by electronic delivery directed to the person identified above and copied to the Project Manager through the electronic or software system used at the City's direction for Task Order-related and other official communications and document transmittals. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service and electronically transmitted notices by pressing "send" or the equivalent on the email or other transmittal method sufficient to

irretrievably transmit the document. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed, delivered or emailed, but such substitutions shall not be effective until actual receipt of written or electronic notification thereof through the method contained in Subsection (E)(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 at the City's direction in writing for Task Order-related communications and transmittals at the City's direction.

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

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

I. 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.

J. 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.

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

L. Cooperation with Other Contractors.

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

ii. Contractor shall have no claim against the City for additional payment due to delays or other conditions created by the operation of other contractors. The City will

decide the respective rights of the various contractors in order to secure the completion of the work.

M. 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.

N. 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.

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

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

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

R. 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.

S. Taxes and Costs.

i. Contractor shall promptly pay, when due, all taxes, bills, debts and obligations it incurs performing work under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against land, facilities or improvements owned by the City.

ii. Unless there is a corresponding line item present in the quote, amounts quoted by Contractor do not include any applicable taxes or similar fees now in force or enacted in the future resulting from any transaction under the attached quote or schedule. Where

practicable, applicable taxes and fees shall be added to the invoice and the City shall be responsible for all such amounts and shall pay them in full. Contractor will endeavor to list applicable taxes and fees on the invoice, its failure to do so does not affect the City's obligation to pay such taxes. If the City is entitled to an exemption from any applicable taxes, the City shall provide contractor with a valid exemption certificate.

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

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

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

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

U. Non-Exclusive Rights. This Agreement does not create an exclusive right for Contractor 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 Contractor 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 Contractor agrees to be bound by CEO's decision.

12. 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. Contractor is encouraged, with respect to the goods or services to be provided under this Agreement, to use a process that includes small businesses when considering and selecting any subcontractors or suppliers.

B. No Discrimination in Employment. In connection with the performance of work under the Agreement, the Contractor 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 Contractor shall insert the foregoing provision in all subcontracts.

C. Advertising and Public Disclosures. Contractor shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the Senior Director 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. Contractor shall notify the Senior Director in advance of the date and time of any such presentations. Nothing herein, however, shall preclude Contractor's transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO, any member or members of Denver City Council, and the Auditor.

D. Colorado Open Records Act.

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

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

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

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 Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. 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 audit pursuant to this paragraph shall require Parties to make disclosures in violation of state or federal privacy laws. Parties shall at all times comply with D.R.M.C. 20-276.

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

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

F. Use, Possession or Sale of Alcohol or Drugs. Contractor shall cooperate and comply with the provisions of Denver Executive Order 94 and Attachment A thereto concerning

the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring Contractor from City facilities or participating in City operations.

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

H. Conflict of Interest.

i. Contractor 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 Contractor 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, Contractor shall have thirty (30) days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

iii. Contractor has a continuing duty to disclose, in writing, any actual or potential conflicts of interest including work Contractor is performing or anticipates performing for other entities on the same or interrelated project or tasks. Contractor must disclose, in writing, any corporate transactions involving other companies that Contractor 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 Contractor fails to disclose in writing actual or potential conflicts, the CEO in their sole discretion, may terminate the Task Order, if applicable, or City may terminate the Agreement for cause or for its convenience.

13. SENSITIVE SECURITY INFORMATION:

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

14. DEN SECURITY:

A. Contractor, its officers, authorized officials, employees, agents, subcontractors, and those under its control, shall comply with safety, operational, or security measures required of Contractor or the City by the FAA or TSA. If Contractor, its officers, authorized officials, employees, agents, subcontractors or those under its control, fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against the City, then, in addition to any other remedies available to the City, Contractor shall fully reimburse the City any fines or penalties levied against the City, and any attorney fees or related costs paid by the City as a result of any such violation. Contractor must pay this amount within fifteen (15) days from the date of the invoice or written notice. Any fines and fees assessed by the FAA or TSA against the City due to the actions of Contractor and/or its agents will be deducted directly from the invoice for that billing period.

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

15. 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, Contractor shall comply with the Standard Federal Assurances identified in Appendix A.

16. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:

A. Attachments. This Agreement consists of Section 1 through 16 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Appendix 1: Standard Federal Assurances
Appendix 2: HAAS Addendum
Exhibit A: Scope of Work
Exhibit C: Insurance Requirements
Exhibit K: Information Technology Provisions
Exhibit L: License, Service and Product Usage Terms and Conditions

B. Order of Precedence. In the event of an irreconcilable conflict between a provision of Section 1 through 16 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:

Appendixes
Section 1 through 16 hereof
Exhibit A
Exhibit C
Exhibit K
Exhibit L

17. CITY EXECUTION OF AGREEMENT:

A. City Execution. This Agreement is expressly subject to, and shall become effective upon, the execution of all signatories of the City and, if required, the approval of Denver City Council. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same.

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

[SIGNATURE PAGES FOLLOW]

Contract Control Number: PLANE-202472266-00
Contractor Name: FLASHPARKING INC

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-202472266-00
Contractor Name: FLASHPARKING INC

By: DocuSigned by: Jeff Hamlin 3A6143A6957C482...

Name: Jeff Hamlin
(please print)

Title: COO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Appendix 1

Standard Federal Assurances and Nondiscrimination Non-Federal Contract Provision

A5 CIVIL RIGHTS - GENERAL

A5.3.1 Clause that is used for Contracts

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 subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

A6 CIVIL RIGHTS – TITLE VI ASSURANCE

A6.3.1 Title VI Solicitation Notice

Title VI Solicitation Notice:

The (**Name of Sponsor**)**,** in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, [select disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

A6.4 CONTRACT CLAUSES

A6.4.1 Title VI Clauses for Compliance with Nondiscrimination Requirements

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. **Nondiscrimination:** 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.

A6.4.2 Title VI Clauses for Deeds Transferring United States Property

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of the Airport Improvement Program grant assurances.

NOW, THEREFORE, the Federal Aviation Administration as authorized by law and upon the condition that the (***Title of Sponsor***) will accept title to the lands and maintain the project

constructed thereon in accordance with (***Name of Appropriate Legislative Authority***), for the (**Airport Improvement Program or other program for which land is transferred**), and the policies and procedures prescribed by the Federal Aviation Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 USC § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (***Title of Sponsor***) all the right, title and interest of the U.S. Department of Transportation/Federal Aviation Administration in and to said lands described in (***Exhibit A attached hereto or other exhibit describing the transferred property***) and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (***Title of Sponsor***) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the (***Title of Sponsor),*** its successors and assigns.

The (***Title of Sponsor***), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the (Title of Sponsor) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Federal Aviation Administration and its assigns as such interest existed prior to this instruction].*

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

A6.4.3 Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE AIRPORT IMPROVEMENT PROGRAM

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

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

    1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

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

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

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

A6.4.4 Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

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

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or

national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

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

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

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

A6.4.5 Title VI List of Pertinent Nondiscrimination Acts and Authorities

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 USC § 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 USC § 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 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 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 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 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 nondiscrimination 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 USC 1681 et seq).

A17 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

A17.3 SOLICITATION CLAUSE

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

A20 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

A20.3 CONTRACT CLAUSE

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. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer 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). The employer 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.

Appendix 2. HaaS Addendum

This Hardware as a Service ("HaaS") Addendum (the "Addendum") to the FLASH OS License, Service and Product Usage Terms and Conditions (the "Agreement") governs the payment obligations as may be set forth in an applicable Order Form where Customer has elected HaaS terms.

Customer agrees that FlashParking, Inc. ("Flash"), through one of more affiliates, will purchase all of the Flash Offerings contained in the applicable order form on behalf of Customer in exchange for the Monthly HaaS Payments set forth therein. As such, Customer hereby unconditionally agrees to pay to Flash the Monthly HaaS Payments each period according to the Denver Prompt Pay Ordinance, DRMC Section 20-107, *et seq.*

OPTION TO PURCHASE. Following an initial period of twenty-four (24) months from the Commissioning, Customer shall have an option to purchase the Equipment set forth on an applicable Order Form (the "Purchase Option") by giving notice, in writing, to Flash of its intention to exercise the Purchase Option (the "Purchase Option Notice"). The purchase price for the Purchase Option shall be calculated as: the original Equipment and Services purchase list price, less amortization for the number of monthly periods from date of installation to the buy-out date using an 84 month amortization schedule, plus 25% of the original list price of the Equipment and Services (the "Purchase Option Price"). Payment of the Purchase Option Price shall be due and payable thirty (30) days from the date of the Purchase Option Notice.

EQUIPMENT USE. You will keep the Equipment in good working order, use it for business purposes only, not modify or move it from its initial location without our consent, and bear the risk of its non-compliance with applicable laws. You agree that you will not take the Equipment out of service and have a third party pay (or provide funds to pay) the amounts due hereunder. You will comply with all laws, ordinances, regulations, requirements and rules relating to the use and operation of the Equipment.

ASSIGNMENT. You may not sell, assign or sublease the Equipment or this Agreement without our written consent. We may sell or assign this Agreement or our rights in the Equipment, in whole or in part, to a third party without notice to you. You agree that if we do so the assignee will have our rights but will not be subject to any claim, defense, or set-off assertable against us or anyone else.

LOSS OR DAMAGE. You are responsible for any damage to or loss of the Equipment. No such loss or damage will relieve you from your payment obligations hereunder.

TAXES. FlashParking retains title to the Equipment and maintains a security interest in the Equipment during the Term of this Agreement. You will pay when due, either directly or by reimbursing us, all taxes and fees relating to the Equipment and this Agreement. Sales or use tax due upfront will be payable over the term with a finance charge. To the extent that Customer is exempt from any other applicable taxes, Customer will provide any applicable tax exemption certificates.

END OF TERM. At the end of the term of this Agreement (the "End Date"), this Agreement will be of no further force and effect and the terms of the License Agreement shall be the controlling terms with respect to the Equipment. .

MISCELLANEOUS. The parties agree that the original hereof for enforcement and perfection purposes, and the sole "record" constituting "chattel paper" under the UCC, is either (a) the paper copy hereof bearing (i) the original or a copy of either your manual signature or an electronically applied indication of your intent to enter into this Agreement, and (ii) our original manual signature or (b) the copy of this Agreement executed by the parties and controlled by us or our assignee or custodian in accordance with the Electronic Signatures in Global and National Commerce Act or any similar state laws based on the Uniform Electronic Transactions Act and other applicable law as electronic chattel paper under the UCC. Upon execution, the parties agree to be bound to the terms hereof regardless of the medium or format in which this Agreement is maintained or controlled. If any provision of this Agreement is unenforceable, the other provisions herein shall remain in full force and effect to the fullest extent permitted by law. You authorize us to either insert or correct the Agreement number, serial numbers, model numbers, beginning date, and signature date, and acknowledge that if your Vendor filled in any blanks above, they did so on your behalf. All other modifications to the Agreement must be in writing signed by each party.

FLASHPARKING, INC.

By: DocuSigned by: Jeff Hamlin 3A6143A6957C482...

Name: Jeff Hamlin

Title: COO

Date: 6/27/2024 | 8:13 AM PDT

CITY AND COUNTY OF DENVER

By: _____

Name: _____

Title: _____

Date: _____

Denver International Airport
PARCS Agreement

Exhibit A – Scope of Work

Section 1 – Definitions

1.1. "Agreement" means the Professional Services Agreement between the City and County of Denver and Flash.

1.2. "**AVI**" means automated vehicle identification.

1.3. **"Cardholder Data"** means information which must include a credit card Primary Account Number (PAN) and may also be accompanied by cardholder name, card expiration date or other personally identifying information.

1.4. **"Cardholder Data Environment"** (or **"CDE")** The cardholder data environment (CDE) is comprised of people, processes, and technologies that store, process, or transmit cardholder data or sensitive authentication data.

1.5. "**CEO**" means the Chief Executive Officer of the City and County of Denver Department of Aviation.

1.6. "**DEN**" or "**City**" means Denver International Airport.

1.7. "**Disaster Recovery Plan**" or "**DRP**" means the plan outlining processes & procedures developed by Flash, submitted to, and approved by DEN for the recovery from a declared disaster affecting mission critical components of DEN's PARCS.

1.8. "**Flash**" or "**Vendor**" means FlashParking, Inc.

1.9. "**Parking Sign System**" means the Daktronic signage over the entry and exits of all parking lots.

1.10. "**PARCS**" means Parking Access and Revenue Control System located at DEN, consisting of all equipment, computer hardware and software which make up the system.

1.11. "**PCI**" means technical and operational security standards defined, promulgated, and maintained by the PCI Security Standards Council ("PCI SSC") for entities engaged in the storage, processing, or transmission of payment card data. Acronym for Payment Card Industry.

1.12. "**PCI/DSS**" *means Data Security Standards promulgated and maintained by the PCI Security Standards Council governing Cardholder Data including PII which includes Cardholder Data. Acronym for "Payment Card Industry Data Security Standard." *

1.13. "**P2PE**" Means Point-to-Point Encryption.

1.14. "**Response**" means response or acknowledgement (whether via phone, e-mail or in person) from Flash's support team when DEN contacts Flash at its designated support phone number 888.737.7465 or email address support@flashparking.com.

1.15. "**Senior Airport Commercial Administrator**" means the person designated by the CEO to perform day-today administration of this contract for the City and County of Denver. The Sr Airport Commercial Administrator designated for this Agreement is the Senior Vice President (SVP) of Parking & Transportation Systems, or designee. The SVP of Parking & Transportation Systems may from time to time designate a substitute or successor Sr Airport Commercial Administrator by written notice to Flash Parking.

1.16. "**SOW**" or "**Scope**" means this Scope of Work which defines duties and responsibilities and DEN's performance expectations under this Agreement.

Section 2 – Terms

2.1. Scope of Services: Flash to provide material and service support for PARCS across the DEC Parking Operations in the Scope of Work.

i. Under this SOW, Flash will be the point of contact on-site parts replacement and troubleshooting. DEN BT/Radio Shop will assist with network related issues."
ii. Additionally, under this SOW, Flash will be providing the P2PE services with the payment gateway Windcave.
iii. If Flash replaces Windcave as the payment gateway provider DEN shall be consulted on the new provider. Any new provider must be approved by DEN before they begin as the payment gateway for the services provided in this agreement. Approval will not be unreasonably withheld.

2.2. Material and Service Support: Flash to provide all the necessary parts, administration, labor, preventive and remedial maintenance, infrastructure modification required to operate the PARCs, repair, replacement, installation, updates, and improvements to maintain efficient and accurate operations of the Flash PARCS systems.

2.3. Schedule of Preventive Maintenance: Flash to provide a schedule of preventive maintenance for the PARCS devices specified in the equipment list in this SOW. Expense for preventive maintenance will be covered under the Onsite Support line item. Preventive Maintenance to include servicing and diagnostics on the following:

i. Full Smart Station
ii. L3 Mini Smart Station
iii. Cash In Lane Solutions
iv. FlashVision
v. AVI Reader
vi. Magnetic Gate
vii. MaxiProx Readers

2.4. Service: On-Site, Emergency, and Remote Service Support will be provided per the

response times outlined in section 3.1 & 3.2. On-Call/Remote Service Support will be billed at the service rates outlined in section 3.3. On-site/Normal Business Hours support will be covered under the On-Site Support line item.

2.5. Dedicated Employees: Flash agrees to hire and maintain two full-time employees ("**Dedicated Employees**") who will be solely dedicated to managing and supporting the services provided to DEN during the term of this SOW. The Dedicated Employees will be employees of Flash for all purposes, including but not limited to salary, benefits, employment taxes and compliance with applicable employment laws and regulations. DEN shall reimburse Flash for the total costs associated with the employment of the Dedicated Employees, including but not limited to salaries, benefits and employment taxes as well as other employee-related expenses approved by DEN in writing.

2.6. Invoicing:

i. HaaS/Service and P2PE: DEN to be invoiced at the end of each month for all equipment covered under the HaaS agreement, On-site support services (including expenses related to the Dedicated Employees) and for the preceding month's Credit Card gateway fees associated with the Windcave units.
i. Non-Scope Service/Parts: Emergency and City Non-Business Hours provided during the prior month. Replacement parts not part of the HaaS replacement.
ii. Upfront Capital Expenditures: Flash shall invoice DEN 50% of the overall cost of the upfront capital expenditure required by this SOW, or in any event FlashParking will bill DEN 50% no later than four to six (4-6) weeks before the equipment is to be shipped to ensure timely completion of the project. The remaining 50% will be billed upon Flash completing the PARCs installation.
iii. All invoicing will be a net 30 from invoice date with no penalty for no payment overdue by 30 days.

Section 3 – Service, Support & Security

3.1. Response within 30 minutes of service request during City business hours Monday – Friday 8:00am to 5pm.

3.2. Response within 2 hours of service request during City non-business hours and emergency on site.

i. Emergency to be determined by Parking Contractor MOD or DEN Parking MOD. All other individuals requesting emergency services must be approved by MOD.

3.3. Rates billable for City Non-Business hours and Emergency on site as follows:

i. $300 for the first hour
ii. $200 for each additional hour, billable in 30-minute increments
iii. Max billable for each Non-Business hour and Emergency on-site support request to be limited to $1000.

3.4. Failure to respond to service requests within the specified time frames will be documented by the Senior Airport Commercial Administrator, Parking Fiscal/Audit team

or their designee.

3.5. Spare Parts Inventory: Flash will maintain spare parts inventory to repair or replace any PARCS devices or components to ensure peak operating performance.

3.6. PCI Compliance: Flash will make available PCI compliant hardware and software upgrades to maintain PCI compliance. Flash representative will also make themselves available for any DEN PCI related meetings to ensure PCI compliance.

Section 4 – DEN Technology & Security

4.1. Security Architecture:
- i. Security architecture documentation is required for all technology defined as in-scope. In-scope is defined as all technology utilized by DEN.
- ii. Security architecture documentation shall be updated no less than annually, and include firewalls (FW,NGFW, WAF), intrusion detection and prevention systems (IDS/IPS) centralized logging, and all internet accessible points of entry.

4.2. Data Architecture:
- i. Data architecture documentation is required for all technology defined as in-scope. In-scope is defined as any technology utilized that creates, manages, utilizes, analyzes, stores, or transfers data.
- ii. Data architecture documentation shall be updated no less than annually, and include data flow (including transmission methods), data elements created by the solution, data elements managed by the solution, data elements shared outside the solution (elements and methods), data access, utilization, storage, and transmission security controls, data retention schedule.

4.3. Immutable Passwords:
- i. Immutable and embedded passwords are prohibited in technology utilized by DEN. This includes passwords and solutions owned / controlled by the vendor / proposer.

4.4. Security and Configuration Logging:
- i. Technology utilized by DEN must log all security events and configuration changes. This includes technology owned / controlled by the vendor / proposer.

4.5. Log Retention and Analysis:
- i. All security events and configuration changes for technologies utilized by DEN are to be retained in an immutable repository for no less than 6 months and must be routinely analyzed for anomalous activity. This includes technology owned / controlled by the vendor / proposer.

4.6. Change Control:
- i. DEN must be notified of all changes to front-end kiosk systems prior to the change being implemented. DEN approval to proceed is also required.

4.7. Segregation of Duties:
   i. All technology utilized by DEN must allow for segregation of duties, at a minimum outlining separation between user accounts and administrative accounts. This includes technology owned / controlled by the vendor / proposer.

4.8. Prohibition of Insecure Protocols:
   i. Insecure protocols that have industry accepted secure alternatives are prohibited for technology utilized by DEN. (e.g., ldap, http, telnet, SNMPv1, SNMPv2). This includes technology owned / controlled by the vendor / proposer.

4.9. Use of Standard Account in an Administrative Capacity:
   i. The utilization of standard user accounts for administration of technology utilized by DEN is prohibited. A separate administrative account for administrative access must be established. This requirement may be satisfied by enforcing MFA for standard user accounts. This includes DEN use of technology owned / controlled by the vendor / proposer.

4.10. Vendor Risk Management:
   i. Providers of technology and / or technology services must submit accurate and timely response to initial and annual DEN Vendor Risk Assessments.

4.11. PCI Documentation:
   i. Providers of technology and / or technology services must submit any applicable PCI Attestations of Compliance or Self-Assessment Questionnaires.

4.12. Legal and Compliance Regulations:
   i. Providers of technology and / or technology services must comply with all applicable federal, state, and local laws, rules, regulations, directives, and policies relating to data protection, use, collection, disclosures, processing, and privacy as applicable under, including, without limitation, applicable industry standards or guidelines based on the data's classification relevant to the performance hereunder and, when applicable, the most recent iterations of:
      a 49 C.F.R. Parts 15 and 1520
      b § 24-73-101, et seq.
      c (Common Reporting Standard) C.R.S., IRS Publication 1075
      d The Colorado Consumer Protection Act
      e The Payment Card Industry Data Security Standard ("PCI-DSS")

4.13. Audit
   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 the Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Contractor shall cooperate with City representatives

and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under this 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 the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276.

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

iii. The City, having been designated by the Department of Homeland Security as critical infrastructure in the Transportation Systems Sector, is subject to Cybersecurity and Infrastructure Security Agency (CISA) and Transportation Security Agency (TSA) regulatory requirements for cybersecurity. This designation requires the Work being proposed as well as the Contractors executing the Work, meet or exceed the standards outlined in these regulations. This designation also requires that, upon notice from the City, the Contractor may be required to provide, in paper or electronic form, any pertinent books, documents, papers and records related to the Contractor's performance pursuant to this Agreement to the TSA or CISA.

4.14. CISA KEV Monitoring:

i. Vendor / proposer shall monitor the Cybersecurity and Infrastructure Security Agency's (CISA) Known Exploited Vulnerabilities (KEV) database and notify DEN of:
   a Any components of the solution that has been identified in this catalog
   b the timeframe for remediation of vulnerabilities
   c any workarounds that can be put in place to safeguard DEN until the vulnerabilities can be remediated.

4.15. Vulnerability Scanning:

i. All technology utilized by DEN must undergo quarterly (at a minimum) internal and external vulnerability scanning. This includes technology owned / controlled by the vendor / proposer. This scanning will be performed by DEN. As used herein, "quarters" shall refer to contract quarters rather than calendar quarters.

4.16. Penetration Testing:

i. Vendor / proposer shall perform, with a qualified and reputable resource, annual penetration testing of the solution.

4.17. Reporting:
   i. Vendor / proposer shall provide non-DEN generated reports of scanning, penetration testing, and teaming exercises are to be sent to DEN within 7 business days of issuance, with remediation plans, including timeframes.

4.18. Vulnerability Remediation:
   i. Vendor / proposer shall remediate vulnerabilities in their solution components such that all critical and high vulnerabilities are remediated within 30 days of being reported, and all medium vulnerabilities are remediated within 90 days of being reported.

4.19. Other Software Updates:
   i. Vendor / proposer shall remediate all underlying, bundled, or integrated software components utilized to deliver the solution such that all critical and high vulnerabilities are remediated within 30 days of being reported, and all medium vulnerabilities are remediated within 90 days of being reported.

4.20. Exception Processing:
   i. Vendor / proposer shall submit to DEN details that support business justifications as well as compensating controls for any known exceptions to remediation timeframes.

4.21. Data Ownership and Usage:
   i. DEN acknowledges that Flash may collect, retain, access, use, combine and disclose personal information and other data derived from its performance of this SOW in accordance with applicable law and its privacy policy. Flash shall not sell any data received hereunder.

   ii. Flash shall transmit to DEN information necessary for DEN to perform its obligations or exercise its rights hereunder. DEN may use and disclose such information solely as required to comply with its obligations hereunder and in a manner consistent with all applicable laws, rules regulations, and self-regulatory guidelines. DEN agrees to comply with all laws and regulations regarding personally identifiable information relevant to it and shall take reasonable measures to ensure that such information is protected against unauthorized access, use, modification, or other misuse during the duration of the SOW and thereafter if needed.

4.22. Prohibition of Non-United States Facilities:
   i. DEN data is prohibited from being sent, stored, processed, or utilized outside of the United States, unless agreed to in advance, in writing, by DEN.

4.23. Data Transmission:
   i. All transmission of data shall be completed by encrypted communications.

4.24. Sensitive Data Due-Care:
   i. All sensitive data stored, generated, transmitted, or processed by the solution or Work shall be protected by the implementation and maintenance of reasonable

security policies, procedures, and controls that are appropriate for the sensitivity of the data

4.25. Security Controls:
   i. The providers of technology and / or technology services shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the Data Protection Laws applicable to the providers of technology and / or technology services performance hereunder to ensure the security and confidentiality of data.

4.26. Data Transfer Due to Termination:
   i. All data stored, generated, transmitted, or processed by providers of technology and / or technology services is to be transferred to DEN at the termination of the contract or service, whichever occurs first, at DEN's expense at Flash's then-current professional service rates.

4.27. Cybersecurity Training:
   i. The vendor / proposer shall maintain a policy or procedure that requires periodic cybersecurity awareness training for all users of corporate systems.

4.28. Policy and Procedure Review:
   i. The vendor / proposer shall maintain a policy or procedure to review, assess, and update cybersecurity policies, incident response plans, and procedures at least every 12 months or when a significant change to the organization or security controls occur.

4.29. Cybersecurity Point of Contact:
   i. The vendor / proposer shall maintain a cybersecurity point of contact for incident escalation.

4.30. Cybersecurity Incident Response Plan:
   i. The vendor / proposer shall maintain a Cybersecurity Incident Response Plan.

4.31. Cybersecurity Incident Reporting:
   i. Provide notification to DEN of any cybersecurity incidents affecting or having the potential to affect the operational capacity of the providers of technology and / or technology services, or DEN systems; or notification of any data breaches that occur that contain DEN data within 48 hours.

4.32. Organizational Remote Access:
   i. The vendor / proposer shall require MFA for all access to providers of technology and / or technology services on their corporate systems.

4.33. Disaster Recovery Plan:
   i. The vendor / proposer shall provide an actionable disaster recovery plan.

4.34. Business Continuity Plan:
   i. The vendor / proposer shall provide business continuity recommendations and associated documentation.

4.35. Testing of the Disaster Recovery Plan:
   i. The vendor / proposer shall perform testing of the disaster recovery plan at least annually.

4.36. Remediation of the Disaster Recovery Plan:
   i. The vendor / proposer shall remediate all shortcomings of the disaster recovery plan testing within 30 days.

4.39. Reports of Disaster Recovery Plan / Business Continuity Plan / Testing:
   i. The vendor / proposer shall provide DEN reports of the disaster recovery plan, business continuity plan, and annual testing results upon request.

4.40. PCI Standards, P2PE, PCI/DSS Requirements and Compliance.
   i. In addition to Basic and Supplemental Services provided under this Agreement vendor will provide a commercial PCI, Point-to-Point-Encryption solution for acceptance of card present and card-not present payment card transactions from PRCS equipment and On-Line Parking Products, validated by DEN Business Technologies.
   ii. No software provided by vendor shall store, process, or transmit a Primary Account Number (PAN). Vendor shall provide an Attestation of Compliance (AOC) from vendors whose system components are in any manner associated with payment card transactions.
   iii. PRCS credit card processing subsystem must maintain DEN standards and adhere to DEN Policies and Procedures for new deployments and be upgradable to then current standards for the life of the system. PRCS credit card processing subsystem will be implemented utilizing DEN's existing merchant service provider.
   iv. Fees for P2PE Services are in addition to those for Basic, Supplemental, and other services under this Agreement. P2PE Service fees will be identified separately as a line item on vendor's monthly invoice and shall include all transactions fees, device fees, end user portal fees, new MID implementation, and user/technical support.

4.41. The PCI Security Standards Council establishes compliance requirements for the protection of cardholder data and the security of Cardholder Data Environments (CDEs).
   i. Additionally, the systems maintained and supported by Vendor under this Agreement shall not store, process, or transmit Personally Identifiable Information ("PII") as defined by the Colorado Attorney General under Colorado's consumer data security laws as of the effective date of this Agreement.
   ii. Under this Scope, Vendor shall provide a Point-to-Point-Encryption ("P2PE") solution from a commercial third-party Payment Services Provider validated, by DEN Business Technologies, in accordance with PCI standards and listed on the PCI Security Standards website as of the effective date of this Agreement. Vendor will

maintain and provide upon request a current Attestation of Validation (AoV) from the P2PE Solution Provider.

iii. A Qualified Integrator and Reseller ("QIR") Company, Vendor shall install and maintain all P2PE components in strict accordance with the Solution Provider's P2PE Implementation Manual ("PIM"). As an authorized reseller of P2PE Point of Interaction ("POI") devices Vendor will perform, on behalf of DEN as the merchant, those services the PIM allows resellers to provide including POI/reader security, storage, inspection, inventory, receiving, and packaging for shipment.

4.42. Credit Card Processing Subsystem

i. Provide a PCI validated Point-to-Point Encrypted (P2PE) credit card processing subsystem with certified EMV readers which support NFC Payments. This shall include access to commercial services of a PCI validated P2PE solution provider (Windcave or equal) for processing of credit/payment card transactions from both attended and unattended terminals.

ii. Credit card terminals will support off-line transactions (if supported by the acquirer) subject to the implementation of floor limits, in the event of processor outages or interruption of network communications.
   a Accept at a minimum the following types of credit card payments:
   b VISA
   c MasterCard
   d American Express
   e Discover
   f Bank debit cards with credit card logo

iii. Provide a PCI compliant credit card processing subsystem such that no Contractor provided maintenance, operations, product, or solution will prevent DEN from achieving and maintaining PCI compliance in its parking operation.
   a No software provided by Vendor shall store, process, or transmit a Primary Account Number (PAN). Vendor shall provide an Attestation of Compliance (AOC) for same from vendors whose system components are in any manner associated with payment card transactions.
   b Vendor shall provide an independent QSA assessment verifying all sub requirements of PCI standards including PCI DSS, PA DSS, and P2PE are either complied with, not applicable, or out-of-scope for DEN's PRCS system.
   c Vendor shall provide documentation to attest to a P2PE installation that supports PCI compliance following the Windcave P2PE Implementation Manual.

iv. PRCS credit card processing subsystem must maintain standards outlined above and herein for new deployments and be upgradable to then current standards for the life of the system.

v. PRCS credit card processing subsystem will be implemented utilizing a merchant service provider supported by Windcave.

4.43. DEN will provide or otherwise be responsible for:

i. All local area network (LAN) infrastructure supporting connectivity to required PRCS equipment components including:
   a Switches

   b Routers
   c Firewalls
ii. Information Technology (IT) services including:
   a Network monitoring
   b Troubleshooting, problem isolation, & resolution of DEN network components
iii. All network security for DEN provided connections
iv. All required external data communications including internet access & cellular service.
v. All electrical services
vi. Merchant Service account for payment card transaction processing.

Section 5 – Parking Names, Locations and Number of Lanes

Item	Facility Name	Facility Location	Number of Lanes
1	West Garage	8148 Peña Blvd, Denver, CO 80249	22
2	West Garage City Employee Nest	Level 1, Mod 1 in West Garage	2
3	West Garage DPD Nest	Level 3, Mod 1 in West Garage	2
4	West Garage Premium Reserved	Level 4, Mod 1 in West Garage	4
5	West Garage Short Term	Level 4, Mod 2 in West Garage	2
6	West Garage Valet Nest	Level 1, Mod 4 in West Garage	3
7	West Economy	8148 Peña Blvd, Denver, CO 80249	7
8	East Garage	8511 Peña Blvd, Denver, CO 80249	16
9	East Garage City Employee Nest	Level 1, Mod 1 in East Garage	2
10	East Garage FAA Nest, inside City	Level 1, Mod 1 in East Garage	2
11	East Garage Atrium Nest	Level 1, Mod 1 in East Garage	2
12	East Garage Premium Reserved	Level 4, Mod 1 in East Garage	2
13	East Garage Short Term	Level 4, Mod 2 in East Garage	2
14	East Economy	8511 Peña Blvd, Denver, CO 80249	7
15	AOB	8500 Peña Blvd, Denver, CO 80249	4
16	T1/84th Ave Roadway	E 84th Ave, Denver, CO 80249	8

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17	Airside	26296 E 78th Ave, Denver, CO 80249	10`
18	Landside	6975 Valley Head St, Denver, CO 80249	13
19	Long's Peak	25630 E 78th Ave, Denver, CO 80249	8
20	Pike's Peak	24300 E 75th Ave, Denver, CO 80249	14

Section 6 – PARCS Devices per Lot

East Garage - ALL	Qty
Full Smart Station	27
Cash in Lane	3
L3 Mini Smart Station	7
Parking Pro LED	33
Maxi Prox Reader	33
FlashVision	26
AVI	7

West Garage - ALL	Qty
Full Smart Station	36
Cash in Lane	4
L3 Mini Smart Station	5
Parking Pro LED	39
Maxi Prox Reader	39
FlashVision	34
AVI	5

AOB	Qty
L3 Mini Smart Station	4
Parking Pro LED	4
Maxi Prox Reader	4
AVI	4

Airside	Qty
L3 Mini Smart Station	10
Parking Pro LED	10
Maxi Prox Reader	10
AVI	10

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T1/84th Ave Roadway	Qty
Full Smart Station	1
L3 Mini Smart Station	10
Parking Pro LED	11
Maxi Prox Reader	11
FlashVision	1
AVI	11
GT Parking Pro LED	5

Landside	Qty
Full Smart Station	6
L3 Mini Smart Station	8
Parking Pro LED	14
Maxi Prox Reader	14
FlashVision	12
AVI	2

Pike's Peak	Qty
Full Smart Station	10
L3 Mini Smart Station	4
Parking Pro LED	14
Maxi Prox Reader	14
FlashVision	10
AVI	4

Long's Peak	Qty
Full Smart Station	6
L3 Mini Smart Station	2
Parking Pro LED	8
Maxi Prox Reader	8
AVI	2

Section 7 – PARCS HaaS Price Breakdown

7.1. The HAAS pricing may be adjusted on the Agreement's execution date. Any annual adjustment to the prices shall not exceed the percentage increase in the 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), based upon 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. In no event shall the annual adjustment exceed 5%.

7.2. Current monthly pricing per unit is as follows:
- i. Full Smart Station: $740
- ii. L3 Mini Smart Station: $450
- iii. Flash Vision: $150
- iv. Parking Pro LED Gate: $180
- v. Cash In Lane Unit: $900
- vi. Transcore AVI Reader: $390

7.3. Full Replacement Costs per unit
- i. Full Smart Station: $14,870
- ii. L3 Mini Smart Station: $6,784
- iii. Parking Pro LED Mechanism: $3,460
- iv. AVI Readers: $5,000
- v. LED Gate Arms: $750
- vi. MaxiProx Readers: $1050
- vii.
- viii.
- ix.

7.4. P2PE costs $0.07 per transaction for public parking

Section 8 – Reports, Service, Support and Maintenance Logs

8.1. Logs for all the work completed shall be submitted with each associated invoice as needed for any reimbursement. All logs, receipts, packing lists, and invoices shall be kept and upon request, furnished to the City.

8.2. Flash will provide all quarterly maintenance and service calls reports within 20 calendar days following the end of each quarter.

8.3. All records and documentation required under this Agreement shall be maintained

digitally and updated electronically by Flash. These documents shall reside in DEN's secure SharePoint library accessible by authorized personnel to be designated by DEN. The following shall be provided and maintained by Flash:

Document	Update Method & Frequency
Installed Equipment by Lane Location & Serial Number	Initially & as changes occur
Spare Parts & Equipment Inventory	Monthly
Operator & User Manuals	Initially & as updates are issued
Software/Firmware Release & Version	Initially & as changes occur
Preventive Maintenance Log	Quarterly
Permanent Flash Staff on Site at DEN	Initially & as changes occur
Duty Technician Schedule and Contact Info	Monthly
Attestation of Compliance (AoC) for P2PE Solution	Annually when renewed
P2PE Implementation Manual (PIM)	Initially & as updates are issued
P2PE Reader Inventory (Annual)	Annually
P2PE Reader Installed Location (Ongoing)	Initially & as changes occur
P2PE Reader Transaction Log	Monthly

Section 9 – Company Performance Bonus and Penalties

9.1. Company Performance and Security Performance Deductions.

i. The specific criteria in which Flash's performance and any associated deductions for non-performance or substandard performance under the Agreement will be determined are listed in Table 1 - Non-performance or Substandard Performance. In the event Flash fails to achieve the level of performance stated in Table 1 – Non-performance or Substandard Performance, unless waived by the Sr Airport Commercial Administrator, DEN will notify Flash of the deficient performance in writing and Flash will deduct from a future invoice to DEN the relevant amounts according to Table 1- Non-performance or Substandard Performance. Notwithstanding the foregoing, Flash shall not owe any deductions for non-performance or substandard performance related to factors beyond Flash's reasonable control, including but limited to acts of God, war, vandalism terrorism, riots, embargos, fires, floods, accidences, strikes or shortages of transportations facilities, fuel, labor, energy or materials.

ii. In the event Flash disputes the deduction amount an applicable month, it shall notify DEN within ten (10) business days of the event giving rise to the dispute and the parties agree to meet promptly and in good faith to resolve such dispute.

iii. Flash may request, in writing, that the Non-performance or Substandard Performance amounts be waived. A request must include an explanation of the penalty and offer a business plan to remedy the penalty. After a review of the request, the Sr Airport Commercial Manager, in their sole discretion, may decide to enforce or waive the penalty.

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9.2. Company Performance Bonus for Exceptional Performance. All assessed bonuses shall be added to the second-month's invoice in which the bonus is applicable ie. Bonus for Q4 would be paid in February of Q1.

i. The Contractor acknowledges that its services under this Contract require handling and accounting for substantial sums of Airport revenues and constant direct interaction with parking customers at the Airport, and that therefore the highest standards of competence, integrity, reliability and courtesy are required in the performance of the Contractor's duties hereunder, for the protection of City revenues and delivery of quality service to the public at Denver International Airport. Therefore, it is agreed that exceptional demonstration of the standards of performance under this Contract shall result in bonuses to the compensation payable for such services, as described below.

ii. DEN has the final authority on the award of any performance enhancements should there be any question as to the level of the award, if any. The provisions of this paragraph shall not constitute an increase in the management fee for any reason but instead provide additional avenues for the contractor to increase their compensation.

9.3. All performance deductions and bonuses shall not take effect until 90 days after completion of installation, with the exception of the two tied to installation.

Table 1 – Non-Performance or Substandard Performance

Service Level Agreement Criteria	Measurement	Deductions
Installation Complete Within 113 Calendar Days from Contract Execution	100% complete installation of initial equipment order in applicable lots	$1,000 per day starting on 114th day
System Down Time*	Inability to process transactions	$200 per hour, capped at the value of DEN's HAAS payment for the applicable month.
Service Response Time	Submitted logs of Response time	$500 per failure to Respond.
Failure to perform Quarterly Preventive Maintenance Checks	Flash shall upload quarterly summary of PM's completed by lane	$50 per lane missed.
PARCS Lanes installed by Flash in Service	Able to process transactions <95% measured per quarter	$100 per lane failed per quarter

*System Down Time does not include (i) outages related to DEN's system infrastructure or connectivity issues or (ii) downtime scheduled in advance by Flash for maintenance, updates or upgrades. For the avoidance of doubt, when PARCs system is to process transactions under its

offline mode or hybrid mode, the times the PARC system operates under those modes shall not be considered System Down Time.

Table 3 – Performance Bonuses

Service Level Agreement Criteria	Measurement	Bonus
Installation Completed in 100 Calendar Days based on Contract Execution	100% Complete Installation	$10,000
Active PARCS Lanes In Service	>99% measured per quarter	$1,000 per quarter
Completion of Monthly PM	>99% measured per quarter.	$1,000 per quarter
No Performance Deductions	Measured per quarter	$1,000 per quarter

Section 10 - Subcontractors

10.1. Subcontractors may be used for any civil work during installation. No subcontractors shall be used for the preventive maintenance or for the day-to-day operations for service.

Section 11 - Licenses

11.1. Contractor and subcontractors shall be properly licensed through the State of Colorado. License shall be in contractors' possession and shall remain in good standing throughout the duration of the contract.

Section 12 – Vehicle Parking

12.1. A total of 4 parking spaces will be available in the atrium between Mods 1 and 2 for technician parking. This parking is for work related activities only, no long-term parking for personal use is allowed.

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Section 13 – Workplace Safety

13.1. Contractor shall be responsible for providing and placing any related safety equipment to protect its employees, public, surrounding areas, and equipment while work is being performed. All work shall be performed according to all city, county, state OSHA regulations.

Section 14 – Special Projects/Items Not Identified

14.1. Should the need arise for any special projects or items that were not identified in this scope of work, the following procedures shall be followed. When an item is identified, written estimates for the work shall be submitted to the DEN Parking Administration for approval. If circumstances arise where the approved cost exceeds the estimate, further approval from the DEN Parking Administration is required.

Section 15 – Amendments

15.1. Whenever an addition, deletion or alteration to the Services described in Exhibit A substantially changes the Scope of Work thereby materially increasing or decreasing the cost of performance, a supplemental agreement must first be approved in writing by the City and Contractor before such addition, deletion or alteration will be performed. Changes to the Services may be made and the compensation to be paid to Contractor may be adjusted by mutual agreement, but in no event may the compensation exceed the amount authorized without further written authorization. It is specifically understood and agreed that no claim for extra work done, or materials furnished by Contractor will be allowed except as provided herein, nor will Contractor do any work or furnish any materials not covered by this Agreement unless first authorized in writing. Any work or materials furnished by Contractor without prior written authorization will be at Contractor's risk, cost and expense, and Contractor agrees to submit no claim for compensation or reimbursement for additional work done or materials furnished without prior written authorization.

EXHIBIT C

CITY AND COUNTY OF DENVER
INSURANCE REQUIREMENTS FOR DEPARTMENT OF AVIATION
GOODS AND 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: contractadmininvoices@flydenver.com

- 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 $2,000,000 per occurrence and $2,000,000 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. Unmanned Aerial Vehicle (UAV) Liability:
If Contractor desires to use drones in any aspect of its work or presence on DEN premises, the following requirements must be met prior to commencing any drone operations:

a. Express written permission must be granted by DEN.
b. Express written permission must be granted by the Federal Aviation Administration (FAA).
c. Drone equipment must be properly registered with the FAA.
d. Drone operator(s) must be properly licensed by the FAA.
e. Contractor must maintain UAV Liability including flight coverage, personal and advertising injury liability, and hired/non-owned UAV liability for its commercial drone operations with a limit no less than $1,000,000 combined single limit each occurrence for bodily injury and property damage.

7. 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, Professional Liability, and Property, 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 K, INFORMATION TECHNOLOGY PROVISIONS

This Exhibit regarding **Information Technology Provisions** (the "Exhibit") is an essential part of the Agreement between the City and Consultant to which this Exhibit is attached. Unless the context clearly requires a distinction between the Agreement and this Exhibit, all references to "Agreement" shall include this Exhibit.

Privacy Policy - Flash Parking is incorporated herein by reference.

www.flashparking.com/privacy-policy/

EXHIBIT K, INFORMATION TECHNOLOGY PROVISIONS

1. GENERAL TECHNOLOGY SPECIFICATIONS

1.1. Vendor Supported Releases: The Consultant shall maintain the currency of all third-party software used in the development and execution or use of the Work with third-party vendor approved and supported releases, including, but not limited to, all code libraries, frameworks, components, and other products (e.g., Java JRE, code signing certificates, .NET, jQuery plugins, etc.), whether commercial, free, open-source, or closed-source.

1.2. Additional Products or Services: The Parties acknowledge that the Consultant will continue to enhance and/or modify its existing products or services. To use those enhanced products or services, the City shall be entitled to order those offerings at any time throughout the duration of this Agreement provided the pricing is set out in this Agreement. Once agreed upon by the Parties, additional products or services shall be subject to the same terms and conditions as contained herein and any order placed by the City shall not create any additional binding conditions on the City and shall not act as an amendment of the terms and conditions of this Agreement. If additional products or services are requested by the City, the Parties shall follow the agreed upon order process and if no process is outlined, then the CIO, or other designated Agency personnel, shall be authorized to sign any necessary forms to acquire the products/services on behalf of the City. Additional licenses shall be prorated and co-termed with current licensing contained in this Agreement.

2. DELIVERY AND ACCEPTANCELICENSE TO DELIVERABLES

2.1. Acceptance & Rejection: Software, technology services, or other deliverables created and/or delivered pursuant to this Agreement (collectively, "Deliverables") will be considered accepted ("Acceptance") only when the City provides the Consultant affirmative written notice of acceptance that such Deliverable has been accepted by the City. Such communication shall be provided within a reasonable time from the delivery of the Deliverable and shall not be unreasonably delayed or withheld. Acceptance by the City shall be final, except in cases of Consultant's failure to conduct proper quality assurance, latent defects that could not reasonably have been detected upon delivery, or the Consultant's gross negligence or willful misconduct. The City may reject a Deliverable if it materially deviates from its specifications and requirements listed in this Agreement or its attachments by written notice setting forth the nature of such deviation. In the event of such rejection, the Consultant shall correct the deviation, at its sole expense, and redeliver the Deliverable within fifteen (15) days. After redelivery, the Parties shall again follow the acceptance procedures set forth herein. If any Deliverable does not perform to the City's satisfaction, the City reserves the right to repudiate acceptance. If the City ultimately rejects a Deliverable, or repudiates acceptance of it, the Consultant will refund

to the City all fees paid, if any, by the City with respect to any rejected Deliverable. Acceptance shall not relieve the Consultant from its responsibility under any representation or warranty contained in this Agreement, and payment of an invoice prior to Acceptance does not grant a waiver of any representation or warranty made by the Consultant.

2.2. **Quality Assurance**: The Consultant shall provide and maintain a quality assurance system acceptable to the City for Deliverables under this Agreement and shall provide to the City only such Deliverables that have been inspected and found to conform to the specifications identified in this Agreement and any applicable solicitation, bid, offer, or proposal from which this Agreement results. The Consultant's delivery of any Deliverables to the City shall constitute certification that any Deliverables have been determined to conform to the applicable specifications, and the Consultant shall make records of such quality assurance available to the City upon request.

2.3. **License to Work**: The Consultant grants the City a nonexclusive, royalty-free license to reproduce, modify, display, and use software, technology services, or other deliverables delivered pursuant to this Agreement (collectively, "Deliverables"), and all intellectual property rights necessary to use the Deliverable as authorized, as necessary for the City's internal business purposes, provided the City complies with any license restrictions set forth in this Agreement and any attachments thereto. The City will not reverse engineer or reverse compile any part of a Deliverable unless agreed by the Parties in writing.

3. WARRANTIES AND REPRESENTATIONS

3.1. Notwithstanding the acceptance of any Work or Deliverable, or the payment of any invoice for such Work or Deliverable, the Consultant warrants that it will use commercially reasonable efforts to ensure that any Work or Deliverable provided by the Consultant under this Agreement shall be free from material defects and shall function as intended and in material accordance with the applicable specifications. The Consultant warrants that it will use commercially reasonable efforts to ensure that any Work or Deliverable, and any media used to distribute it, shall be, at the time of delivery, free from any harmful or malicious code, including without limitation viruses, malware, spyware, ransomware, or other similar function or technological means designed to disrupt, interfere with, or damage the normal operation of the Work or Deliverable and the use of City resources and systems. The Consultant's warranties under this Section shall apply to any defects or material nonconformities discovered within 30 days following delivery of any Work or Deliverable.

3.2. Upon notice of any defect or material nonconformity, the Consultant shall submit to the City in writing within 10 business days of the notice one or more recommendations for corrective action with sufficient documentation for the City to ascertain the feasibility, risks, and impacts of each recommendation. The City's remedy for such defect or material non-conformity shall be:

3.2.1. The Consultant shall re-perform, repair, or replace such Work or Deliverable in accordance with any recommendation chosen by the City. The Consultant shall deliver, at no additional cost to the City, all documentation required under this Agreement as applicable to the corrected Work or Deliverable; or

3.2.2. The Consultant shall refund to the City all amounts paid for such Work or Deliverable, as well as pay to the City any additional amounts reasonably necessary for the City to procure alternative goods or services of substantially equivalent capability, function, and performance.

3.3. Any Work or Deliverable delivered to the City as a remedy under this Section shall be subject to the same quality assurance, acceptance, and warranty requirements as the original Work or Deliverable. The duration of the warranty for any replacement or corrected Work or Deliverable shall run from the date of the corrected or replacement Work or Deliverable.

3.4. **Third-Party Warranties and Indemnities**: The Consultant will assign to the City all third-party warranties and indemnities that the Consultant receives in connection with any Work provided to the City. To the extent that the Consultant is not permitted to assign any warranties or indemnities through to the City, the Consultant agrees to specifically identify and enforce those warranties and indemnities on behalf of the City to the extent the Consultant is permitted to do so under the terms of the applicable third-party agreements.

3.5. **Intellectual Property Rights in the Software**: The Consultant warrants that it is the owner of all Deliverables, and of each and every component thereof, or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant the intellectual property rights to the Deliverables in this Agreement without the further consent of any third party and without conditions or requirements not set forth in this Agreement. In the event of a breach of the warranty in this Section, the Consultant, at its own expense, shall promptly take the following actions: (i) secure for the City the right to continue using the Deliverable as intended; (ii) replace or modify the Deliverable to make it non-infringing, provided such modification or replacement will not materially degrade

any functionality as stated in this Agreement; or (iii) refund 100% of the fee paid for the Deliverable for every month remaining in the Term, in which case the Consultant may terminate any or all of the City's licenses to the infringing Deliverable granted in this Agreement and require return or destruction of copies thereof. The Consultant also warrants that there are no pending or threatened lawsuits, claims, disputes, or actions: (i) alleging that any of the Work or Deliverables infringes, violates, or misappropriates any third-party rights; or (ii) adversely affecting any Deliverables, or the Consultant's ability to perform its obligations hereunder.

3.6. Disabling Code: Consultant shall use commercially reasonable efforts to ensure that the Work will contain no malicious or disabling code that is intended to damage, destroy, or destructively alter software, hardware, systems, or data. The Consultant represents, warrants and agrees that the City will not receive from the Consultant any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design, or other malicious, illicit or similar unrequested code, including surveillance software or routines which may, or is designed to, permit access by any person, or on its own, to erase, or otherwise harm or modify any City system, resources, or data (a "Disabling Code"). In the event a Disabling Code is identified, the Consultant shall take all steps necessary, at no additional cost to the City, to: (i) restore and/or reconstruct all data lost by the City as a result of a Disabling Code; (ii) furnish to City a corrected version of the Work or Deliverables without the presence of a Disabling Code; and, (iii) as needed, re-implement the Work or Deliverable at no additional cost to the City. This warranty shall remain in full force and effect during the Term.

4. ACCESSIBILITY AND WEBSITE COMPLIANCE

4.1. Compliance: The Consultant shall comply with, and the Work and Work Product provided under this Agreement shall be in compliance with, all applicable provisions of §§ 24-85-101, *et seq*., C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established pursuant to Section § 24-85-103 (2.5), C.R.S (collectively, the "Guidelines"). The Consultant shall also comply with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

4.2. Testing: The City may require the Consultant's compliance to be determined by a third party selected by the City to attest that the Consultant's has performed all obligations under this Agreement in compliance with §§ 24-85-101, *et seq*., C.R.S., and the Accessibility Standards for Individuals with a Disability as established pursuant to Section § 24-85-103 (2.5), C.R.S.

4.3. Validation and Remediation: The Consultant agrees to promptly respond to and resolve any instance of noncompliance regarding accessibility in a timely manner and shall remedy any noncompliant Work Product, Service, or Deliverable at no additional cost to the City. If the City reasonably determines accessibility issues exist, the Consultant shall provide a "roadmap" for remedying those deficiencies on a reasonable timeline to be approved by the City. Resolution of reported accessibility issue(s) that may arise shall be addressed as high priority, and failure to make satisfactory progress towards compliance with the Guidelines, as agreed to in the roadmap, shall constitute a breach of contract and be grounds for termination or non-renewal of this Agreement.

5. DATA MANAGEMENT, SECURITY, AND PROTECTION

5.1. Compliance with Data Protection Laws and Policies: The Consultant shall comply with all applicable federal, state, local laws, rules, regulations, directives, and policies relating to data protection, use, collection, disclosures, processing, and privacy as they apply to the Consultant under this Agreement, including, without limitation, applicable industry standards or guidelines based on the data's classification relevant to the Consultant's performance hereunder and, when applicable, the most recent iterations of the Colorado Consumer Protection Act, the Payment Card Industry Data Security Standard ("PCI-DSS"), and the Minimum Acceptable Risk Standards for Exchanges (collectively, "Data Protection Laws"). If the Consultant becomes aware that it cannot reasonably comply with the terms or conditions contained herein due to a conflicting law or policy, the Consultant shall promptly notify the City. The Consultant shall comply with all rules, policies, procedures, and standards issued by the City's Technology Services Security Section. The most recent copy is available upon request.

5.2. Safeguarding Protected and Sensitive Information: "Protected Information" means data, regardless of form, that has been designated as sensitive, private, proprietary, protected, or confidential by law, policy, or the City. Protected Information includes, but is not limited to, employment records, protected health information, student and education records, criminal justice information, personal financial records, research data, trade secrets, classified government information, other regulated data, and personally identifiable information as defined by §§ 24-73-101(4)(b) and 6-1-716(1)(g)(I)(A), C.R.S., as amended. Protected Information shall not include public records that by law must be made available to the public under CORA. To the extent there is any uncertainty as to whether data constitutes Protected Information, the data in question shall be treated as Protected Information until a determination is made by the City or an appropriate legal authority. Unless the City provides security protection for the information it discloses to the Consultant, the Consultant shall implement and maintain reasonable security procedures and practices that are both appropriate to the nature of the Protected

Information disclosed and that are reasonably designed to help safeguard Protected Information from unauthorized access, use, modification, disclosure, or destruction. Disclosure of Protected Information does not include disclosure to a third party under circumstances where the City retains primary responsibility for implementing and maintaining reasonable security procedures and practices appropriate to the nature of the Protected Information, and the City implements and maintains technical controls reasonably designed to safeguard Protected Information from unauthorized access, modification, disclosure, or destruction or effectively eliminate the third party's ability to access Protected Information, notwithstanding the third party's physical possession of Protected Information. If the Consultant has been contracted to maintain, store, or process personal information on the City's behalf, the Consultant is a "Third-Party Service Provider" as defined by § 24-73-103(1)(i), C.R.S.

5.3. **Data Access and Integrity**: The Consultant shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the Data Protection Laws applicable to the Consultant's performance hereunder to ensure the security and confidentiality of data. The Consultant shall protect against threats or hazards to the security or integrity of data; protect against unauthorized disclosure, access to, or use of data; restrict access to data as necessary; and ensure the proper and legal use of data. The Consultant shall not engage in "data mining" except as specifically and expressly required by law or authorized in writing by the City. [Unless otherwise required by law, the City has exclusive ownership of all City Data under this Agreement, and the Consultant shall have no right, title, or interest in City Data obtained in connection with the services provided herein. "City Data" means all information, data, and records, regardless of form, created by or in any way originating with the City and all information that is the output of any computer processing or other electronic manipulation including all records relating to the City's use of the Work. The Consultant has a limited, nonexclusive license to access and use data as provided in this Agreement solely for the purpose of performing its obligations hereunder. The City retains the right to access and retrieve City Data stored on the Consultant's infrastructure at any time during the Term. All City Data created and/or processed by the Work, if any, is and shall remain the property of the City and shall in no way become attached to the Work, nor shall the Consultant have any rights in or to the City Data without the express written permission of the City. This Agreement does not give a Party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in this Agreement. The City retains the right to use the Work to access and retrieve data stored on the Consultant's infrastructure at any time during the Term. Upon written request, the Consultant shall provide the City its policies and procedures to maintain the confidentiality of City Data and Protected Information.]

5.4. **Response to Legal Orders for City Data**: If the Consultant is required by a court of competent jurisdiction or administrative body to disclose City Data, the Consultant shall first notify the City and, prior to any disclosure, cooperate with the City's reasonable requests in connection with the City's right to intervene, quash, or modify the legal order, demand, or request, and upon request, provide the City with a copy of its response. If the City receives a subpoena, legal order, or other legal demand seeking data maintained by the Consultant, the City will promptly provide a copy to the Consultant. Upon notice and if required by law, the Consultant shall promptly provide the City with copies of its data required for the City to meet its necessary disclosure obligations.

5.5. **Data Retention, Transfer, Litigation Holds, and Destruction**: Using appropriate and reliable storage media, the Consultant shall regularly backup data used in connection with this Agreement and retain such backup copies consistent with the City's data and record retention policies. All City Data shall be encrypted in transmission, including by web interface, and in storage by an agreed upon National Institute of Standards and Technology ("NIST") approved strong encryption method and standard. The Consultant shall not transfer or maintain data under this Agreement outside of the United States without the City's express written permission. Upon termination of this Agreement, the Consultant shall securely delete or securely transfer all data, including Protected Information, to the City in an industry standard format as directed by the City; however, this requirement shall not apply to the extent the Consultant is required by law to retain data, including Protected Information. Upon the City's request, the Consultant shall confirm, by providing a certificate, the data disposed of, the date disposed of, and the method of disposal. With respect to any data in the Consultant's exclusive custody, the City may request, at not additional cost to the City, that the Consultant preserve such data outside of record retention policies. The City will promptly coordinate with the Consultant regarding the preservation and disposition of any data and records relevant to any current or anticipated litigation, and the Consultant shall continue to preserve the records until further notice by the City. Unless otherwise required by law or regulation, when paper or electronic documents are no longer needed, the Consultant shall destroy or arrange for the destruction of such documents within its custody or control that contain Protected Information by shredding, erasing, or otherwise modifying the Protected Information in the paper or electronic documents to make it unreadable or indecipherable. The Consultant and its third-party services providers must develop and maintain a written policy for the destruction of such records.

5.6. **Software and Computing Systems**: At its reasonable discretion, the City may prohibit the Consultant from the use of certain software programs, databases, and computing systems with known vulnerabilities to collect, use, process, store, or generate data and information received under this Agreement. The Consultant shall fully comply with all

requirements and conditions, if any, associated with the use of software programs, databases, and computing systems as reasonably directed by the City. The Consultant shall not use funds paid by the City for the acquisition, operation, or maintenance of software in violation of any copyright laws or licensing restrictions. The Consultant shall maintain commercially reasonable network security that, at a minimum, includes network firewalls, intrusion detection/prevention, and enhancements or updates consistent with evolving industry standards The Consultant shall use industry-standard and up-to-date security tools, technologies and procedures including, but not limited to, anti-virus and anti-malware protections. The Consultant shall ensure that any underlying or integrated software employed under this Agreement is updated on a regular basis and does not pose a security threat.

5.7. Background Checks: The Consultant shall ensure that, prior to being granted access to Protected Information, the Consultant's agents, employees, SubConsultants, volunteers, or assigns who perform work under this Agreement have all undergone and passed all necessary criminal background screenings, have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement and Data Protection Laws, and possess all qualifications appropriate to the nature of the employees' duties and the sensitivity of the data. If the Consultant will have access to federal tax information ("FTI") under this Agreement, the Consultant shall comply with the background check and other provisions of Section 6103(b) of the Internal Revenue Code, the requirements of IRS Publication 1075, and the Privacy Act of 1974, 5 U.S.C. § 552a, *et. seq*., related to federal tax information.

5.8. SubConsultants and Employees: If the Consultant engages a Subconsultant under this Agreement, the Consultant shall impose data protection terms that provide at least the same level of data protection as in this Agreement and to the extent appropriate to the nature of the Work provided. The Consultant shall monitor the compliance with such obligations and remain responsible for its Subconsultant's compliance with the obligations of this Agreement and for any of its Subconsultant's acts or omissions that cause the Consultant to breach any of its obligations under this Agreement. Unless the Consultant provides its own security protection for the information it discloses to a third party, the Consultant shall require the third party to implement and maintain reasonable security procedures and practices that are appropriate to the nature of the Protected Information disclosed and that are reasonably designed to protect it from unauthorized access, use, modification, disclosure, or destruction. Any term or condition within this Agreement relating to the protection and confidentially of any disclosed data shall apply equally to both the Consultant and any of its Subconsultants, agents, assigns, employees, or

volunteers. Upon request, the Consultant shall provide the City copies of its record retention, data privacy, and information security policies. The Consultant shall ensure all Subconsultants sign, or have signed, agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force so long as the Subconsultant has access to any data disclosed under this Agreement. Upon request, the Consultant shall provide copies of those signed nondisclosure agreements to the City.

5.9. Unauthorized Data Disclosure

5.9.1. Security Breach: If the Consultant becomes aware of a suspected or unauthorized acquisition or disclosure of unencrypted data, in any form, that compromises the security, access, confidentiality, or integrity of City Data, Protected Information, or other data maintained or provided by the City ("Security Breach"), the Consultant shall notify the City in the most expedient time and without unreasonable delay but no less than forty-eight (48) hours from Consultant becoming aware of such Security Breach. A Security Breach shall also include, without limitation, (i) attempts to gain unauthorized access to a City system or City Data regardless of where such information is located or (ii) the unauthorized use of a City system for the processing or storage of data. Any oral notice of a Security Breach provided by the Consultant shall be immediately followed by a written notice to the City. The Consultant shall maintain documented policies and procedures for Security Breaches including reporting, notification, and mitigation.

5.9.2. Cooperation: The Consultant shall fully cooperate with the City regarding recovery, lawful notices, investigations, remediation, and the necessity to involve law enforcement, as determined by the City and as required by law. The Consultant shall preserve and provide all information relevant to the Security Breach to the City; provided, however, the Consultant shall not be obligated to disclose confidential business information or trade secrets.

5.9.3. Reporting: The Consultant shall provide a written report to the City that identifies: (i) the nature of the unauthorized use or disclosure; (ii) the data used or disclosed; (iii) the parties responsible for the Security Breach (if known); (iv) what the Consultant has done or shall do to mitigate the effect of the Security Breach; and (v) what corrective action the Consultant has taken or shall take to prevent future Security Breaches, if any. Except as expressly required by law, the Consultant will not disclose or otherwise provide notice of the incident directly to any person,

regulatory agencies, or other entities, without prior written permission from the City.

5.9.4. **Remediation**: After a Security Breach, the Consultant shall take steps to reduce the risk of incurring a similar type of Security Breach in the future.

5.10. **Request for Additional Protections and Survival**: In addition to the terms contained herein, the City may reasonably request that the Consultant protect the confidentiality of certain Protected Information or other data in specific ways to ensure compliance with Data Protection Laws and any changes thereto. Unless a request for additional protections is mandated by a change in law, the Consultant may reasonably decline the City's request to provide additional protections. If such a request requires the Consultant to take steps beyond those contained herein, the Consultant shall notify the City with the anticipated cost of compliance, and the City may thereafter, in its sole discretion, direct the Consultant to comply with the request at the City's expense; provided, however, that any increase in costs that would increase the Maximum Contract Amount must first be memorialized in a written amendment complying with City procedures. Obligations contained in this Agreement relating to the protection and confidentially of any disclosed data shall survive termination of this Agreement, and the Consultant shall continue to safeguard all data for so long as the data remains confidential or protected and in the Consultant's possession or control.

EXHIBIT L

These License, Service and Product Usage Terms and Conditions (the "Agreement" or "Terms and Conditions", which shall include any and all schedules, addendums, or attachments incorporated herein, as well as all amendments or supplements of such documents and the Agreement) is entered into and effective as of date set forth in the Professional Services Agreement (the "PSA") by and between FlashParking, Inc., a Delaware corporation (together with its subsidiaries and affiliates, "Flash") and City and County of Denver, a municipal corporation of the State of Colorado acting on behalf of its Department of Aviation("Customer"). Flash and Customer at times are each referred to herein as a "Party" and, collectively, as the "Parties."

This Agreement (along with the other PSA and other attached contract documents) sets forth the terms and conditions governing Customer's purchase of any configuration of Equipment, Services, and Software (collectively "Flash Offerings").

Supplemental terms and conditions necessary for certain Flash Offerings may be included in an amendment to this Agreement.

NOW THEREFORE, in consideration of the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1 Description of the Flash OS System

1.1 Kiosks, gates, ticket dispensers, scanners, RFID readers, cameras and other hardware and accessories to be delivered to Customer as specified in the relevant Statement of Work entered into by the Parties from time to time shall be referred to as "Equipment".

1.2 Any programmed code contained within the Equipment or used by Flash in the delivery of any of the Services shall be referred to as "Software" and may be further described in the Statement of Work and additional terms may apply pursuant to Attachments.

1.3 Flash may provide the services set forth below (collectively, the "Services") which shall be further described in an Statement of Work according to the Customer's purchase. The Services may include:

1.3.1 installation, electrical, cabling, and related services required to place the Flash Offerings into service at Customer's sites ("Installation Services");

1.3.2 consulting, administrative, and technical services ("Professional Services");

1.3.3 hosted subscription services provided by Flash through the Flash portal, FlashParking.com website, through any mobile application offered by Flash, or through any other means by which Flash chooses to deliver the Software in the future ("Subscription Services");

1.3.4 merchant payment services for use with the Equipment and Services by means of a credit card, debit card, prepaid card, gift card, loyalty card, discount card or other means of payment, including crediting or debiting such cards ("Payment Gateway Services"). Payment Gateway Services will conform at all times to applicable laws pertaining to PCI compliance. Payment Gateway Services are rated as a DSS Level 1 for PCI Compliance.

1.3.5 Final inspection, configuration, start-up, testing and enrollment services required to bring the Equipment and Services into full operation, including confirming appropriate interface/communications with the Flash data center(s) ("Commissioning Services").

1.4 Additional Flash Offerings may come available over time and a description and any necessary terms for those Flash Offerings will be captured by an Addendum to this Agreement.

1.5 Flash may subcontract any Service in whole or in part to subcontractors selected by Flash. Any subcontractors will be required to comply with this Agreement and Flash will be responsible for their performance. Customer shall cooperate and assist Flash and its subcontractors as reasonably requested by Flash as necessary to facilitate the provision of such Services as described in the applicable Statement of Work. Subcontractors subject to City approval as per the terms found in Contract Section 2 D.

1.6 The Parties shall cooperate so Flash can provide Installation Services in an efficient and timely manner.

1.6.1 In the event any Installation Services are completed by a third-party not directly under Flash's supervision: (a) Flash will not

bear any risk associated with the Installation Services and (b) Customer warrants that the Installation Services will be and are consistent with Flash specifications and all documentation, requirements, and procedures made available to Customer.

1.6.2 Regardless of who provides the Installation Services, the cost of obtaining all required local electrical/site/construction licenses, permissions, and permits necessary to allow the installation to lawfully proceed shall be Customer's responsibility.

1.7 Commissioning Services shall follow Flash's standard procedures to confirm the Flash OS operates in conformance with the terms of this Agreement. Failures caused by Flash shall be rectified solely at Flash's cost. Failures caused by the Customer may be rectified by Flash at Customer's sole expense and Flash will bill Customer using Flash's then-standard commercial time and materials rates. This includes travel and per diem expenses and shall be payable to Flash in accordance with the payment terms of the Agreement.

1.8 Either Party may request changes to the Professional, Installation and/or Commissioning Services to be provided by Flash (a "Change Order"). Once the Parties agree to a Change Order, Flash will prepare a written description of the agreed-upon changes, including additional fees to be charged, which must be signed by both Parties before it is binding on the Parties. While the Parties are discussing a Change Order request, Flash shall continue to work in accordance with the existing Statement of Work.

2 General Use; Use Restrictions

2.1 Subject to the terms and conditions set forth in any Statement of Work, Customer is hereby granted a restricted, limited, revocable, non-transferable, non-exclusive license to use the Equipment, Software and Services (collectively, the "Flash Offerings"). Customer access will be limited to the permitted users identified by Customer, each of whom is an employee or authorized agent or contractor of Customer. Customer's rights are personal, non-transferable, non-sub licensable, and non-exclusive. Customer's access to Flash OS may be terminated and this license revoked by Flash upon any breach by Customer of this Agreement or any additional terms and conditions that may be set forth in separate Statement of Work, attachments, or other valid documents provided to Customer. Prior to termination of Customer's access to Flash

OS, Flash shall give Customer thirty (30) days to remedy the cause of the termination.

2.2 Except as expressly permitted herein or in any applicable Statement of Work, Customer will not alter, modify or adapt any Flash Offerings. This includes but is not limited to: (a) translating or creating derivative works of the Offerings or any data or content contained therein; or (b) distributing, reselling, permitting access to, publishing, commercially exploiting, disclosing or otherwise transferring or making the Flash Offerings available to any other person or organization. Customer agrees that any user identifications, passwords or other entitlement information related to Customer's authorized users shall be maintained in confidence and used only by the user to which such information is assigned. Customer agrees to use the Flash Offerings only as expressly permitted by this Agreement and in accordance with all applicable laws, rules and regulations. Customer shall have no rights or license of any kind with respect to the Flash Offerings other than as set forth in this Agreement. Customer agrees that, upon reasonable notice during the term of this Agreement, Flash may, at its sole discretion, request documentation from Customer to confirm that Customer is compliant under the terms and conditions of this Agreement.

3 Confidential Information, Proprietary Information, and Intellectual Property Rights

3.1 All material, non-public, business-related information, written or oral, whether or not it is marked "Confidential", that is disclosed or made available to Customer, directly or indirectly, through any means of communication or observation is "Confidential Information".

3.2 Information owned by Flash to which Flash claims a protectable interest under law, which includes Confidential Information, shall be "Proprietary Information". The following information, all as reasonably substantiated by documentation, however, is not Proprietary Information and Customer is not restricted as to its use or disclosure: (a) information already in the possession of, or already known to, the Customer as of the Effective Date, and not under any other obligations of confidentiality due to any other agreements between the Parties; (b) information that enters the public domain after the Effective Date, or which, after such disclosure, enters the public domain through no fault of the Customer; (c) information lawfully furnished or disclosed to the Customer by a non-party to this

Agreement without any obligation of confidentiality; (d) information independently developed by any Party without use of any Proprietary or Confidential Information; or (e) information that is explicitly approved for release by Flash.

3.3 Customer agrees to hold in confidence all Proprietary Information that it receives from Flash. Customer will not disclose any of Flash's Proprietary Information to any party or person whatsoever unless it is a Customer employee or agent that is on a need to know basis for such Proprietary Information consistent with the purpose for which it was disclosed. Customer will only use Flash's Proprietary Information for the purpose for which it was originally disclosed. Customer is not permitted to directly or indirectly, under any circumstances, use any of Flash's Proprietary Information for any purpose that is in any way detrimental to Flash. This includes, but is not limited to, contracting with Flash's employees, consultants, contractors, vendors or partners to provide services to Customer similar to those provided to Customer by Flash. Customer shall take reasonable precautions to protect the confidentiality and value of Flash's Proprietary Information, including measures to prevent loss, theft and misuse. Customer shall immediately give notice to Flash of any unauthorized use or disclosure of Flash's Proprietary Information. Customer agrees to assist Flash in remedying any unauthorized use or disclosure of Proprietary Information caused by such Customer. Customer acknowledges expressly that each and every one of its employees and agents are bound to the terms and conditions of this Agreement and that Customer is solely responsible for any breach of this Agreement by any of its representatives including, without limitation, any improper use or disclosure by its representatives of Flash's Proprietary Information.

3.4 Upon written request and as directed by Flash, the Customer will promptly return or destroy all Proprietary Information received from Flash, including all copies of the information thereof. Upon the request of Flash, the Customer shall furnish to Flash an affidavit providing assurances as to the return or destruction of Flash's Proprietary Information.

3.5 A disclosure of Confidential or Proprietary Information in response to a valid request by a court of law or other governmental body or otherwise required by law is not considered to be a breach of this Agreement or a waiver of confidentiality for other purposes. Before any such disclosure, Customer shall provide prompt written notice to Flash and reasonably cooperate with Flash in seeking a protective order or

preventing disclosure. Flash understands that the City is subject to the Colorado Open Records Act (See Contract Section 11 D) which may require disclosure of certain information.

3.6 All materials transmitted from Flash to Customer which includes any Proprietary Information are to remain the sole and exclusive property of Flash. The Agreement and transmission or disclosure of any Proprietary Information from Flash to Customer does not grant the Customer a license or ownership of any kind. Flash retains all right, title and interest in all now known or hereafter known or developed tangible and intangible intellectual property, including without limitation, all: (a) rights associated with works of authorship throughout the universe, including, but not limited to, copyrights, moral rights and mask works; (b) trademarks, services marks, trade names and any other indicia of origin; (c) technical and non-technical information (regardless of whether such information is in tangible or intangible form) including source code, object code, computer code, data, ideas, concepts, formulae, methods, techniques, processes, financial business plans and business methods (including any derivatives of any of the foregoing) that derive economic value, actual or potential, from not being generally known to other persons who could obtain economic value from the disclosure or use thereof, and which are the subject of efforts that are reasonable under the circumstances to maintain their secrecy ("Trade Secrets"); (d) patents, pending patent applications, designs, algorithms and other industrial property rights; (e) other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated, including "rental" rights and rights to remuneration), whether arising by operation of law, contract, license or otherwise; and (f) registrations, initial applications, renewals, extensions, continuations, divisions or reissues now or hereafter in force including any rights in any of the foregoing, (collectively, "Intellectual Property"). Customer covenants not to prejudice or impair the interest of Flash in any of its Intellectual Property. At no time shall Customer challenge or assist others to challenge any of Flash's Intellectual Property or the registration thereof.

3.7 All obligations and restrictions of confidentiality and ownership of Propriety Information under this Agreement shall survive the termination of this Agreement.

3.8 Advertising and Public Disclosures. Contractor shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written

approval of the Senior Director 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. Contractor shall notify the Senior Director in advance of the date and time of any such presentations. Nothing herein, however, shall preclude Contractor's transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO, any member or members of Denver City Council, and the Auditor.

3.9 Flash hereby authorizes Customer the right to seek use of any Flash trademarks and logos (the "Marks") in its marketing and promotional materials solely for cross-promotional purposes to identify that Customer uses Flash Offerings ("Purpose") and must be used according to any Flash guidelines ("Guidelines"). The Guidelines may be updated by Flash periodically. Customer shall not use the Marks for any other Purpose without Flash's prior written authorization, which can be denied for any reason. Customer agrees that it shall not harm, misuse, or bring into disrepute the Marks. All uses of the Marks pursuant to this Agreement shall inure to the benefit of Flash. Customer may not use or register, or otherwise claim rights in the Marks, including as or as part of any trademark, service mark, Flash name, trade name, username, domain registration or copyright. Flash may revoke permission to use the Marks at any time.

4 Payment Terms

4.1 Flash shall invoice Customer for recurring software license fees that relate to the operation of Equipment upon successful Commissioning Services or in no event later than 120 days after the execution of the Statement of Work. Customer may elect to pay any recurring software license fees annually. The first invoice will be upon successful Commissioning Services but in no event will such invoice be later than 120 days after execution of an Statement of Work unless otherwise agreed to by the Parties. Subsequent annual fees will be invoiced annually in advance.

4.2 Customer acknowledges and agrees that certain Flash Offerings contain or require the payment of recurring Monthly Program Fees, which will be set forth in the applicable Statement of Work or addendum provided to Customer by Flash. Customer is responsible for the timely payment of any Monthly Program Fees regardless of actual usage in any

particular month. Customer shall be invoiced monthly for any such Monthly Program Fees.

4.3 Additionally, Customer shall be responsible for any additional taxes incurred by Customer's tax elections made following the invoice date. The prices provided to Customer from Flash may not include all applicable taxes due. Customer may be tax exempt from certain taxes and will provide tax exempt certificates where applicable.

4.4 Certain Flash Offerings may require Customer to pay fees regarding lost or damaged Equipment. Customer acknowledges and agrees that it understands under this Agreement Flash reserves the right to charge Customer for any damaged, stolen, or lost Equipment to the extent such damage or loss is caused by Customer.

4.5 To the extent Customer disputes amounts due and owing on any invoice provided to Customer, Customer shall dispute such amounts within 14 days of the invoice date. Customer shall provide reasonable detail and support for any dispute. If Customer fails to meet these requirements, Customer shall have waived all rights to contest such fees and charges.

4.6 Customer acknowledges and agrees that Flash shall have a right to the fees charged for each transaction processed by Flash, including for transactions that are denied, returned or charged back as a result of a third-party denying such payment or refusing to honor such payment to Customer. Additionally, Customer acknowledges and agrees that certain Flash Offerings may contain gateway, surcharges or convenience fees for any payments collected on behalf of Customer. All such gateway, surcharge or convenience fees shall be captured in Flash's invoice to Customer for the applicable Flash Offering. Customer agrees that Flash has the right to collect all such fees and costs relating to each use of each Flash Offering, whether or not Customer ultimately receives payment. Flash shall have the right to offset bad charges or refunded charges against future amounts due and owing to Customer from Flash as part of using any Flash Offering.

4.7 All required travel and expenses incurred by Flash or Flash affiliates in delivering the Flash Offerings will be invoiced by Flash to Customer for payment upon successful Commissioning Services and payment is due 30 days from the date of the invoice. Current rates for Travel and Expenses can be found on our website. Travel expenses and approvals are addressed in Contract Section 5 F viii.

5 Delivery

Unless otherwise specified in an Statement of Work, Flash shall arrange, with Customer's full cooperation at Customer's cost, the delivery of Equipment to a Customer facility where it is to be installed. The method of shipment and carrier shall be selected by Flash. Upon delivery at the Customer-designated facility, the title to and the risk of loss for the Equipment shall pass to Customer and, thereafter, the risk of loss for the Equipment shall be borne solely by Customer.

6 Flash Policies

Customer agrees to abide by and accept all policies and terms of use posted on Flash's website or as posted in any of Flash's applications, including, without limitation, Flash's (i) Privacy Policy, (ii) the general Terms of Use, and (iii) all policies regarding use of Flash Offerings (collectively, "Policies", each a "Policy"). The Policies may change from time to time in Flash's sole discretion and Flash will post such changes on its website or provide such updated Policies to Customer. In the case of a direct conflict between any provision of a Policy and the provisions of this Agreement, the provision of this Agreement shall prevail. It is Customer's sole obligation to read all Policies and updates, amendments, and supplements thereto. Customer's continued access of the website and the Flash Offerings constitutes Customer's assent to any changed terms of any of the Policies.

7 Customer Representations and Warranties and Covenants

7.1 Customer warrants that it is duly organized and validly existing under the laws of its state of incorporation or formation, has the necessary authority, licenses and other permissions to conduct the business in which it is currently engaged and is in compliance with all applicable laws.

7.2 Customer warrants that it has the legal capacity to agree to the terms of the Agreement, perform its obligations hereunder, has obtained and shall maintain all necessary authorizations or registrations from appropriate authorities to carry out the activities contemplated in the Agreement, and entering into the Agreement will not violate any applicable law or regulation.

7.3 Customer understands and agrees the associated use of any Flash Offerings shall not (i) violate any law, rule or regulation applicable to Customer or (ii) be in breach of, or constitute a default under, the provisions of any agreement, instrument or undertaking by which Customer is bound.

7.4 Customer will provide Flash with all necessary cooperation in relation to the Agreement and all necessary access to such information as may be required by Flash to provide Flash Offerings as may be reasonably necessary.

7.5 Customer will carry out all of Customer's responsibilities set out in the Agreement in a timely and efficient manner, and in the event of any delays in the Customer's provision of such assistance as agreed by the Parties, Flash may adjust any agreed level of Flash Offerings as may be reasonably necessary.

7.6 Customer shall maintain adequate insurance on the Equipment in Customer's possession and control and to the extent requested by Flash, name Flash as an additional insured on all applicable insurance policies covering the Equipment.

8 Limited Warranty; Disclaimers; Remedies

8.1 Flash warrants to Customer, as the original purchaser (which warranty is not transferable), that Equipment shall be free from material defects in the material and workmanship under normal use, in accordance with Flash's Policies and this Agreement, for a period of twelve (12) months from the date of original sale or transfer from Flash to Customer. This warranty shall not apply if Customer uses the Equipment in violation of this Agreement or any Policy or if the Equipment has been subject to accident, negligence, abuse, misuse, or criminal acts.

8.2 Customer acknowledges and agrees that a breach of this Agreement may cause other irreparable harm on Flash without an adequate remedy at law and hereby agrees that the Flash may seek equitable relief, including without limitation, temporary or permanent injunctions and other relief to limit the effect of any breach.

9 Survival

Any provision of this Agreement which, by its nature, would survive termination of this Agreement shall survive any such termination of this Agreement, including, without limitation, Articles: 3 – Confidential Information, Proprietary Information, and Intellectual Property Rights, 4 – Fees, , and 9 – Survival.

10 Miscellaneous

The Parties are independent contractors, and nothing in this Agreement will be construed to constitute or appoint any party as the agent, partner, joint venturer or representative of the other Party for any purpose whatsoever, or to grant to any party any right or authority to assume or create any obligation, express or implied, for or on behalf of any other, or to bind any other in any way or manner whatsoever. Any forbearance or delay on the part of a Party in enforcing any provision of this Agreement or any of its rights hereunder shall not be construed as a waiver of such provision or of a right to enforce same for such occurrence or any future occurrence. No other party is intended, or shall be deemed, to be a beneficiary of any provision of this Agreement. This Agreement may be executed in counterparts, which counterparts, taken together, shall constitute one agreement and each Party hereto may execute this Agreement by signing such counterpart