



**AGREEMENT FOR SOFTWARE AS A SERVICE  
BETWEEN BROWARD COUNTY AND PASSUR AEROSPACE, INC.**

This Agreement for Software as a Service (the “Agreement”) is made and entered into by and between Broward County, a political subdivision of the State of Florida (“County”), and PASSUR Aerospace, Inc., a New York corporation (“Provider”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1. DEFINITIONS**

- 1.1 **Board.** The Board of County Commissioners of Broward County, Florida.
- 1.2 **Business hours or business day.** 7 a.m. to 7 p.m. Eastern Time during weekdays that are not County holidays and on which County has not otherwise declared its offices closed.
- 1.3 **Contract Administrator.** The Director of the Broward County Aviation Department, or such person’s successor as designated by County in writing.
- 1.4 **Documentation.** All manuals, user documentation, specifications, and other related materials pertaining to the Licensed Technology or System that Provider customarily furnishes to licensees of the Software and purchasers of the services covered by this Agreement.
- 1.5 **Licensed Technology.** Any proprietary or third-party software or other intellectual property rights, including the Documentation and Custom Developments, provided to allow County to access and utilize the System in conformance with the Statement of Work or to make the System available to County and third party users over the Internet as a service.
- 1.6 **Purchasing Director.** The Broward County Purchasing Director as appointed by the Broward County Administrator.
- 1.7 **Services.** All services required of Provider under this Agreement, including as set forth in Exhibit A, to ensure the System is available to County and third party users over the Internet consistent with the terms of this Agreement. Except as may be limited by Exhibit A, these services include: hosting; making the System available to County and third party users over the Internet as a service; programming or modification/configuration of the System to meet County's ongoing needs; integration, customization, enhancements, or modifications to the System; development or consulting activities; and training or project management.
- 1.8 **Software as a Service (SaaS) or System.** The turnkey system provided by Provider pursuant to this Agreement as part of its Services hereunder, including as set forth in Exhibit A, and any Licensed Technology that Provider will make accessible to County and third party users as part of its Services under this Agreement.
- 1.9 **Support and Maintenance Services.** The support and maintenance services required for County to achieve and maintain optimal performance of the Licensed Technology and System, including as described in Exhibit C.

## ARTICLE 2. EXHIBITS

The following exhibits are attached hereto and incorporated into this Agreement:

<b>Exhibit A</b>	<b>Statement of Work</b>
<b>Exhibit B</b>	<b>Payment Schedule</b>
<b>Exhibit C</b>	<b>Support and Maintenance Services</b>
<b>Exhibit D</b>	<b>Service Level Agreement</b>
<b>Exhibit E</b>	<b>Insurance Coverages</b>
<b>Exhibit F</b>	<b>Work Authorization Form</b>
<b>Exhibit G</b>	<b>Airport Security Requirements</b>

If there is a conflict or inconsistency between any provision contained in Articles 1 - 13 and any provision contained in any of the Exhibits, the provision of Articles 1 - 13 shall prevail and be given effect unless expressly stated to the contrary.

## ARTICLE 3. SCOPE OF SERVICES & LICENSE

3.1 Scope of Services. Provider shall perform all work specified in this Agreement inclusive of the Exhibits. Unless stated otherwise in this Agreement, the work required of Provider includes all labor, materials and tasks, whether or not enumerated in the Agreement, that are such an inseparable part of the work expressly stated in the Agreement that exclusion thereof would render Provider's performance impractical, illogical, or unconscionable.

3.2 Licensed Technology. Provider grants to County a royalty-free, nonexclusive right to use for the term of this Agreement, for Broward County airport (FLL) authorized personnel and third party users in the United States, for an unlimited number of users to the Licensed Technology and System, including to any embedded third party software within the System or required to operate or allow access to the Licensed Technology or System, for use solely for County or other governmental business purposes in the maintenance and operation of the Broward County Airport (FLL) or the North Perry Airport (HWO), including on- and off-site access and use of the System by authorized third party users, including those persons or entities with which County may contract to operate the System (the "License").

3.2.1 Authorized Users and Additional Rights. Unless otherwise stated in Exhibit A (Statement of Work), County and any of its employees, agents, or suppliers of services shall have the right to concurrently operate and use the System for any County governmental or business purpose. If anything less than unlimited, concurrent use is expressly provided under this Agreement and additional rights or licenses may be required, subject to Provider's agreement, County's Purchasing Director is authorized to execute a Work Authorization (Exhibit F hereto) to purchase additional rights or licenses for the fee specified in Exhibit B.

3.2.2 Prohibited Uses. Except as otherwise provided for in this Agreement or required under Florida law, County shall not reproduce, publish, or license the System to others. County

shall not modify, reverse engineer, disassemble, or decompile the System or any portion thereof, except (a) to the extent expressly authorized in Exhibit A, in which event such authorized actions shall be deemed within the right to use granted in Section 3.2, or (b) to the extent permitted under any applicable open source license.

3.2.3 Telecommunications. County acknowledges that Provider uses a variety of technologies including telecommunications, the internet, radar, frame relay, and networks to acquire, process, and deliver the System. Notwithstanding anything to the contrary in the Agreement, County acknowledges Provider is not responsible for technical failures that are the responsibility of other companies or technologies. County acknowledges that Provider is not responsible for failure of third party data source(s) and/or feed(s) that are required to deliver the System.

3.3 SaaS Services. Provider shall provide County with the Services set forth in this Agreement in accordance with the Statement of Work set forth in Exhibit A. Provider and the System shall comply for the duration of this Agreement with the Service Level Agreement set forth in Exhibit D. All Support and Maintenance Services for the Licensed Technology and the System are included within the Software as a Service Fee listed on the Payment Schedule (Exhibit B), and will be provided at no additional cost to County except as may otherwise be expressly stated in Exhibit B.

3.3.1 Updates, Upgrades and Releases. For the full term of this Agreement, Provider shall promptly provide to County, with advance notice and at no additional cost, any and all updates (including error corrections, bug fixes, security updates, and patches), upgrades, or new releases to the System, but not new products, including all that Provider has made available to other subscribers or licensees of all or part of the System. All such updates, upgrades, and new releases shall remain the sole property of Provider and shall be deemed to be included within the scope of the rights granted under this Agreement.

3.3.2 Compatibility. For the full term of this Agreement, Provider will use commercially reasonable efforts to ensure the continued compatibility of the Licensed Technology and System with all major releases, updates, or upgrades of any third party software used by County and specified by Provider for access or operation of the System (the "County Software Component(s)"). In the event Provider is not be able to support any County Software Component update, upgrade or new release that changes major functionality and is not backwards compatible with the System, Provider shall use all reasonable efforts to resolve such issues and to provide optimal functionality of the System in accordance with this Agreement. If Provider is unable to provide continued optimal functionality of the System in accordance with this Agreement due to any applicable County Software Component release, update or upgrade, County shall be entitled to terminate the Agreement upon written notice with no further obligation to Provider.

3.3.3 System Enhancements or Modifications. If requested by County, subject to payment of fees as set forth in a Statement of Work (if any) and except to the extent such

modifications may be beyond the capability of the System or Licensed Technology, Provider shall incorporate certain features and enhancements into the System or Licensed Technology (the "Custom Developments"). Except as otherwise provided in the Statement of Work, Provider will grant County a royalty free license to these enhancements or modifications during the duration of this Agreement. Any such request shall be formalized into a Statement of Work that shall define in detail the services to be performed, the financial terms, and the proposed project staffing and schedule. Any such Statement of Work shall be incorporated into a Work Authorization, to the extent permitted by section 3.5 below, or otherwise into a proposed amendment to this Agreement.

3.4 Other Equipment. County may access and operate the System on separate servers and in any and all development, test, failover, disaster recovery, and backup configurations, at no additional fee.

3.5 Change of Scope Procedures. Provider acknowledges that Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the scope of services to be provided under this Agreement except as expressly provided herein. To the extent any goods or services under this Agreement, or the quantity thereof, are optional ("Optional Services"), County may select the type, amount, and timing of such goods or services pursuant to a Work Authorization (Exhibit F hereto) executed by Provider and County pursuant to this Section, and provided that no such selection, when combined with those goods or services required under the Agreement, would result in a payment obligation exceeding the applicable maximum amount stated in Section 5.1. Notwithstanding anything to the contrary in the Agreement, Work Authorizations for Optional Services pursuant to this Section shall be executed on behalf of the County as follows: the Contract Administrator may execute Work Authorizations for which the total cost to County in the aggregate is less than \$30,000.00; the Purchasing Director may execute Work Authorizations for which the total cost to the County in the aggregate is within the Purchasing Director's delegated authority; any Work Authorizations above the County's Purchasing Director delegated authority shall require Board approval. Subsequent to the full execution of any Work Authorization, the Contract Administrator will issue a Notice to Proceed for those authorized Optional Services. Provider shall not commence work on any Work Authorization until after receipt of the applicable Notice to Proceed.

3.6 Contract Administrator Authority. Unless otherwise expressly stated herein or in the applicable Procurement Code, Code of County Ordinances, or County Code of Administrative Procedure, the Contract Administrator may act on behalf of County to exercise the authority and powers of County under this Agreement.

#### **ARTICLE 4. TERM AND TIME OF PERFORMANCE**

4.1 Term. The Agreement shall commence on October 1, 2016 (the "Effective Date"). The term of the Agreement shall be for a period of three (3) years from the Effective Date (the "Initial Term").

4.2 Extensions. County shall have the option to renew this Agreement for two (2) additional one (1) year terms by sending notice thereof to Provider at least thirty (30) days prior to the expiration of the then-current term. The Purchasing Director is authorized to exercise this renewal option. In the event that unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an extension not practicable or if no extension is available, and expiration of this Agreement would result in a gap in the provision of services necessary for the ongoing operations of the County, then this Agreement may be extended on the same terms and conditions by the Purchasing Director for period(s) not to exceed six (6) months in the aggregate.

4.3 Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year shall be subject to both the appropriation and the availability of funds, in accordance with Chapter 129, Florida Statutes.

4.4 Timetable. If Provider fails to achieve Final Acceptance for the Surface Optimization project within the time period for Final Acceptance stated in Exhibit A or for any additional software or associated services obtained after the Effective Date by the deadline (if any) stated in the applicable Work Authorization, County shall have the option to terminate the Agreement or Work Authorization (as applicable) by written notice from its Contract Administrator, in which event all sums paid by County under this Agreement or Work Authorization, if any, shall be reimbursed to County by Provider within 15 days. For purposes of this paragraph, any delays caused by County prior to Final Acceptance shall extend the Final Acceptance deadline by the same number of days as the delay caused by County. Notwithstanding anything to the contrary in the foregoing, this Section 4.4 will apply only to Surface Optimization and any new Software ordered after the Effective Date of this Agreement through the Work Authorization.

## ARTICLE 5. COMPENSATION

5.1 For the duration of the Agreement, County will pay Provider in accordance with Exhibit B up to the following maximum amount(s):

<b>Services/Goods</b>	<b>Term</b>	<b>Not-To-Exceed Amount</b>
SaaS Fees, Surface Optimization, and Support and Maintenance Services	Initial Term (3 years)	\$2,000,000.00
Optional renewal terms	Up to two renewal terms	\$1,300,000.00
Optional Services	Duration of the Agreement (inclusive of any renewals)	\$100,000.00
<b>TOTAL NOT TO EXCEED</b>		<b>\$3,400,000.00</b>

Payment shall be made only for work actually performed and completed pursuant to this Agreement or as otherwise set forth in Exhibit B (Payment Schedule), which amount shall be accepted by Provider as full compensation for all such work. Provider acknowledges that the amounts set forth herein are the maximum amounts payable for the respective terms and

constitute a limitation upon County's obligation to compensate Provider for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon Provider's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, Provider shall not be reimbursed for any expenses it incurs under this Agreement.

## 5.2 Method of Billing and Payment

5.2.1 Invoices. Provider may submit invoices only for goods provided and services completed in accordance with the Payment Schedule set forth in Exhibit B. Unless otherwise indicated in Exhibit B, an original plus one copy of each invoice must be submitted within fifteen (15) days after the end of the month for which payment is sought, except that the final invoice must be submitted no later than sixty (60) days after all services are completed. Unless otherwise stated in Exhibit B or the applicable Work Authorization, any Optional Services shall be invoiced in accordance with the existing invoicing schedule for any like goods or services provided under this Agreement, including (if applicable) invoiced pro rata for the initial invoice period.

5.2.2 Payments. County shall pay Provider within thirty (30) days of receipt of Provider's proper invoice, as required by the "Broward County Prompt Payment Ordinance" (Broward County Ordinance No. 89-49). Payment shall be made to Provider at the most recent address designated under the "Notices" provision of this Agreement or as otherwise provided on the invoice. To be deemed proper, an invoice must comply with all requirements set forth in this Agreement and must be submitted pursuant to any reasonable instructions prescribed by the Contract Administrator in advance and in writing. County shall have the right to withhold payment of the invoice in the event County disputes in good faith the amounts charged; provided however, County shall pay all amounts not in dispute and provide in writing the details of any such good faith dispute. The parties hereto agree that any amounts so withheld shall not be subject to payment of any interest by County.

5.3 Travel. With respect to travel costs and travel-related expenses, Provider agrees to adhere to Section 112.061, Florida Statutes, except to the extent, if any, that Exhibit B expressly provides to the contrary. County shall not be liable for any such expenses that have not been approved in advance, in writing, by County.

5.4 Fixed Pricing. Prices set forth in Exhibit B shall remain firm and fixed for the term of the Agreement, including any option terms. However, Provider may offer incentive or volume discounts to County at any time.

## **ARTICLE 6. DELIVERY, TESTING AND ACCEPTANCE**

6.1 System. Unless otherwise stated in Exhibit A, Provider shall make the System available to County in accordance with this Agreement within seven (7) days after the Effective Date unless otherwise stated in the Statement of Work. All County license keys, usernames, and passwords shall be authenticated by Provider and perform according to Exhibit A (Statement of Work). The

System shall meet or exceed the standards and requirements set forth in the Service Level Agreement for the duration of the Agreement.

6.2 Documentation. Provider shall deliver copies of the Documentation to County within seven (7) days of the Effective Date, and thereafter shall promptly provide any updated Documentation as it becomes available during the term of this Agreement. Provider represents and warrants that the Documentation is sufficiently comprehensive and of sufficient quality to enable a competent user to operate the System efficiently and in accordance with Exhibit A. County has the right to copy and modify the Documentation as it deems necessary for its own internal use.

6.3 Final Acceptance Testing. Final Acceptance testing as set forth in this Section 6.3 shall apply only to (a) Surface Optimization and (b) any additional software or associated services obtained through a Work Authorization pursuant to this Agreement after the Effective Date. For all Software and service subject to Final Acceptance testing, there shall be a testing period during which County, with the assistance of its Enterprise Technology Services (“ETS”) to the extent applicable under Broward County Administrative Code Section 22.148, shall determine whether the System: (i) properly functions in accordance with the Documentation; (ii) provides the capabilities as stated in this Agreement and in the Documentation; and (iii) to the extent stated, meets the Acceptance Criteria set forth in Exhibit A (the criteria referenced in (i), (ii), and (iii) are collectively referred to as the criteria for “Final Acceptance”). In the event of a conflict between the Acceptance Criteria and the Documentation, the Acceptance Criteria shall prevail.

6.3.1 The testing period shall commence on the first business day after Provider informs County in writing that it has completed the Services required to be performed prior to testing and that the System is ready for testing, and shall continue for a period of up to thirty (30) days.

6.3.2 During the testing period, County may notify Provider in writing of any error or defect in the System so that Provider may make any needed modifications or repairs. If Provider so elects in writing, testing will cease until Provider resubmits for Final Acceptance testing, at which time the testing period shall be reset to that of a first submission for testing.

6.3.3 County shall notify Provider in writing of its Final Acceptance or rejection of the software, System, or any part thereof, within fifteen (15) days after the end of the testing period, as same may be extended or reset. If County rejects the software, System, or any part thereof, County shall provide notice identifying the criteria for Final Acceptance that the System failed to meet. Following such notice, Provider shall have thirty (30) days to (a) modify, repair, or replace the software, System, or any portion thereof, or (b) otherwise respond to County's notice. If Provider modifies, repairs, or replaces the software, System, or a portion thereof, the testing period shall re-commence consistent with the procedures set forth above in this Section 6.3.

6.3.4 In the event Provider fails to remedy the reason(s) for County's rejection of the software, System, or any part thereof, within ninety (90) days after County's initial notice of rejection, County may elect, in writing, to either accept the software or System as it then exists or to reject the software or System and terminate the applicable Work Authorization. If County elects to reject the software or System and terminate the applicable Work Authorization, all sums paid by County under the applicable Work Authorization shall be reimbursed to County by Provider within 15 days after such election is made. If County elects to accept the System as it then exists (partial acceptance), Provider shall continue to use its best efforts to remedy the items identified in the applicable notice of rejection. If, despite such continuing best efforts, Provider fails to remedy the issue(s) identified by County within a reasonable time as determined by County, then County shall be entitled to deduct from future sums due under the Agreement the value of the rejected portion of the System as mutually determined by the parties. If the parties cannot agree upon such value, County shall have the right to reject the System and terminate the applicable Work Authorization on the terms stated above in this paragraph.

#### **ARTICLE 7. PROTECTION OF LICENSED TECHNOLOGY AND PROPRIETARY RIGHTS**

7.1 County Proprietary Rights. Provider acknowledges and agrees that County retains all rights, title and interest in and to all materials, data, documentation and copies thereof furnished by County to Provider hereunder, including all copyright and other proprietary rights therein, which Provider as well as its employees, agents, subconsultants and suppliers may use only in connection with the performance of Services under this Agreement.

7.2 Ownership. County acknowledges that all copies of the Licensed Technology, Documentation or System (software and data in any form) provided by Provider are the sole property of Provider. County shall not have any right or title to the Licensed Technology, Documentation or System or copies thereof except as expressly provided in this Agreement, and shall take all reasonable steps to secure use and access to the Licensed Technology or System consistent with maintenance of Provider's proprietary rights therein.

#### **ARTICLE 8. CONFIDENTIAL INFORMATION, SECURITY AND ACCESS**

8.1 Public Records Law. As a political subdivision of the State of Florida, County is subject to Florida's Public Records Law, Chapter 119 of the Florida Statutes. Notwithstanding anything else in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119 shall not constitute a breach of this Agreement.

8.2 Provider Confidential Information. Provider represents that the Licensed Technology contains proprietary products and trade secrets of Provider. Accordingly, to the full extent permissible under applicable law, County agrees to treat the Licensed Technology as confidential in accordance with this Article. Any other material submitted to County that Provider contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public



records laws (including Florida Statutes Chapter 119) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCT – TRADE SECRET.” In addition, Provider must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Florida Statutes Section 812.081 and stating the factual basis for same. In the event that a third party submits a request to County for records designated by Provider as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Provider. Provider shall indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the non-disclosure of the Licensed Technology or any Trade Secret Materials in response to a records request by a third party.

### 8.3 County Confidential Information.

8.3.1 All materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods that Provider obtains from County in connection with the Services performed under this Agreement, or in which County holds proprietary rights, constitute County Confidential Information. Notwithstanding anything to the contrary contained herein, County Confidential Information does not include information that: (a) is or becomes a part of the public domain through no act or omission of Provider; (b) was in Provider’s lawful possession prior to the disclosure; (c) is lawfully disclosed to Provider by a third party without restriction on disclosure; or (d) is independently developed by Provider without use of or reference to any County Confidential Information.

8.3.2 All County-provided employee information, financial information, and personally identifiable information for individuals or entities interacting with County (including, without limitation, social security numbers, birth dates, banking and financial information, and other information deemed exempt or confidential under state or federal law) also constitute County Confidential Information.

8.3.3 County Confidential Information may not, without the prior written consent of County, or as otherwise required by law, be used by Provider or its employees, agents, subconsultants or suppliers for any purpose other than for the benefit of County pursuant to this Agreement. Neither Provider nor its employees, agents, subconsultants or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to any other person or entity any County Confidential Information without the prior written consent of County.

8.3.4 Provider expressly agrees to be bound by and to defend, indemnify and hold harmless County and its officers and employees from the breach of any federal, state or local law by Provider or its employees, agents, subconsultants or suppliers regarding the unlawful use or disclosure of County Confidential Information.

8.3.5 Upon expiration or termination of this Agreement, or as otherwise demanded by County, Provider shall immediately turn over to County all County Confidential Information, in any form, tangible or intangible, possessed by Provider or its employees, agents, subconsultants or suppliers.

8.4 Maintenance of Confidential Information. Each party shall advise its employees, agents, subconsultants and suppliers who receive or otherwise have access to the other party's Confidential Information of their obligation to keep such information confidential, and shall promptly advise the other party in writing if it learns of any unauthorized use or disclosure of the other party's Confidential Information. In addition, the parties agree to cooperate fully and provide all reasonable assistance to ensure the confidentiality of the other party's Confidential Information.

8.5 Security and Access. Any access by Provider to any aspect of the County Network, as defined in Exhibit D, must comply at all times with all applicable County access and security standards, as well as any other or additional restrictions or standards for which County provides written notice to Provider or is otherwise contained in this Agreement. Provider will provide any and all information that County may reasonably request in order to determine Provider's compliance with this Section 8.5 and verify Provider's compliance with County security standards. If at any point in time County, in the sole reasonable discretion of its Chief Information Officer, determines that Provider's access to any aspect of the County Network presents an unacceptable security risk, County may immediately suspend or terminate Provider's access and, if the risk is not promptly resolved to the reasonable satisfaction of the County's Chief Information Officer, may terminate this Agreement or any applicable Work Authorization upon ten (10) business days' notice (including, without limitation, without restoring any access to the County network to Provider).

8.6 Data and Privacy. Provider shall comply with all data and privacy laws and regulations applicable to it as a SaaS software provider, which may include without limitation the Florida Information Protection Act of 2014, Florida Statutes Section 501.171, and shall ensure that County Data transmitted or stored in the System is not transmitted or stored outside the continental United States. Provider may not sell, market, publicize, distribute, or otherwise make available to any third party any personal identification information (as defined by Florida Statutes Section 817.568 or Section 817.5685) that Provider may receive or otherwise have access to in connection with this Agreement, unless expressly authorized in advance by County. Provider shall not transmit or store any County Data relating to the Agreement outside of the continental United States. If and to the extent requested by County, Provider shall ensure that all hard drives or other storage devices and media that contained County Data have been wiped in accordance with the then-current best industry practices, including without limitation DOD 5220.22-M, and that an appropriate data wipe certification is provided to the satisfaction of the Contract Administrator.

8.7 Injunctive Relief. The parties represent and agree that neither damages nor any other legal remedy is adequate to remedy any breach of this Article, and that the injured party shall

therefore be entitled to injunctive relief to restrain or remedy any breach or threatened breach of Article 8.

8.8 Survival. The obligations under this Article 8 shall survive the termination of this Agreement or of any rights granted under this Agreement.

## ARTICLE 9. WARRANTIES

9.1 Ownership. Provider represents and warrants that it is the owner of all right, title, and interest in and to the System, that it has the right to grant to County the rights and the licenses granted under this Agreement, and that it has not knowingly granted rights or licenses to any other person or entity that would restrict rights and licenses granted hereunder, except as may be expressly stated herein.

9.2 Limited Warranty. For the full term of this Agreement, Provider represents and warrants to County that the System will perform substantially as described in the Documentation and in the Statement of Work (Exhibit A). This warranty does not cover any failure of the System resulting from (a) use of the System in other than the manner for which it was intended; (b) any modification of the System by County that is not authorized by Provider; or (c) County providing improperly formatted data to be processed through the System.

9.3 Warranty Regarding Viruses. Provider further represents, warrants, and agrees that, to the best of its knowledge, at the time of delivery, the System is free from currently-known viruses or malicious software (at the time the System and any subsequent version thereof is provided to County), and that Provider has and will continue, for the full term of this Agreement, to use commercially reasonable security measures designed to ensure the integrity of the System from data leaks, hackers, denial of service attacks, and other unauthorized intrusions.

9.4 Intellectual Property Warranty. Provider represents and warrants that at the time of entering into this Agreement, no claims have been asserted against Provider (whether or not any action or proceeding has been brought) that allege that any part of the System infringes or misappropriates any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party, and that Provider is unaware of any such potential claim. Provider also agrees, represents and warrants that the System and Services to be provided pursuant to this Agreement will not infringe or misappropriate any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party.

9.5 Quality of Performance and Materials. Provider represents and warrants that all Services provided under this Agreement will be performed by a person duly qualified and sufficiently experienced to perform such Services and, where required, licensed by all appropriate governmental authorities in the applicable area(s). Provider agrees that all Services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such Services shall meet or exceed prevailing industry and professional standards for such Services. Provider represents and warrants that all materials, equipment, and products furnished pursuant

to this Agreement shall be of good quality and free from defective or inferior workmanship; any items found not to be conformance with the foregoing and with the applicable specifications (if any) in Exhibit A shall be replaced by Provider at no additional cost to County.

9.6 Remedy. In the event of written notice from County of a breach of any representation or warranty stated in this Article 9, Provider will, at no charge to County, promptly correct the breach by either (a) correcting or updating the System, or (b) providing to County other measures that correct the breach. In addition, upon notice from County of any error or defect in the System, Provider will immediately provide to County any known methods of operating the System in a manner that eliminates the practical adverse effects of the error or defect. If Provider is unable to correct a material breach of this Article within a reasonable period of time not to exceed thirty (30) business days, County shall be entitled to cancel the Agreement and receive a pro-rata refund of amounts paid to Provider. In the event of any replacement of the System or portion thereof, the System as replaced will be warranted as provided above. The remedies in this Section 9.5 are County's sole and exclusive remedies with respect to a breach of any representation or warranty stated in Articles 9.2 or 9.5.

#### **ARTICLE 10. INDEMNIFICATION AND LIMITATION OF LIABILITY**

10.1 Indemnification. Provider shall be fully liable for the actions of its officers, employees, subcontractors and other agents under this Agreement. Provider shall at all times hereafter indemnify, hold harmless and defend County and all of County's officers, employees and other agents (collectively, "Indemnified Party") from and against any and all lawsuits, causes of action, demands, claims, losses, fines, penalties, damages, judgments, liabilities and expenditures of any kind, including attorneys' fees, litigation expenses, and court costs (collectively, "Claim"), raised or asserted by any person or entity that is not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Provider or any officer, employee, subcontractor or other agent of Provider, arising from, relating to, or in connection with any obligation or performance under this Agreement. In the event any such Claim is brought against an Indemnified Party, Provider shall, upon prompt written notice from County, defend each Indemnified Party against each such Claim; provided that County permits Provider to control the defense, settlement, adjustment or compromise of any such claim, subject to County's approval of such counsel, which shall not be unreasonably withheld. County may employ counsel, at its own expense, to assist with respect to any such Claim.. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement.

10.2 Limitation of Liability. Neither Provider nor County shall be liable to the other party for any damages under this Agreement that exceed the largest of the following amounts: (a) \$100,000; or (b) one and one-half times the total not-to-exceed amount specified in Section 5.1. Neither party shall be liable for the other party's special, indirect, punitive, or consequential damages (including damages resulting from lost data or records other than costs incurred in the recovery thereof), even if the party has been advised that such damages are possible, or for the other party's lost profits, lost revenue, or lost institutional operating savings. These limitations

of liability shall not apply to (i) any Claim resulting from a party's actual or alleged disclosure of Confidential Information or resulting from an actual or alleged data breach in violation of applicable law, (ii) any Claim resulting from an actual or alleged infringement of any interest in any Licensed Technology, the System, or other intellectual property, (iii) any indemnification obligation under this Agreement.

10.3 Infringement Remedy. If the System or portion thereof is finally adjudged to infringe, or in Provider's opinion is likely to become the subject of such a Claim, Provider shall, at Provider's option, do one of the following: (i) procure for County the right to continue using the System; or (ii) modify or replace the System to make it noninfringing; or (iii) terminate the Agreement in whole or in part, as applicable, and provide a pro-rata refund of fees paid for the impacted Services.. Notwithstanding anything to the contrary in the foregoing, if the System or portion thereof is finally adjudged to infringe, or in County's opinion is likely to become the subject of such a Claim, County may terminate the Agreement in whole or in part, as applicable, and receive a pro-rata refund of fees paid for the impacted Services. Provider shall have no liability regarding any infringement claim caused by any County modification of the System not specifically authorized in writing by Provider. **THIS ARTICLE 10 STATES PROVIDER'S ENTIRE OBLIGATION WITH RESPECT TO CLAIMS THAT THE SYSTEM OR ANY RIGHTS THEREIN INFRINGE OR MISAPPROPRIATE THE RIGHTS OF ANY THIRD PARTY.**

#### ARTICLE 11. INSURANCE

11.1 For purposes of this article, the term "County" shall include Broward County and its members, officials, officers, and employees.

11.2 Provider shall maintain, at its sole expense and at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum limits of insurance coverage designated in Exhibit E (inclusive of any amount provided by an umbrella or excess policy) in accordance with the terms and conditions stated in this article. All required insurance shall apply on a primary basis, and shall not require contribution from, any other insurance or self-insurance maintained by County. Any insurance, or self-insurance, maintained by County shall be in excess of, and shall not contribute with, the insurance provided by Provider.

11.3 Insurers providing the insurance required by this Agreement must either be: (1) authorized by a current certificate of authority issued by the State of Florida to transact insurance in the State of Florida, or (2) except with respect to coverage for the liability imposed by the Florida Workers' Compensation Act, an eligible surplus lines insurer under Florida law. In addition, each such insurer shall have and maintain throughout the period for which coverage is required, a minimum A. M. Best Company Rating of "A-" and a minimum Financial Size Category of "VII." To the extent insurance requirements are designated in Exhibit E, the applicable policies shall comply with the following:

11.3.1 Commercial General Liability Insurance. Policy shall be no more restrictive than that provided by the latest edition of the standard Commercial General Liability Form (Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office (ISO), with the exception of endorsements specifically required by ISO or the State of Florida, and liability arising out of:

- Mold, fungus, or bacteria
- Terrorism
- Silica, asbestos or lead
- Sexual molestation
- Architects and engineers professional liability, unless coverage for professional liability is specifically required by this Agreement.

County shall be included on the policy (and any excess or umbrella policy) as an “Additional Insured” on a form no more restrictive than ISO form CG 20 10 (Additional Insured – Owners, Lessees, or Contractor). The policy (and any excess or umbrella policy) must be endorsed to waive the insurer’s right to subrogate against County.

11.3.2 Business Automobile Liability Insurance. Policy shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of the standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of work under this Agreement. County shall be included on the policy (and any excess or umbrella policy) as an “Additional Insured.” The policy (and any excess or umbrella policy) must be endorsed to waive the insurer’s right to subrogate against County.

11.3.3 Workers’ Compensation/Employer’s Liability Insurance. Such insurance shall be no more restrictive than that provided by the latest edition of the standard Workers’ Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance (NCCI), with the exception of endorsements required by NCCI or the State of Florida. The policy must be endorsed to waive the insurer’s right to subrogate against County in the manner which would result from the attachment of the NCCI form “Waiver of our Right to Recover from Others Endorsement” (Advisory Form WC 00 03 13) with County scheduled thereon. Where appropriate, coverage shall be included for any applicable Federal or State employer’s liability laws including, but not limited to, the Federal Employer’s Liability Act, the Jones Act, and the Longshoreman and Harbor Workers’ Compensation Act.

11.3.4 Professional Liability Insurance. Such insurance shall cover Provider for those sources of liability arising out of the rendering or failure to render professional services in the performance of the services required in this Agreement. If policy provides coverage on a claims-made basis, such coverage must respond to all claims reported within at least

three (3) years following the period for which coverage is required, unless a longer period is indicated in Exhibit E.

11.3.5 Cyber Liability, or Technology Errors and Omissions Insurance. Coverage is required for any system connected to, and, or accessible from the internet. Coverage may be included as part of the required Professional Liability Insurance. If policy provides coverage on a claims-made basis, such coverage must respond to all claims reported within at least three (3) years following the period for which coverage is required, unless a longer period is indicated in Exhibit E. Such policy shall cover, at a minimum, the following:

- Data Loss and System Damage Liability
- Security Liability
- Privacy Liability
- Privacy/Security Breach Response coverage, including Notification Expenses

County shall be included on the policy as an “Additional Insured” unless such endorsement is not available by the insurer.

11.4 Within fifteen (15) days after the Effective Date of this Agreement or notification of award, whichever is earlier, Provider shall provide to County satisfactory evidence of the insurance required in this Agreement. With respect to the Workers’ Compensation/Employer’s Liability Insurance, Professional Liability, and Business Automobile Liability Insurance, an appropriate Certificate of Insurance identifying the project and signed by an authorized representative of the insurer shall be satisfactory evidence of insurance. With respect to the Commercial General Liability, an appropriate Certificate of Insurance identifying the project, signed by an authorized representative of the insurer, and copies of the actual additional insured endorsements as issued on the policy(ies) shall be satisfactory evidence of such insurance.

11.5 Coverage is not to cease and is to remain in force until the expiration or termination of this Agreement or the conclusion of all performance by Provider, whichever is later. If any of the insurance coverage will expire prior to the completion of the Services, proof of insurance renewal shall be provided to County prior to the policy’s expiration.

11.6 Provider shall provide County thirty (30) days’ advance notice of any cancellation of the policy except in cases of cancellation for non-payment for which County shall be given ten (10) days’ advance notice.

11.7 Provider shall provide, within thirty (30) days after receipt of a written request from County, a copy of the policies providing the coverage required by this Agreement. Provider may redact portions of the policies that are not relevant to the insurance required by this Agreement.

11.8 County and Provider, each for itself and on behalf of its insurers, to the fullest extent permitted by law without voiding the insurance required hereunder, waive all rights against the

other party and any of the other party's contractors, subcontractors, agents, and employees for damages or loss to the extent covered and paid for by any insurance maintained by the other party.

11.9 If Provider uses a subcontractor, Provider shall require each subcontractor to endorse County as an "Additional Insured" on the subcontractor's Commercial General Liability policy.

## **ARTICLE 12. TERMINATION**

12.1 This Agreement may be terminated for cause based on any breach that is not cured within thirty (30) days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board upon providing written notice to Provider of the termination date, which shall be not less than ninety (90) days after the date such written notice is provided. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, to the full extent permissible under applicable law, be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

12.2 County may terminate this Agreement if Provider is found to have submitted a false certification pursuant to Section 287.135, Florida Statutes, if Provider has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or if Provider has failed to promptly implement corrective action for audit deficiencies upon reasonable notice by County. Notwithstanding anything contained in this Agreement to the contrary, the rights and obligations of the parties under this paragraph shall be governed by Section 287.135, Florida Statutes, to the full extent applicable.

12.3 Provider represents that, to the best of its knowledge, neither it nor any of its affiliates has been placed on the discriminatory vendor list, as defined by Section 287.134, Florida Statutes. County may terminate this Agreement effective immediately, without any further obligation to Provider, upon learning that such representation is false or if Provider or any of its affiliates is placed on the discriminatory vendor list.

12.4 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.

12.5 In the event this Agreement is terminated for convenience, Provider shall be paid for any services properly performed through the termination date specified in the written notice of termination. Provider acknowledges that it has received good, valuable and sufficient consideration from County, the receipt and adequacy of which are hereby acknowledged by Provider, for County's right to terminate this Agreement for convenience, and Provider hereby waives, to the full extent permissible under applicable law, any and all rights to challenge the adequacy of such consideration or the validity of County's right to terminate for convenience.



## ARTICLE 13. MISCELLANEOUS

13.1 Audit Right and Retention of Records. County shall have the right to audit the books, records, and accounts of Provider and its subcontractors that are related to this Agreement. Provider and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of Provider and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Provider or its subcontractor, as applicable, shall make same available at no cost to County in written form.

Provider and its subcontractors shall preserve and make available, at reasonable times within Broward County (i.e., either physically within or available remotely from within Broward County) for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this Section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at Provider's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this Section discloses overpricing or overcharges to County of any nature by Provider in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of the County's audit shall be reimbursed to the County by Provider in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of County's findings to Provider.

Provider shall ensure that the requirements of this Section are included in all agreements with its subcontractor(s).

13.2 Public Records. To the extent Provider is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Provider shall:

- a. Keep and maintain public records required by County to perform the services under this Agreement in the manner prescribed in the Agreement;
- b. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

c. Ensure that public records that the County instructs are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the records are not transferred to County; and

d. Upon completion or termination of this Agreement, transfer to County, at no cost, all public records in possession of Provider or keep and maintain public records required by County to perform the services. If Provider transfers the records to County, Provider shall destroy any duplicate public records that are exempt or confidential and exempt. If Provider keeps and maintains public records, Provider shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County. Provider's records relating to billing and invoicing will be kept for 7 years, and operational records will be kept for 1 year.

The failure of Provider to comply with the provisions of this section shall constitute a material breach of this Agreement entitling County to exercise any remedy provided in this Agreement or under applicable law.

A request for public records regarding this Agreement must be made directly to County, who will be responsible for responding to any such public records requests. Provider will provide any requested records to County to enable County to respond to the public records request.

**IF PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES CHAPTER 119 TO PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 359-6129, SCOOPER@BROWARD.ORG, 2200 SW 45TH STREET, SUITE 101, DANIA BEACH, FL 33312.**

13.3 Truth-In-Negotiation Representation. Provider's compensation under this Agreement is based upon representations supplied to County by Provider, and Provider certifies that the wage rates, factual unit costs, and other factual information supplied to substantiate Provider's compensation are accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent any such representation is untrue.

13.4 Public Entity Crime Act. Provider represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, Provider further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved

or whether Provider has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to Provider under this Agreement.

13.5 Independent Contractor. Provider is an independent contractor under this Agreement. Provider shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

13.6 Third Party Beneficiaries. The parties acknowledge that there are no third party beneficiaries under this Agreement.

13.7 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

NOTICE TO COUNTY:  
Director of Aviation Department  
2200 SW 45th Street, #101  
Dania Beach, Florida 33312  
Email address: ascott@broward.org

NOTICE TO PROVIDER:  
PASSUR  
Attn: Louis Petrucelly  
1 Landmark Square, Suite 1900  
Stanford, CT 06901  
Email: lpetrucelly@passur.com

13.8 Assignment. Except in the event of merger or sale of all, or substantially all, of Provider's assets, this Agreement may not be assigned by Provider without the prior written consent of County. In the event of an assignment as a result of a merger or sale of all, or substantially all, of Provider's assets, Provider or the acquiror will provide reasonably requested information to County to facilitate County's set up of the new vendor with accounts payable. If Provider violates this provision, County shall have the right to immediately terminate this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

13.9 Conflicts. Provider agrees that, to the best of its knowledge, neither it nor its employees will have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Provider's loyal and conscientious exercise of the judgment and care required to perform under this Agreement. Provider further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Provider is not a party, unless compelled by court process. Further, such persons shall not give sworn

testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Provider or any person from in any way representing themselves, including giving expert testimony in support thereof, in any administrative or legal proceeding. Provider agrees that each of its contracts with subcontractors performing under this Agreement shall contain substantively identical language to ensure that each subcontractor and its officers and employees meet the obligations contained in this paragraph.

13.10 Waiver of Breach. The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach under this Agreement shall not be deemed a waiver of any subsequent breach.

13.11 Compliance with Laws. Each party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing under this Agreement.

13.12 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

13.13 Joint Preparation. This Agreement has been jointly prepared by the parties hereto, and shall not be construed more strictly against either party.

13.14 Headings and Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires.

13.15 Governing Law, Venue and Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, PROVIDER AND COUNTY HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CAUSE OF ACTION OR CLAIM ARISING FROM, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT.**

13.16 Amendments. No modification or amendment to this Agreement shall be effective unless it is in writing and executed by authorized representatives of each party. Without limiting the

foregoing, the terms of this Agreement shall prevail over and against any additional or contrary terms and conditions in any format or medium whatsoever including, without limitation, shrinkwrap, click-through, or terms and conditions associated with any upgrade, update, release, patch, or other modification of the System, unless expressly agreed to in writing by an amendment hereto executed by authorized representatives of each party.

13.17 Prior Agreements. This Agreement represents the final and complete understanding of the parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

13.18 HIPAA Compliance. It is understood by the parties that County personnel or their agents have access to protected health information (hereinafter known as "PHI") that is subject to the requirements of 45 C.F.R. § 160, 162, and 164 and related statutory and regulatory provisions. In the event Provider and County agree in a Statement of Work that Provider will have access to and/or process PHI and that Provider will be a covered entity or business associate or otherwise be required to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Provider shall fully protect individually identifiable health information as required by HIPAA and HITECH. If requested by County, Provider shall execute a Business Associate Agreement in the form set forth at [www.broward.org/Purchasing/Pages/StandardTerms.aspx](http://www.broward.org/Purchasing/Pages/StandardTerms.aspx). Where required, Provider shall handle and secure such PHI in compliance with HIPAA, HITECH and its related regulations and, if required by HIPAA, HITECH, or other laws, shall include in its "Notice of Privacy Practices" notice of Provider's and County's uses of a client's PHI. The requirement to comply with this provision, HIPAA and HITECH shall survive the expiration or termination of this Agreement. County hereby authorizes the County Administrator to sign Business Associate Agreements if required under this Agreement. Unless otherwise agreed in a Statement of Work, County shall not provide, or give access to, PHI to Provider.

#### 13.19 Payable Interest

13.20.1 Payment of Interest. County shall not be liable to pay any interest to Provider for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Provider waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim interest, including for post-judgment interest, if such application would be contrary to applicable law.

13.20.2 Rate of Interest. If, for whatever reason, the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

13.20 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference.

13.21 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto represents and warrants that he or she is, on the date of execution, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority. Provider represents that it is an entity authorized to transact business in the State of Florida.

13.22 Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of Section 16½-157 of the Broward County Code of Ordinances, which requires County contractors to provide benefits to domestic partners of their employees, Provider agrees to fully comply with Section 16½-157 during the entire term of the Agreement. If Provider fails to fully comply with that section, such failure shall constitute a material breach which shall allow County to exercise any remedy available under this Agreement, under applicable law, or under section 16½-157. For that purpose, the contract language referenced in Section 16½-157 is incorporated herein as though fully set forth in this paragraph.

13.23 Drug-Free Workplace. It is a requirement of County that it enter into contracts only with firms that certify the establishment of a drug-free workplace in accordance with Chapter 21.31(a)(2) of the Broward County Procurement Code. Execution of this Agreement by Provider shall serve as Provider's required certification that it has or will establish a drug-free work place in accordance with Section 287.087, Florida Statutes, and Chapter 21.31(a)(2) of the Broward County Procurement Code, and that it will maintain such drug-free workplace for the full term of this Agreement.

13.24 Contingency Fee. Provider represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Provider, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If County learns that this representation is false, County shall have the right to terminate this Agreement without any further liability to Provider. Alternatively, if such representation is false, County, at its sole discretion, may deduct from the compensation due Provider under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.

13.25 Living Wage Requirement. If Provider is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Broward County Code sections 26-100 – 26-105, Provider agrees to and shall pay to all of its employees providing "covered services," as defined therein, a living wage as required by such ordinance, and Provider shall fully comply with the requirements of such ordinance. Provider shall be responsible for and shall ensure that all of its subcontractors that qualify as "covered employers" fully comply with the requirements of such ordinance.

13.26 Force Majeure. If the performance of this Agreement, or any obligation hereunder, is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, or ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of nonperformance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever and to the full extent such causes are removed. However, if such nonperformance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to immediately terminate this Agreement upon written notice to the party so affected. This section shall not supersede or prevent the exercise of any right the parties may otherwise have to terminate this Agreement.

13.27 Nondiscrimination. Provider may not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, except that any project assisted by U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26. Provider shall include substantially similar language in its contracts with any and all permitted subcontractors or sub-consultants.

13.28 County Logo. Provider shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County.

13.29 Additional Security Requirements. Provider certifies and represents that it will comply with the Airport Security Requirements attached hereto and incorporated herein as Exhibit G.

13.30 Counterparts. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 2017, and PASSUR Aerospace, Inc., signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

ATTEST:


BROWARD COUNTY, by and through  
its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
Ex-officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
\_\_\_\_ day of \_\_\_\_\_, 2017


Insurance requirements approved by  
Broward County  
Risk Management Division:

Approved as to form by  
Joni Armstrong Coffey  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

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

Name: Tracy Wedger

Title: 5-31-17 Risk Manager

By:   
Rene D. Harrod (Date) 5/31/17  
Assistant County Attorney

RDH  
2017-02-16 PASSUR SaaS Agreement  
2/16/2017  
#16-099.01



PROVIDER

WITNESSES:

PASSUR Aerospace, Inc.

Renee M  
Signature

By: [Signature]  
Authorized Signor

Renee Alter  
Print Name of Witness above

[Signature]  
Print Name and Title

[Signature]  
Signature

24 day of FEB., 2017

Laurie A. D'Arcangelo  
Print Name of Witness above

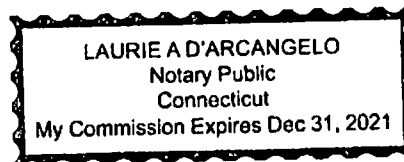
ATTEST:

[Signature] Feb 24, 2017  
Corporate Secretary or other person  
authorized to attest

Commission Expires

Dec. 31, 2021

(CORPORATE SEAL OR NOTARY)



## Exhibit A – Statement of Work

Provider and County agree that Provider shall provide the following work under this Agreement:

### 1. Project Request

Broward County Aviation Department (“BCAD”) requires the technology listed in 2.A. below in order to retrieve, process and display data associated with aircraft movements on or around the Fort Lauderdale-Hollywood International and North Perry Airports. These interrelated product modules will provide:

- Accurate data for aircraft landings to be used for billing purposes.
- Automated billing to airlines for aircraft landings.
- A web-based platform for subscribers to view data presentations including an intra-airport communications tool to display, log and communicate all airport related activities and FAA data.
- Accurate depiction, logging and database presentation of aircraft ground movements.
- Accurate depiction, logging and database presentation for aircraft arrival/departure times.
- Accurate depiction, logging and database presentation for required FAA Noise Analysis.
- Surface Optimization software solution for automating, depicting, logging and solving aircraft ground movement and parking problems.
  - To provide common situational awareness to all Terminal 4 Stakeholders on aircraft movements in and out of Terminal 4. The following stakeholders will have a common display of all the important data associated with Terminal 4 operations: Airline Operation Centers, Broward County Airports Division (BCAD) Gate Control, US Custom Border Patrol (CBP), Terminal 4 Airline Representatives, all Ramp and Move Teams, Fueling Contractors and the RVA South Ramp Tower. This display will provide critical accurate data on each flight allowing each team to plan and be prepared for their particular responsibility and have the ability to effectively react to any last minute changes.
  - To provide BCAD Gate Control the most accurate and timely airline data, so as to allow them to efficiently and effectively assign gates to Terminal 4 flights. Having accurate data at the right time on a platform that is shared with all Terminal 4 Stakeholders will improve the BCAD Gate Controllers’ ability to assign gates, which would reduce gate holds, reduce gate delays, reduce turn times and reduce unused gates.
  - To enable BCAD to sequence and manage flights in and out of the Terminal 4 gates as a function of dynamically changing airline priorities. A Collaborative Gate Allocation and Sequencing Platform that allows all stakeholders to see the gate assignments in advance will not only reduce manual coordination, but will

reduce gate delays as well. All stakeholders will be aware of their flight’s status in the gate sequence and will be aware of gate changes instantly without having to make a call to Gate Control. Stakeholders can preplan their gate operations and make automated priority requests that could be honored by either the BCAD Gate Controller or the RVA South Ramp Tower Controller. This platform will reduce workload for all stakeholders, increase gate efficiency and improve gate operations overall. Gate assignments and Gate changes can be made quickly, with shorter notice and all stakeholders will be immediately aware of the changes.

- To reduce gate hold out delays, missed gate opportunities, reduce gate pushback delays and to improve passenger flow through the CBP facility. Each participating airline’s load information would be available to the CBP. Airlines will only have access to their load factor information. This information, along with other critical gate data can be used to make gate assignment decisions that could reduce airline gate delays and turn times.
- To provide the RVA South Ramp Tower Personnel with accurate relevant operational data and most importantly, accurate Terminal 4 gate status. The Sequencing Platform, provided on existing computer hardware they are using today, will improve their operation by reducing controller administrative and operational workload, streamlining the operation, making it much more efficient.

Provider represents that the Licensed Technology and System and related services (also referred to herein as the “PASSUR software” or “PASSUR system”) provided under this Agreement will provide this functionality and solution.

## 2. Licensed Technology

Unless otherwise agreed by the Parties, Provider will provide the following Licensed Technology under this Agreement:

<b>Module Description</b>	<b>Quantity</b>	<b>Describe Purpose, Functionality &amp; Expected Operation of System</b>
PASSUR Landing Fee Management Audit and Operations Module	Unlimited concurrent users	<ul style="list-style-type: none"> <li>● Allows BCAD to easily and regularly assess the accuracy of signatory self-reports by running detailed, complete, independent activity reports, with automatic weight and owner-operator information.</li> </ul>
PASSUR Landing Fee Management Billing Module	Unlimited concurrent users	<ul style="list-style-type: none"> <li>● Allows BCAD to more efficiently invoice and collect revenue in a timely manner.</li> <li>● Carriers can access their monthly landing fee report online.</li> </ul>

		<ul style="list-style-type: none"> <li>• Full editing and auditing capabilities: all details of an operation (time, weight, runway, aircraft type, etc) can be edited.</li> <li>• Audit trail: once finalized, a billing report cannot be changed.</li> </ul>
PASSUR Integrated Traffic Management (PITM)/Communicator	Unlimited concurrent users	<ul style="list-style-type: none"> <li>• Provides live view of the airport’s vital operational information, and real-time communications and collaborative decision making tools, on a secure Web dashboard.</li> <li>• Allows airport operations to view live runway configuration, arriving and departing flights instantly correlated with operator information, current weather conditions, arrival and departure rates by hour, airline scheduled times with user-defined delay alerts, and the ability to find flights anywhere in the national airspace system from this single portal screen.</li> </ul>
PASSUR Web Tracker (license for use by RVA & Airport Operations)	Unlimited concurrent users	Visual flight tracking that integrates both airborne and surface tracking onto a single application. This single web interface enables the BCAD to move between surface, terminal airspace, and en route flight tracking on a single screen without the need to manually adjust for data sources.
PASSUR Right ETA	Unlimited concurrent users	A data feed providing a highly accurate ETA for all aircraft operating with a transponder, independent from airline feeds, systems onboard the aircraft, or direct feeds from an Air Navigation Service Providers.
PASSUR Class II Noise Feed Flight Tracker Module	Unlimited concurrent users	A data feed use by BCAD’s Noise Office which provides a near real-time rich data feed that includes Aircraft tail number, Flight beacon code, coordinates, Aircraft type, Origin/Destination, and filed flight plan ID.
PASSUR Surface Optimization	Unlimited concurrent users	Allows BCAD to more efficiently and effectively sequence and manage flights in and out of the gates as a function of dynamically changing airline priorities. It contains a Collaborative Gate Allocation and Sequencing Platform containing Predictive Analytics that is designed to enable all the airlines to manage their revised priorities for arrival and departure sequencing which will mitigate problems with extended gate-holds and taxi in times.

County may modify the foregoing list of Licensed Technology (including to add, replace or remove modules) as follows: any modifications that impose an additional cost to County shall require a Work Authorization executed in accordance with Section 3.5 of the Agreement; any reduction or removal of modules may be implemented by written notice by County Contract Administrator to Provider Account Manager upon ninety (90) days’ prior notice; any modification(s) that imposes no change in cost to County may be implemented in writing approved by County Contract Administrator and Provider Account Manager. Subsequent invoicing shall reflect such changes.

The foregoing Licensed Technology modules will provide the following functionality:

## PASSUR Landing Fee Management

### PASSUR Landing Fee Management Auditing Module and Operations Archive

Focus of this module: completeness and accuracy of total counts, weights, and amounts due.

Designed to allow the airport to easily and regularly assess the accuracy of signatory self-reports by running detailed, complete, independent activity reports, with automatic weight and owner-operator information

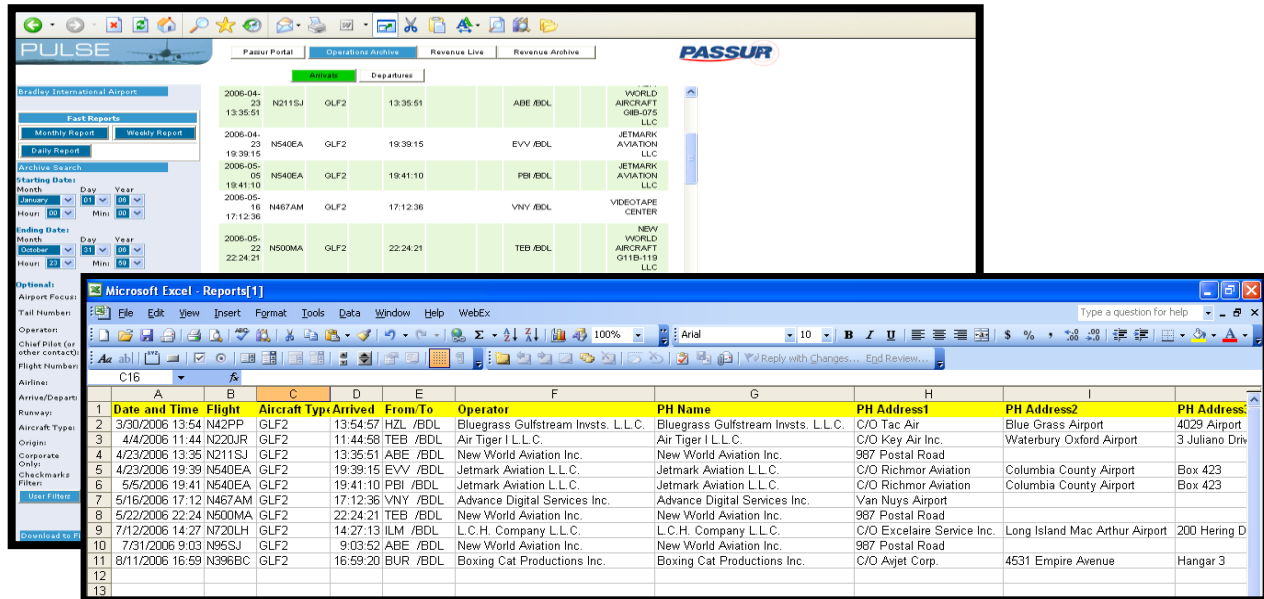
Also allows the airport to:

- Segregate non-signatory/itinerant (e.g., GA, Cargo, Charter, etc.) activity to assess whether all fees are being captured, and to identify detailed owner/operator contact information for better billing
- Run gate utilization reports (airport must provide PASSUR access to real-time gate information source in order to implement), to measure carrier gate usage for renegotiating gate utilization contracts (currently includes gate as a column in each report; to be enhanced to a more specialized purpose-report in the future)
- Run sub-reports based on multiple standard or customized filters (date, time, aircraft type, carrier, tail number, GA, runways, weight class, etc.)

**Basic Functionality**

Rules and categories engine: The airport is able to manage all its rules for fees and weights online with the PASSUR Pulse Rules tools; and create and manage all operator categories (e.g., signatory, non-signatory) online using the Pulse Categories tools.

Reports: Detailed landing fee reports searchable by date, flight #, airline, arrival/departure, runway, a/c type, origin, destination. Includes detailed reports on weights and fees owed, seat configuration, and extensive contact/mailling information. Viewable on browser and downloadable to spreadsheet software.



**PASSUR Airport Operations Archive**

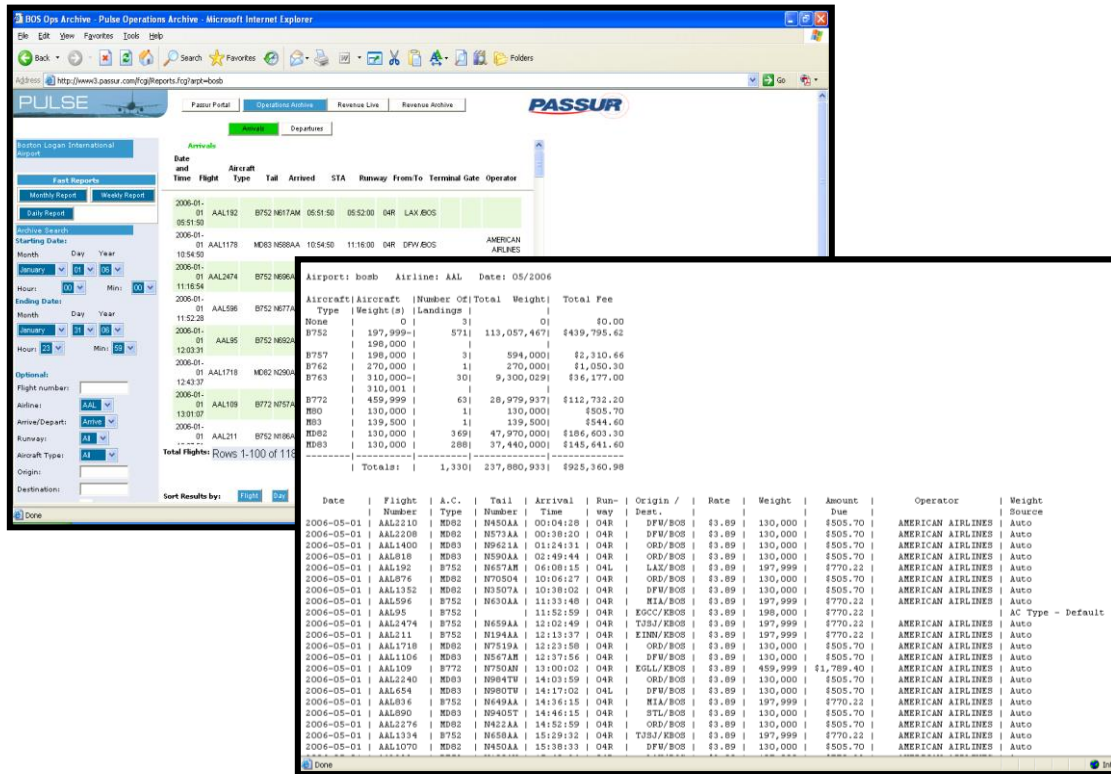
PASSUR Pulse™ Operations Archive provides an instant online report of detailed flight activity, which can be display in the browser or downloaded into a spreadsheet for user-friendly sorting and analysis capabilities. All flight activity is also seamlessly integrated with owner/operator and aircraft manufacture information. Important airport reports include runway utilization, aircraft type, airline counts, GA counts, etc. These reports can be run from any Internet-connected PC through the user’s user name and login.

PASSUR Archive provides multiple customizable report filters, the user including aircraft N-Number, date and time, flight #, airline, arrival/departure, runway, aircraft type, origin and destination, aircraft owner/operator. For general aviation aircraft, users can subscribe to operator information, which includes chief pilot’s name and email that is updated every 15 days.

**Basic Functionality**

Operational Archive Page: searchable by date, flight #, airline, arrival/departure, runway, aircraft type, origin and destination, corporate only flights (viewable on browser and downloadable to spreadsheet software). Premium database provides owner and operator information by tail number, when available.

**PASSUR Landing Fee Management Billing Module**



Focus of this module: allows the airport to replace the “self-reporting” model of landing fee collection with airport-generated landing fee reports and invoices.

Key components are:

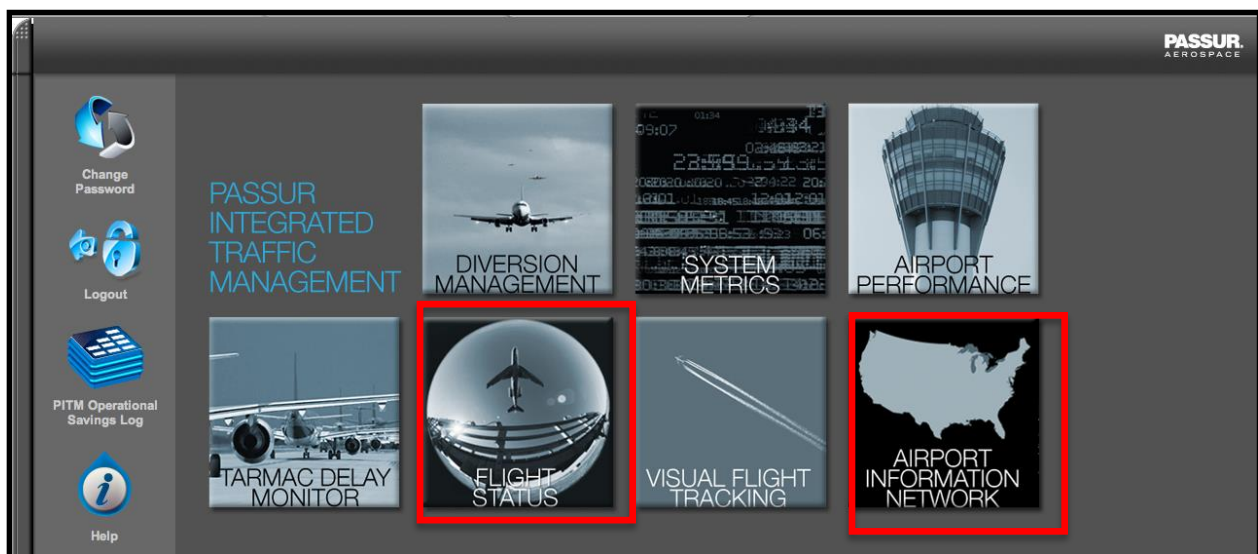
1. Accuracy and credibility of activity counts and aircraft weights
2. Ease of use – reports are one click on the Web
3. Transparency: carriers are able to log onto to their own account on the Web and see the complete landing report used to calculate their bill, with full detail or in summary

Key capabilities are:

1. Carriers can access their monthly landing fee report online
2. Carriers do not have access to their monthly report until airport has finalized it
3. Full editing and auditing capabilities: all details of an operation (time, weight, runway, aircraft type, etc) can be edited
4. Audit trail: once finalized, a billing report cannot be changed
5. Reports can be integrated into existing invoicing and accounts receivable systems, such as Airport Business Manager/AIMS, PeopleSoft, PropWorks, and others

## PASSUR Integrated Traffic Management

PASSUR Integrated Traffic Management platform (PITM) is a web-hosted integrated business intelligence platform that targets key constraints through the entire lifecycle of a flight, to optimize fuel costs and emissions, schedule integrity, and the passenger experience. PITM is built on several unique, patented, and patent pending PASSUR capabilities, including a proprietary network of radar surveillance systems installed throughout North America and internationally, integrated aviation databases with extensive historical archives, predictive analytical algorithms, and user-friendly decision support software. PASSUR's solutions enable airlines and airport operators to predict arrival times more accurately, anticipate pending airport delays, manage congested airways, surface operations and irregular events more effectively, and coordinate with other aviation organizations to help to ensure smooth and predictable operations.



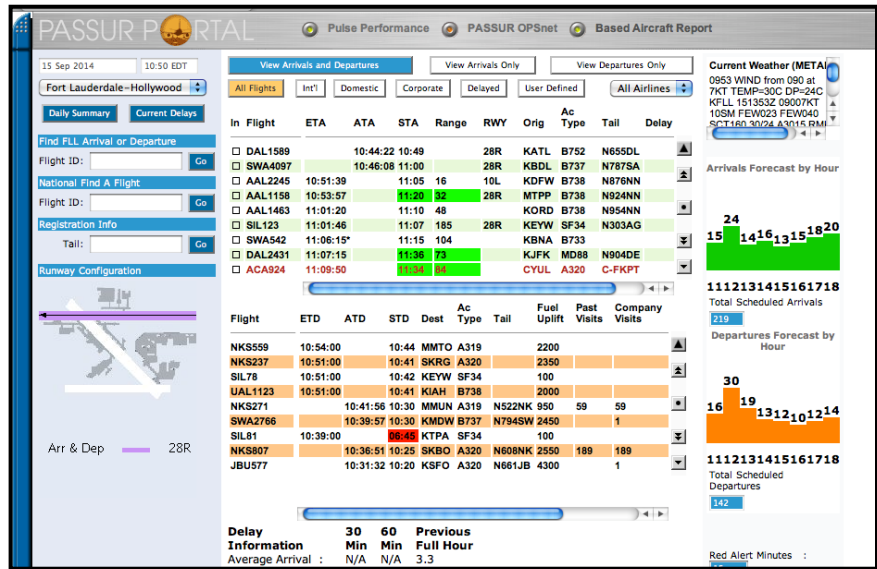
### **Flight Status provides access to PASSUR Portal**

PASSUR Portal provides a live view of an airport's vital operational information, and real-time communications and collaborative decision making tools, on a secure Web dashboard. Portal allows airport operations to view live runway configuration, arriving and departing flights instantly correlated with operator information, current weather conditions, arrival and departure rates by hour, airline scheduled times with user-defined delay alerts, and the ability to find flights anywhere in the national airspace system from this single portal screen. Views can be further customized through multiple user-selectable filters, such as "View Specific Airlines/Tail Numbers only" and color coding to highlight important airlines or base aircraft. Portal is used by airport ramp operations, communications centers, noise offices, public affairs, and senior airport managers.



**Basic Functionality**

Operational vital signs: arrivals by filed-flight ID or beacon code, Estimated Time of Arrival (ETA), Actual Time of Arrival (ATA), range to landing, runway landed, aircraft type, tail number, origin, destination; departures by filed-flight ID, ATD, destination, aircraft type, tail number; instant decoding of ICAO code, aircraft type, airport code through mouse-overs; total arrivals and departures by runway, by hour; actual runway configuration; METAR and TAF current/forecast weather; user-defined filters/color-coding; tail number lookup; local find-flight; national find-flight; daily 24-hour activity summary; based-aircraft report.



In addition, PASSUR Portal provides a color-coding alert feature for early or delayed airline arrivals and departures. The user can define the early or delay minutes for airline flights. Flights are then highlighted in “green” for early arrival/departure and “red” for a delayed arrival/departure.

All flight activity is also seamlessly integrated with owner/operator and aircraft manufacture information. Important airport reports include runway utilization, aircraft type, airline counts, GA counts, etc.

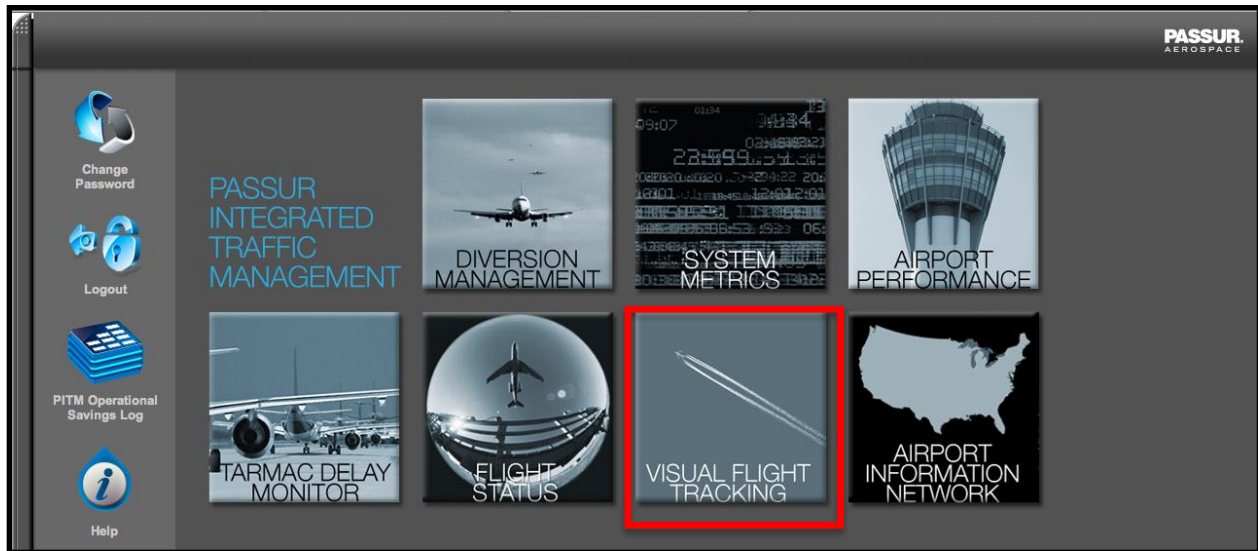
**Airport Information Network provides access to the PASSUR collaborative platform:**

- **Airport Information Network**
- **PASSUR Communicator (formerly named PASSUR OPSnet)**
- **IATA Tactical Operations Portal**

Overview: PASSUR’s networked collaborative platform has created the industry’s first solution for real-time exchange of timely information between airlines and airports (including most critically, airport and airline status and operational intent) to address complex and expensive problems like diversions, tarmac delays, and off schedule operations. The core elements of the program are:

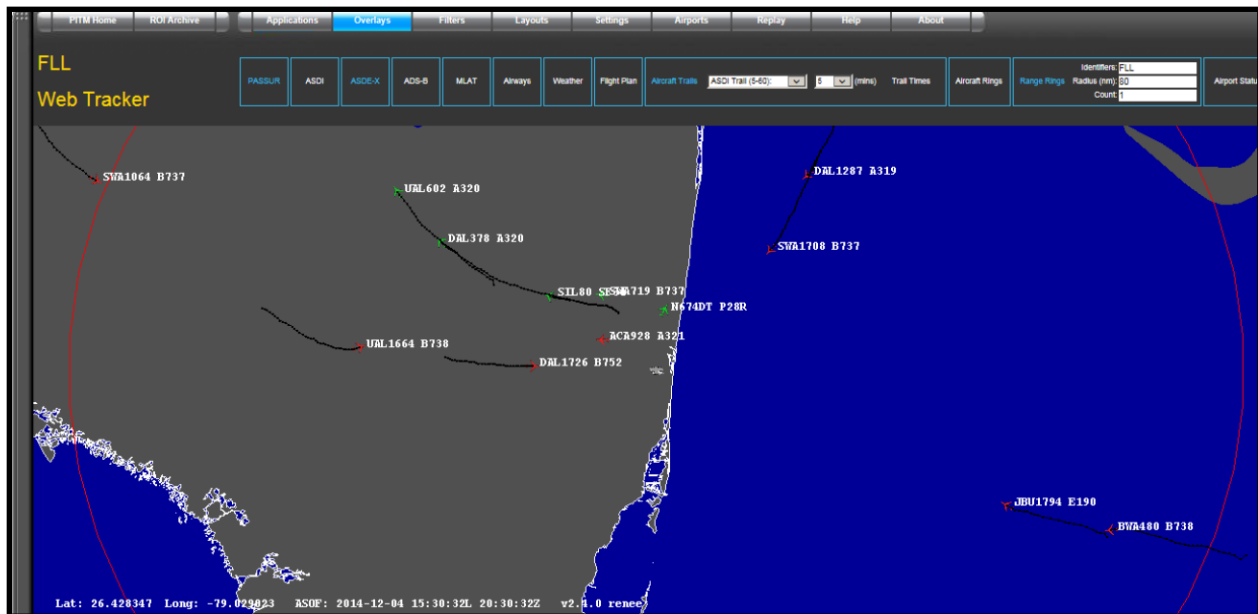
- Airport Information Network (AIN) – allows airports to provide a more basic status update, and aggregates diversion information for the entire NAS automatically, creating a single, centralized, and standardized resource to manage information sharing during normal activities, as well as during severe disruptions in the National Airspace.
- PASSUR Communicator – allows airports to provide detailed, automated field condition information, airport advisories, and airport plans and intent, including NOTAM and non-NOTAM updates and remote alerts for critical changes. Currently used by 25 airports in North America.
- IATA Tactical Operations Portal (ITOP) – provides airlines worldwide the ability to minimize same-day constraints in the U.S. by providing access to critical information about U.S. operations, expert traffic management support, and updates on the U.S. National Airspace System (NAS) – all on a single, live, collaborative portal managed by IATA.

## PASSUR Web Tracker™ with Surface Tracking



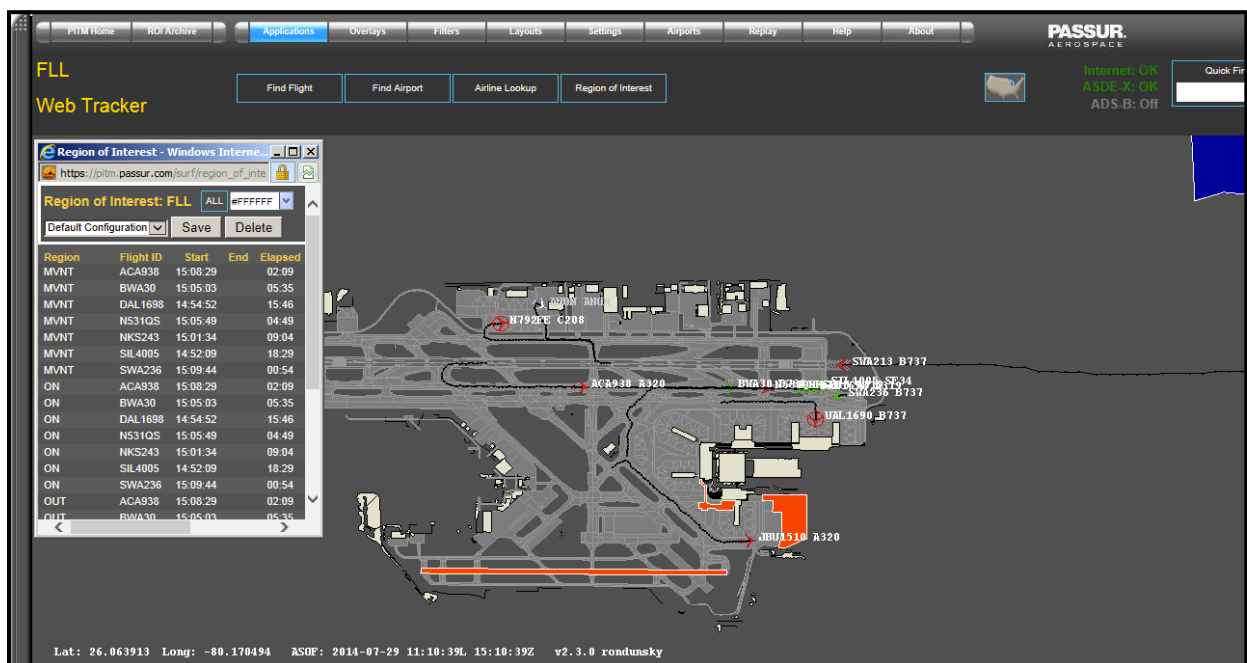
### **Visual Flight Tracking provides access to PASSUR Web Tracker™ with Surface Tracking**

PASSUR Web Tracker is a visual flight tracking solution that integrates both airborne and surface tracking onto a single application. This single web interface enables the user to seamlessly move between surface, terminal airspace, and en route flight tracking on a single screen without the need to manually adjust for data sources. This is accomplished through the integration of multiple datasets, including the PASSUR radar surveillance network, ASDE-X, and ADS-B, among others.



### Key Features

- Visual tracking of aircraft en route, in the terminal airspace, and on the surface (movement and non-movement areas)
- “Regions of interest” (ROI) tracking to monitor the time an aircraft is in a given surface area of interest, such as a deice pad, taxiways, and runways
- ROI data archive to support post-audit analysis, when available (currently in testing)
- Replay (up to 30 days) with variable speeds
- One-second data refresh rate on the surface and 4.6 second refresh rate in the terminal airspace
- Selectable, user-defined aircraft data tag information (e.g., flight ID, first departure fix, origin, destination, ETA, aircraft altitude, etc.)
- Selectable, user-defined colors for aircraft (e.g., arrivals vs. departures) and surface objects (e.g., terminals, runways, deice pads, etc.)
- User-defined “filters” and display preferences
- “Layering” of visual elements on and off (e.g., air traffic fixes, airport names, trails behind aircraft, range rings for distances between aircraft and from fixes, etc.)
- Customized user preferences saved as “layouts” for easy retrieval by username.



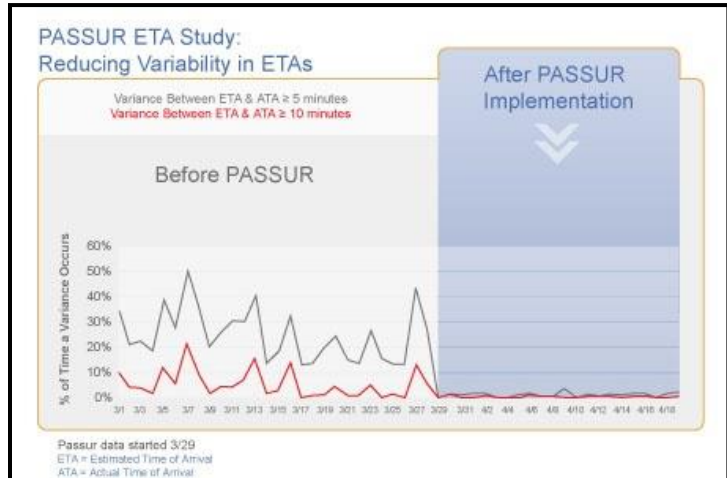
### Key Benefits

- Instant response to tactical issues on the field enhanced through a live view of aircraft traffic and movement
- Managing "Tarmac Delay" flights (preventing DOT 3 and 4 hour delays)
- Maximizing the use of available capacity of runways, taxiways, deicing facilities, etc.
- Continuous improvement and optimization of the operation by monitoring and analyzing constrained traffic areas on the airport surface
- Safety and incident reviews through detailed airfield replays
- Gate occupancy visual confirmation
- Enhanced surface vehicle identification

## PASSUR Right ETA

The PASSUR ETA (RightETA™) is a data feed solution, integrated directly into airline and airport systems. It provides a highly accurate ETA for all aircraft operating with a transponder, independent from airline feeds, systems onboard the aircraft, or direct feeds from an Air Navigation Service Providers.

The PASSUR ETA is derived from algorithms which are fed by multiple data sources in real time, including flight position information from the network of PASSUR radar systems installed throughout the country. It is calculated by tracking multiple real-time metrics of the target flight as well as other nearby aircraft in the surrounding airspace, along with current and historic airspace conditions, resulting in an unmatched predictive capability.



Basic RightETA Feed Description: A live feed designed for Flight Information Display Systems (FIDS) It includes the Flight ID, ETA, and published schedule time of arrival.

The feed is accessed via a parameterized URL on the internet by browsers or by Web Robots, such as Curl, or wget, geturl() java function. or similar functions from Microsoft .Net.

<http://www3.passur.com/docs/ETAFeedManual.html>

Intellectual Property Investments: Three of PASSUR's 16 patents are directly or closely related to its ETA technology, and several others are pending.

## PASSUR Class II Noise Feed Flight Tracker Module and Data Subscription

The PASSUR Class II Noise Feed is a data feed use by Airport Noise Offices. It is built on the PASSUR fused data network of multiple real time data sources, PASSUR is now able to offer a near real-time (five-minute delay), rich data feed — web delivered — that includes:

- Aircraft tail number
- Flight beacon code
- Flight coordinates (lat., long., altitude), from the following fused data sources:
  - 150+ continuous-track PASSUR radar sensors
  - ADS-B (for equipped aircraft)
  - ASDE-X Surface tracks (for airports installed with ASDE-X)
  - ASDI (FAA en route feed, where needed)
- Aircraft type
- Origin/Destination
- Flight ID (filed flight plan ID)

### 3. Program Adaption for FLL

Provider will adapt the Licensed Technology for FLL as set forth in this Section 3. The PASSUR software will provide the following hosted information displays and screens via password access. There will be one user configurable master screen to achieve the display screens listed below.

#### A. Airline Terminal Screen

**Departure Schedule** will display Terminal 4 Departures Schedule only with most or all of the following data elements:

- Aircraft Call Sign (PASSUR, AODB, or airline ground management system)
- Aircraft Type (PASSUR, AODB, or airline ground management system)
- Aircraft Tail Number (PASSUR, AODB or airline ground management system)
- Assigned Terminal 4 Gate or Hard Stand (AODB or Airline ground management system)
- EDCT (updates as they occur from airline ground management system or FAA SWIM data)
- EOBT (updated by AODB, airline ground management system or manually)
- AOBT (updated by AODB, airline ground management system or manually)
- Tow Destination/Departure Fix (provided by PASSUR or manual entry by Airline or BCAD for tow destination)
- Cancellation shown as salmon color not in column (provided by PASSUR or airline ground management system or manual entry)

#### Fort Lauderdale Departure Schedule

AID	TYPE	Tail #	Gate/HS	EDCT	EOBT	AOBT	DEST/DFix
JBU174	E190	N123JB	H2	1540	1530	1525	SJC/MARTN
NKS555	A321	N123NK	H6		1530	1515	BOS/HIPPI

**Arrival Schedule** will display Terminal 4 Arrival Schedule only with most or all of the following data elements:

- Aircraft Call Sign (PASSUR, AODB, or airline ground management system)
- Aircraft Type (PASSUR, AODB or airline ground management system)
- Aircraft Tail Number (PASSUR, AODB or airline ground management system)
- Assigned Gate/Stand (AODB or airline ground management system)
- Arrival Runway (PASSUR, AODB or airline ground management system)
- ETA (PASSUR)
- ATA (PASSUR, AODB, or airline ground management system)
- Actual In Block Time (AIBT) (AODB, airline ground management system or manual entry)
- Passenger Load Factor (provided by airlines or manually entered for now) indicating total number of passengers onboard and total number of US Citizens, e.g. 150/30, 150 passengers including 30 US Citizens
- Cancellations salmon color, no column needed (AODB or airline ground management system)

**Fort Lauderdale Arrival Schedule**

AID	Type	Tail #	Gate/HS	RWY	ETA	ATA	AIBT	LOAD
NKS541	A321	N123NK	H6	10L	1415	1416	1432	138/75

Terminal 4 Collaborative Gate Allocation Screen viewable by all, each Airline has edit rights to click Airline priorities, click Tow, enter AOBT's for Tows and other departures where AOBT is not automated. (Slew Over feature enter time).

H2	H4	H6	H7	H8	H9	H10
JBU5400 1450	JBU174 1501	AAL463 1500	JBU42 1510	NKS341 * 1458	NKS871 1515	
JBU211 1500	NKS12 1501	JBU999 1452		NKS333 1500		
JBU912 * 1504		JBU200 *1500				
NKS112 1510						
JBU766 1515						
NKS871 1516						

**Bottom of Terminal 4 Airline/Terminal Operator Screen: Ramp and Equipment Status Messages**

Ramp Status: will be editable by responsible airline or BCAD

**Ramp Alert Status**

<b>Cautionary</b>	Alert, Expect Update at 1900L
<b>Closed</b>	No Alerts
<b>Information</b>	TSTMS Expected 1900-2100 Today

Gate/Jet Bridge Status: will be editable by responsible airline or BCAD

**Terminal 4 Gate/Jet Bridge Status**

<b>H10</b>	Out of Service 1900-2100L
<b>H4</b>	Scheduled Maintenance; 2100-2200L

Baggage Belt Status: Optional

<b>Belt A</b>	<b>Belt B</b>
JBU 174	NKS410
NKS210	JBU4

**B. Departure Sequencing Allocation Template (DSAT) Screen**

BCAD Gate Control and Spirit Airlines (NKS) would have the ability to allocate gate assignments and to rearrange gate assignments due to changes in Airline Estimated Arrival Times (ETA's) using the DSAT Screen. The basic features and functions of the DSAT screen are outlined below.



- The Terminal 4 Arrival Schedules will only be displayed. There will be no departure schedule displayed.
- The header will read “Terminal 4 Gate Allocations”
- Gates will be labeled horizontally on the screen: H2, H4, H6, H7, H8, H9 and H10 (this will vary during the New Terminal 4 construction period). The length of columns will be expandable as additional flights are added to the columns. Gate allocations will be made from the Arrival Schedule and the Departure Schedule (Tows off gates similar to BOS and SEA).
- DSAT Screen will only be editable by BCAD Gate Control and NKS, read-only for all others.
- Additional Terminal 4 Gates could be added upon request or changed during/after Terminal construction.
- A “Slew Over” feature will show: ETA, ATA, AIBT, Tail Number, destination or spot and Tow AOBT.
- There will be a color-coding schema. The arriving flights are allocated by NKS and BCAD. Once the arrivals are allocated their gate in the Gate Allocation List, the Flight ID will turn BLUE with ETA. The BLUE Flight ID in the list will turn Red when an ATA is received indicating the flight is on the ground with no gate available. When a flight enters the gate and an AIBT is received, the Flight ID turns WHITE, indicating the flight is at the gate. The WHITE Flight ID will remain in the gate list, indicating the gate is occupied, until the flight is towed or the flight turn is completed. Once the Departing Flight/Tow AOBT is received, the next flight in the list for that gate will turn GREEN with Cleared into Time, indicating the gate is available for the flight.
- Tows off Terminal 4 go to a hard stand or to another domestic Terminal/gate. When the flight at the Terminal 4 Gate is being towed, the flight operator will indicate that the flight is a Tow by “Slewing Over” the Arrival Flight ID of the aircraft being towed and click “Tow” Once “Tow” has been clicked the WHITE Flight ID will turn ORANGE with EOBT, indicating it will be a Towed Departure and at what time. When the flight is pushed off the gate the Airline Operator will click “Pushed” in the “Slew Over” and the AOBT is recorded in the Departure Schedule, which drops the Flight ID from the Gate List, indicating the Gate is available. If there is a flight waiting for the gate the Flight ID will turn GREEN.
- Lights that are making a turnaround will remain WHITE until a flight plan is detected with the same Tail Number and Gate location at which time the flight replaces the arrival with the departure, turning the Flight ID ORANGE. If the airline has entered an EOBT, the time would appear next to the Tow. Once the AOBT is received the flight drops off and the next scheduled arrival for the gate turns GREEN.

In the Slot Allocation Area each Flight ID in the column will have the status time of the flight next to it for quick reference. See example below:

H2	H4	H6	H7	H8	H9	H10
JBU5400 1450	JBU174 1501	AAL463 1500	JBU42 1510	NKS341 * 1458	NKS871 1515	

JBU211 1500	NKS12 1501	JBU999 1452		NKS333 1500		
JBU912 * 1504		JBU200 *1500				
NKS112 1510						
JBU766 1515						
NKS871 1516						

- Black Flight ID: AIBT
- Red Flight ID: ATA
- Blue Flight ID: ETA
- Green Flight ID: Time Cleared into the Gate
- Orange Flight ID: EOBT

The airlines will have a Slew Over feature in the Airline Terminal Page in the Allocation Box to indicate that flight is a priority. Clicking “Priority” in the “Slew Over” would provide an indication (\*) that the flight is an airline priority over their other flights. (Indication determined by automation).

Allocation screen would allow for allocation of gates at Terminal 4, see below example (times next to Flight ID not shown in example):

H2	H4	H6	H7	H8	H9	H10
JBU5400 1500	JBU174 1500	AAL463 1455	JBU42 1500	NKS341 * 1505	NKS871 1510	
JBU211 1505	NKS12 1505	JBU999 1500		NKS333 1508		
JBU912 1507		JBU200* 1455				
NKS112 1510						
JBU766 1512						
NKS871 1515						

- **H2 Example:** JBU5400 *has been at the gate since 1500*. JBU211 *landed at 1505* and is waiting number 1 for the gate, and JBU912 *landed at 1507* and is waiting for H2 as well. The three blue flights are still inbound for the airport.
- **H4 Example:** JBU174 *arrived at 1500 and is* taxiing to gate H4 and NKS12 *landed at 1505* and is waiting for the gate.
- **H6 Example:** AAL463 is a departure Tow at the gate *with an EOBT of 1455* and JBU200 is on the ground along with JBU999. JBU Ops has JBU200 a priority and wants to bring the flight in before *JBU999*.
- **H7 Example:** Gate *has been* occupied by JBU42 *since 1500*.



- **H8 Example:** NKS341 is a Departure Tow off Gate H8 **with an EOBT of 1505** and NKS wants **the flight** to be a priority over NKS333 holding inbound to the gate.
- **H9 Example:** Gate9 is open and available, with NKS871 scheduled for the gate, but still inbound to the airport, **ETA 1510**. NKS Ops could check NKS871 flight information by slewing over the Flight ID and if the delay for NKS871 is acceptable use Gate 9 for NKS333 and use H8 for NKS871.
- **H10 Example:** **Gate is Out of Service (Red Gate Number)**.

**Bottom of the DSAT: Ramp and Equipment Status Messages**

Ramp Status: View Only

**Terminal 4 Ramp Alert Status**

<b>Cautionary</b>	Alert, Expect Update at 1900L
<b>Closed</b>	No Alerts
<b>Information</b>	TSTMS Expected 1900-2100 Today

Gate/Jet Bridge Status: Scheduled Maintenance or Outage will be editable and maintained by BCAD.

**Terminal 4 Gate/Jet Bridge Status**

<b>H10</b>	Out of Service 1900-2100L
<b>H4</b>	Scheduled Maintenance; 2100-2200L

**C. Terminal 4 Allocation Display Screen**

This page would be viewable by the all parties, Read Only with Slew Over capabilities:

<b>H2</b>	<b>H4</b>	<b>H6</b>	<b>H7</b>	<b>H8</b>	<b>H9</b>	<b>H10</b>
JBU5400 1500	JBU174 1500	AAL463 1455	JBU42 1500	NKS341 * 1505	NKS871 1510	
JBU211 1505	NKS12 1505	JBU999 1500		NKS333 1508		
JBU912 1507		JBU200* 1455				
NKS112 1510						
JBU766 1512						
NKS871 1515						

**Bottom of the Terminal 4 Allocation Screen: Ramp and Equipment Status Messages**

Ramp Status: View Only

**Ramp Alert Status**

<b>Cautionary</b>	Alert, Expect Update at 1900L
<b>Closed</b>	No Alerts
<b>Information</b>	TSTMS Expected 1900-2100 Today

Gate/Jet Bridge Status: View Only

**Terminal 4 Gate/Jet Bridge Status**

H10	Out of Service 1900-2100L
H4	Scheduled Maintenance; 2100-2200L

**D. RVA South Ramp Tower Screen Display Screen**

Arrival Schedule will display Terminal 3 and Terminal 4 Arrivals and appear 30 minutes prior to ETA to FLL. The following information is required on the RVA Arrival Schedule:

- Aircraft Call Sign
- Aircraft Type
- Arrival Runway
- Assigned Gate/Stand
- Actual in Block Time

**Departure Schedule:** Includes Terminal 3 and Terminal 4 Departures only, appears 4 hours prior to EOBT, drops off after ATD. The Following Information is required on the Departure Schedule:

- Aircraft Call Sign
- Aircraft Type
- Assigned Terminal 4 Gate or Hard Stand Spot
- EOBT
- AOBT
- EDCT
- Destination/Departure Fix

This page would be viewable by the RVA South Ramp Tower with Slew Over capabilities:

H2	H4	H6	H7	H8	H9	H10
JBU5400 1500	JBU174 1500	AAL463 1455	JBU42 1500	NKS341 * 1505	NKS871 1510	
JBU211 1505	NKS12 1505	JBU999 1500		NKS333 1508		
JBU912 1507		JBU200* 1455				
NKS112 1510						
JBU766 1512						
NKS871 1515						

Show Ramp Closure information and Gate Status at bottom of the RVA Screen (see examples above).

Possible option for South Ramp Tower: Automated Hourly Traffic Count for South Ramp Tower, including number of “holdouts” and their delay times. The process is currently a manual count on a piece of paper entered into an Excel spreadsheet (reduce workload, add safety, less heads down time).

#### **4. Technical Approach**

The Services under this Agreement will be provided in multiple phases.

**Phase 1** will consist of the provision of all Licensed Technology other than PASSUR Surface Optimization. The Licensed Technology for this Phase 1 has already been provided to County, and therefore Phase 1 will consist of the continued provision of these subscription services and access to the Licensed Technology and Support and Maintenance thereof for the duration of this Agreement.

**Phase 2** will consist of multiple subphases and will involve the implementation of the Surface Optimization Project for the various terminals at FLL.

##### **A. Surface Optimization (Phase 2).**

Phase 2, the FLL Surface Optimization Project, will be implemented into four (4) sub-phases, which can be initiated and completed in any order based upon County’s election; each sub-phase shall commence upon County’s Notice to Proceed for that sub-phase.

1. Sub-Phase 2-1: Terminal 1 (inclusive of Concourse A)
  - a. Sub-Phase 2-1 software set-up and implementation will be completed within 60 days of Notice To Proceed for Sub-Phase 2-1.
    - Project kick-off meeting
    - Stakeholder meetings: review software features with stakeholders focusing on BCAD Gate Controllers, (RVA) and key airline stakeholders.
    - Provide access to working software demo to stakeholders for review and comment, including, but not limited to, BCAD Gate Control, International Airlines, JBU, NKS and SWA .
    - Complete connection to the BCAD AODB/Gate Management System data feed.
    - Complete final software development (connections and backend worked required)
    - Complete Beta Testing
    - Develop Airline/BCAD/Contractor Procedures
    - Final Delivery of Documentation and any other deliverables
    - Training per Section 5
    - Go Live

2. Sub-Phase 2-2: Terminal 2

a. Sub-Phase 2-2 software set-up and implementation will be completed within 30 days of Notice to Proceed for Sub-Phase 2-2.

- Sub-Phase 2: Project kick-off meeting
- Stakeholder meetings: review current software features and identify any needed GUI adjustments for Terminal 3 operational conditions, e.g. airline schedule, information areas, etc.
- If needed, complete additional connection to the BCAD AODB/Gate Management System data feed.
- Complete final software development (connections and backend worked required)
- Complete Beta Testing
- Develop Airline/BCAD/Contractor Procedures
- Final Delivery of Documentation and other deliverables
- Training per Section 5
- Go Live

3. Sub-Phase 2-3: Terminal 3

a. Sub-Phase 2-3 software set-up and implementation will be completed within 30 days of Notice to Proceed for Sub-Phase 2-3.

- Sub-Phase 2-3: Project kick-off meeting
- Stakeholder meetings: review current software features and identify any needed GUI adjustments for Terminal 3 operational conditions, e.g. airline schedule, information areas, etc.
- If needed, complete additional connection to the BCAD AODB/Gate Management System data feed.
- Complete final software development (connections and backend worked required)
- Complete Beta Testing
- Develop Airline/BCAD/Contractor Procedures
- Final Delivery of Documentation and other deliverables
- Training per Section 5
- Go Live

4. Sub-Phase 2-4: Terminal 4

a. Sub-Phase 2-4 software set-up and implementation will be completed within 30 days of Notice to Proceed of Sub-Phase 2-4.

- Sub-Phase 2-4: Project kick-off meeting
- Stakeholder meetings: review current software features and identify any needed GUI adjustments for Terminal 3 operational conditions, e.g. airline schedule, information areas, etc.
- If needed, complete additional connection to the BCAD AODB/Gate Management System data feed.

- Complete final software development (connections and backend worked required)
- Complete Beta Testing
- Develop Airline/BCAD/Contractor Procedures
- Final Delivery of Documentation and other deliverables
- Training per Section 5
- Go Live

## **B. Implementation**

### Airlines

- Each Airline will be able to monitor the PASSUR Collaborative Gate Allocation and Sequencing Platform for Terminal 4 Gate Assignments.
- Each Airline operating out of Terminal 4 is responsible to provide accurate data, including cancellations, EOBT, AOBT and AIBT via an automation feed or manual entry.
- Each Airline conducting tow operations in and out of Terminal 4 are responsible for providing Tow information, including accurate EOBT and AOBT via an automation feed or manual entry.
- An Airline requesting priority is responsible for indicating it through the PASSUR Platform. Phone calls requesting priority should be kept to a minimum. Priority given to flights by BCAD Gate Control or RVA South Ramp Tower are only given priority over their own company flights, unless an emergency exists.
- The Chat Room feature should be used whenever possible to communicate needs among stakeholders. Using the Chat Room provides common situational awareness, cuts down on phone calls on the same request and provides recorded history of stakeholder communication.

### Broward County Airport Division (BCAD) Gate Control Role and Responsibilities:

- BCAD will be responsible for populating, either via an automation feed or manual entry, the PASSUR Collaborative Gate Allocation and Sequencing Platform to assign Terminal 4 gates to arriving flights and tows.
- BCAD will honor airline priority requests to the extent possible when allocating gates.
- BCAD will use the Chat Room feature to communicate with airport stakeholders to the extent possible.
- BCAD will be responsible for populating, either via an automation feed or manual entry, the PASSUR Collaborative Gate Allocation and Sequencing Platform to assign Terminal 4 gates to arriving flights and tows.

RVA South Ramp Tower Role and Responsibilities:

- RVA will monitor the PASSUR Collaborative Gate Allocation and Sequencing Platform when conducting ramp operations.
- RVA will manually indicate on the PASSUR Collaborative Gate Allocation and Sequencing Platform when a flight has been cleared to proceed to the gate.
- RVA will honor airline priority requests to the extent possible when operational condition permit.
- RVA will use the Chat Room feature to communicate with airport stakeholders to the extent possible.

FAA Control Tower:

- When practical, the ATCT will use the chat feature in the PASSUR Collaborative Gate Allocation and Sequencing Platform to communicate runway changes, runway assignments and other related information.

US Customs and Border Patrol and Airline Representatives at the International Gates:

- CBP will monitor the PASSUR Collaborative Gate Allocation and Sequencing Platform for situational awareness.
- When practical, CBP will communicate through the chat feature any information that would increase terminal capacity. This could include; prioritizing International arrivals because of Passenger Load Factors, updating all stakeholders on boarding times, unexpected gate delays, etc.

**C. Security/Access**

Provider will cooperate with County and provide any and all information that County may request in order to determine appropriate security and network access restrictions and verify Provider compliance with County security standards.

Provider shall comply with the PASSUR Aerospace, Inc. IT Security Policy (last update March 2015) for the duration of this Agreement.

**D. Managerial Approach & Communication**

For County, the following personnel are designated (subject to change by designated of the Contract Administrator):

- Angela Scott, IS Division, is the Project Manager
- Rob Kelley is the lead from Operations for the Surface Optimization implementation
- Mary Johnson, IS Division, is the security point of contact

Provider will ensure that the persons responsible for Provider's performance of the Services under this Agreement and, to the extent applicable, identified below (collectively "Key Personnel") are appropriately trained and experienced and have adequate time and resources to perform in accordance with the terms of this Agreement. To the extent Provider seeks or is required to make any change to the composition of the Key Personnel, Provider will provide County with thirty (30) days' advance notice (or as much advance notice as is possible if thirty (30) days' notice is not possible) regarding such changes and the management plan associated with such changes. County shall not be responsible for any additional costs associated with a change in Key Personnel.

Key Personnel:

- Mark Libby, Provider's Project Manager and Lead Trainer for the FLL Surface Optimization program
- Renee Alter, Account Manager for BCAD
- John Shaffrey, PASSUR TFM Specialist
- PASUR Technical and Customer Support Staff: 1.866.437.7247 or cs@passur.com

Provider and County will adhere to the following communication and reporting schedule unless otherwise agreed in writing by the parties:

- Initial kick off meeting for stakeholder input
- Follow up meetings to discuss expectations and system input
- Weekly conference calls with written summary provided by vendor via e-mail within \_\_ business days
- Provider shall provide such additional reporting as may be reasonably requested by the Contract Administrator or Project Manager

## 5. Training

Provider shall providing the training identified in this section, which shall include the following training methods:

- On-site training at Fort Lauderdale International Airport
- Live webinar training with online support materials
- Self-guided materials online for users to access at any time

PASSUR will provide aviation subject matter experts to ensure that the full value of the program is achieved.

Training Schedule

- There will a total of five (5) training days on site training for **each subphase** of Phase 2, the Surface Optimization Project at the Fort Lauderdale International Airport.

- Two (2) days of on-site training will be classroom training for the following groups:
  - BCAD Gate Control
  - Airline Group Training
  - RVA Ramp Tower
  - US Customs and Border Patrol
  - Optional: FAA Tower and
- Each training session will be a 2-hour duration.
- Follow-up web-conference training will be scheduled for those who may be unable to attend on-site training.
  
- Upon the “go live” date, there will be three (3) consecutive days of on-site live training.
  - Day 1: BCAD Gate Control
  - Day 2: Airline Group Training
  - Day 3: RVA Ramp Tower

Training times and schedules may be modified to accommodate staffing schedules, upon approval of Contract Administrator or County Project Manager.

## 6. Deliverable Products and Services

BCAD will review and verify the following information and Deliverables as provided by Provider. Provider shall complete the Deliverables listed below within the Deadline stated, unless the time is extended in writing by the Contract Administrator. BCAD will review and confirm whether all deliverables meet the acceptance criteria work and whether the System performs in accordance with the Final Acceptance criteria, the Documentation, and this Statement of Work.

### DELIVERABLES:

No.	Description	Deadline	Requirements or Preliminary Acceptance Criteria
1	Delivery of all Modules other than Surface Optimization, including Program Adaption for FLL per Section 3	Within 90 days of Effective Date	Review and Acceptance by Airport. Provider will implement any revisions and resubmit for review. Airport will provide written notice upon Final Acceptance.
2	Sub-Phase 2-1: Terminal 1 Surface Optimization (including Concourse A)	Within 60 days of NTP for Phase 2-1	Per Acceptance Criteria stated in Section 7 below
3	Sub-Phase 2-2: Terminal 2 Surface Optimization	Within 30 days of NTP for Phase 2-2	Per Acceptance Criteria stated in Section 7 below



4	Sub-Phase 2-3: Terminal 3 Surface Optimization	Within 30 days of NTP for Phase 2-3	Per Acceptance Criteria stated in Section 7 below
5	Sub-Phase 2-4: Terminal 4 Surface Optimization	Within 30 days of NTP for Phase 2-4	Per Acceptance Criteria stated in Section 7 below

## 7. Final Acceptance Testing

### Final Acceptance Plan

All PASSUR software modules, with the exception of the PASSUR Surface Optimization Project, are currently in use and have already been accepted by BCAD other than as to the Adaption for FLL set forth in Section 3; upon review and written approval of the Adaption for FLL by BCAD, County shall issue written Final Acceptance of the Phase 1 Deliverables. The PASSUR Surface Optimization Project (Phase 2) shall receive written notice of Final Acceptance by County upon successful completion of the Acceptance Criteria as follows:

### Acceptance Criteria for each Sub-Phase of Phase 2

Software Feature or Capability	Description	Yes/No
Airline arrival and departure schedule	Verify Airline Schedule is displayed and accurate	
	Ability to edit Schedule data	
	Verify Gate information	
	Verify ability to enter Load Data	
	Verify ability to edit AIBT	
	Verify the ability to prioritize a flight	
	Verify the ability to select flight as tow	
	Verify the ability to cancel a flight in the PASSUR Program only	
	Verify the ability to change the Runway information	
	Verify the ability to collapse the Arrival and Departure Tables	
Hide/display status table	Verify Hide/display status table feature is functioning	
Gate Table	Verify the number of Gates and Gate Headers are correct	

Software Feature or Capability	Description	Yes/No
	Verify colors on the legend match the colors on the Gate Table	
	Verify Priority indication appears when initiated	
	Verify Gate color changes to grey when Gate is closed.	
	Verify Gate Allocation feature works as designed	
Gate Status Feature	Verify Gate Open/Closed updates when editing Gate information	
	Verify the ability to enter remarks in the Optional Remarks section	
Airline Ramp Status Feature for each Terminal Ramp	Verify the ability to edit information in box	
	Verify the ability to edit Layout	
	Verify the ability to enter remarks in the Optional Remarks section	
Sort Arrival/Departure Schedule Feature	Verify the ability to sort by ETA/EDCT, Gate or Hardstand and Alphabetically	
Find Flight Feature	Verify the ability to search for a specific flight in the Departure or Arrival Schedule	
Add/Edit Flight Feature	Verify the ability to Add a specific Arrival or Departure into the program	
	Verify the ability to edit a specific flight in the program	
Chat Feature	Verify Chat Feature is operational	

**8. Optional Services, Additional Software/Licenses:**

a. Transition & Disentanglement Services

The parties acknowledge and agree that upon the expiration or termination of this Agreement, the good faith efforts of Provider to facilitate the smooth, efficient, and secure transition of data and services to another provider (or to County, to the extent applicable) without any unnecessary interruption or adverse impact on County operations (“Disentanglement”) is a critical objective of the parties and a material obligation of Provider under this Agreement. All obligations of Provider under this Agreement shall be construed consistent with this objective.

At request of County, Provider shall provide prompt, good faith, and reasonable assistance to County in disentangling County data, business, and operations from the System and, to the extent applicable, transitioning to a new software, system, or provider.

b. Additional Subscriptions, System, or Modules

County may acquire any additional software or modules, as well as any professional services for installation, configuration or otherwise, relating to the Software and System, which may be acquired as Optional Services utilizing a Work Authorization.

### Exhibit B – Payment Schedule

The rates specified below shall be in effect for the entire term of the Agreement, including any renewal term, unless the contrary is expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

<b>PASSUR Product</b>	<b>Pricing*</b>
PASSUR Landing Fee Audit Module	\$3,641/month
PASSUR Landing Fee Billing Module	\$3,499/month
PASSUR Class II Noise Feed	\$2,660/month
PASSUR Right ETA	\$2,295/month
PASSUR Communicator	\$5,967/month
PASSUR Web Tracker (license for use by RVA & Airport Operations)	\$2,295/month
Surface Optimization for all Terminals including Concourse A	<b>Monthly fees</b> as follows: <ul style="list-style-type: none"> <li>• \$20,000/month commencing upon written acceptance of first Sub-Phase of Phase 2</li> <li>• An additional \$3,333/month per each additional terminal commencing for each terminal upon written acceptance of the applicable Sub-Phase of Phase 2</li> </ul>
	<b>One-time fees</b> as follows: <ul style="list-style-type: none"> <li>• \$10,000 for each of the four (4) Sub-Phase of Phase 2</li> </ul>
Total (inclusive of all Terminals)	\$50,356/monthly \$40,000 one-time fee

The foregoing fees shall not increase for the first thirty-six (36) months from the Effective Date of this Agreement. Thereafter, Provider may increase its fees on an annual basis with at least ninety (90) days' advance written notice to County, provided that such increase per annum shall not exceed the lesser of 3% or CPI. The increase or decrease in CPI shall be calculated as follows: the difference of CPI current period less CPI previous period, divided by CPI previous period, times 100. The CPI current period shall mean the most recent published monthly index prior to contract anniversary. The CPI previous period shall mean for the same month of the prior year. All CPI indices shall be obtained from the U.S. Department of Labor table for Consumer Price Index - All Urban Consumers (Series ID CUURA320SA0) for the area of Miami-Fort Lauderdale, FL (All Items), with a base period of 1982-84 = 100, and not seasonally adjusted.

Provider may invoice the County monthly in arrears for monthly amounts denoted above. The one-time set-up fees for Surface Optimization shall be invoiced upon County's issuance of the Notice to Proceed for the applicable Sub-Phase of the Surface Optimization project.

\* The monthly fees stated above constitute the Support and Maintenance Fees for purposes of Exhibit C Service Credits and Downtime Maintenance referenced in Exhibit C.

Any travel expenses or fees incurred by Provider under this Agreement shall be the sole responsibility of Provider, unless otherwise expressly stated in this Agreement or applicable Work Authorization.

**Optional Services**

Description	Unit/Term	Invoicing	Fee
Professional Services (including Consulting and Transition & Disentanglement Services)	Hourly	Monthly in arrears	\$ 195/hour
Additional Training	Hourly	Monthly in arrears	\$ 157/hour

### **Exhibit C - Support and Maintenance Services**

Provider shall provide County with Support and Maintenance Services so as to ensure and maintain optimal performance of the System consistent with the Statement of Work and the Documentation, which services shall include the following:

- Timely response and resolution of any errors, defects, malfunctions or other issues affecting the use or performance of the System (collectively, "Events") in keeping with the Required Response Times stated below;
- Providing and facilitating the installation of updates, upgrades and releases as they are made available to Provider's other clients;
- Notification of patches and updates affecting security, and applying, testing, and validating the appropriate patches and updates and/or workarounds on a test version of the application before distribution.
- On-call availability via telephone and e-mail during normal business hours to receive and respond to inquiries or questions from County regarding use, operation, or functionality of the System;
- Emergency availability via telephone and e-mail after hours to receive and respond to specific technical problems and questions relating to the operation or functionality of the System;
- Use of ongoing commercially reasonable efforts to maintain the optimal functioning of the System, to correct programming and coding errors, and to provide solutions to known errors affecting the operation of the System;
- Routine notification to County as it becomes available of new or updated information pertaining to the System and the Documentation; and
- Any other support and maintenance services routinely provided to SaaS subscribers of Provider.

Support and Maintenance Services shall be provided via telephone, electronic communication, on-site, or as otherwise appropriate to address the issue. Any update, upgrades, releases, or other modifications to the System or Licensed Technology for local installation at County shall be provided via electronic communication and for download via the Internet, if practicable. To the extent necessary to resolve an Event or other support request, Provider shall provide support on-site at any office or location of a Broward County agency. Provider agrees that its personnel shall be suitably trained in the operation, support and maintenance of the System. If in the reasonable opinion of County, the personnel provided are not acceptable, Provider agrees to provide suitable replacements.

Required Response Times. Upon notice by County of an Event, Provider shall address and resolve the Event consistent with the following priority, response and resolution levels:

<b>Provider Support Coverage</b>	
Hours	Direct customer: 24 hours per day – Priority 1 and 2 Cases 5:00 am - 11:00 pm US EST (“Normal Working Hours”) – Priority 3 & 4 Cases. End User: 5:00 am – 11:00 pm US EST phone support and working hours email support

Following SLA descriptions are for direct customers and end users:

<b>Rating</b>	<b>Service Response</b>	<b>Service Level Resolution</b>	<b>Description</b>
Priority 1 Error	60 minutes between hours 5am-11pm U.S. EST. Next Business day between 11pm-5am US EST (except in cases where direct customer contacts Provider 24/7/365 live customer support line).	4 hours during Normal Working Hours and 8 Hours during other times (for technical issues under Provider’s control).	Means a catastrophic error that causes: (a) any significant component of the System to be unusable; (b) a System malfunction that has major impact on County; (c) frequent failure of an important service that utilizes the System; or (d) material data loss or corruption. A Priority 1 Error significantly impacts County business and is considered “service affecting.”
Priority 2 Error	60 minutes between hours 5am-11pm/US EST. Next business day between 11pm-5am US EST (except in cases where direct customer contacts Provider 24/7/365 live customer support line).	24 hours (for technical issues under Provider’s control).	Means an error that causes:(a) a major failure to an important feature in the System resulting in significant inconvenience to Subscriber; (b) a System malfunction that has a frequent impact on County; or (c) a major feature of the System to perform materially differently from the description of that feature in the Agreement and Documentation. A Priority 2 Error requires significant attention of County’s operations staff to keep the System functioning.
Priority 3 Error	1 business day	5 business days	Means an Error that: (a) has minimal current impact on County; and (b) causes a malfunction of a non-essential feature of the System.
Priority 4 Issue	1 business day	Variable	Means an issue that: (a) has minimal or no impact on County; and (b) causes an inconvenience to operations staff; or (c) enhancement requests.

<b>Escalation Guidelines for Support Services Requests</b>				
<b>Elapsed Time</b>	<b>Priority 1</b>	<b>Priority 2</b>	<b>Priority 3</b>	<b>Priority 4</b>
>60 minutes	Technical Support Lead	N/A	N/A	N/A
>4 hours	Director IT	Technical Support Lead	Technical Support Lead	N/A
>8 hours	SVP Technology	Director IT	Director IT	Technical Support Lead
>12 hours	CEO	SVP Technology	Director IT	Director IT

Notwithstanding the above-stated schedule, Provider shall use its continuing best efforts to correct the Event as expeditiously as it can. The Priority Description for each error or issue shall be reasonably determined by the Contract Administrator.

Records and Reports. Provider will maintain records of its Support and Maintenance Services, which shall include at least the following:

- a) Date, time, and name of contact for each Event;
- b) Date and time of response by Provider;
- c) Description of Event and analysis of error, defect, or other issue causing Event;
- d) All steps and actions taken to resolve the Event;
- e) Date and time of resolution and County representative notified of resolution; and
- f) All equipment and/or labor costs associated with resolution.

At the request of County, Provider shall provide monthly reports of the foregoing records as well as statistics of Provider's average monthly compliance with the Required Response Times.

**Service Level Credits**

In the event of a failure by Provider to meet the Service Response Times, or in the event a Priority 1 or Priority 2 is not resolved or reduced to a Priority 3 or Priority 4 priority level within four (4) hours after notice to Provider, Provider will credit to County the amount set forth below (each, a "Service Level Credit") as its sole and exclusive remedy for any such failure.

Failure to Meet Required Response Times. If Provider fails to meet the Service Response Times, Provider will provide to County a Service Level Credit equal to five percent (5%) of the monthly fee (or monthly pro rata equivalent, if the fee is other than monthly) for Support and Maintenance Services, which the parties agree is a fair and reasonable approximation of County's negative financial impact caused by the delay in Provider's response.



DownTime Maintenance Credit. If a Priority 1 or Priority 2 event is not resolved or reduced to Priority 3 or Priority 4 priority level within four (4) business hours for a Priority 1, or twenty-four (24) hours for a Priority 2, after notice to Provider, Provider will provide to County a Service Level Credit equal to five percent (5%) of the monthly fee (or monthly pro rata equivalent, if the fee is other than monthly) for Support and Maintenance Services.

Any Service Level Credit(s) will be applied against future sums due to Provider within thirty (30) days of County's written request for such Service Level Credit.

In no event shall the County receive more than one Service Level Credit attributable to a single root cause.

In no event shall the total amount of Service Level Credits credited to County in any one month exceed, in the aggregate, the monthly fees payable by County.

## Exhibit D - Service Level Agreement

In connection with all Services provided to County under the Agreement, Provider shall, at no additional cost to County, meet or exceed the requirements below, including, as applicable, as to Application Service Provider (“ASP”) hosting or Software as a Service (“SaaS”). Any capitalized terms not defined herein refer to those defined terms in the Agreement.

Any item addressed in this SLA that requires approval by County must be approved in writing. The Contract Administrator and Director of County’s Division of Enterprise Technology Services (“ETS”) are authorized to approve those items on behalf of County.

“County Network” and “County Systems” shall mean those County computers, storage, and network devices which contain sensitive, confidential, or exempt information and to which Provider has access. For the avoidance of doubt, systems and networks that contain publicly available information such as flight schedules and gates, and other publicly-accessible systems or networks generally available to public (e.g. via the Internet) are not County Network or County Systems.

“County Data” shall mean personally identifiable information, Social Security Numbers, Taxpayer Identification Numbers, bank account numbers, cardholder data, and any other data such as Protected Health Information (“PHI”) and Personally Identifiable Information (“PII”) provided by County to Provider.

### 1. Security

1.1 Provider will ensure that County has the ability to authenticate all access by username, password, or two-factor. Provider shall restrict access to County Data to a specific source static IP address.

1.2 Provider will support encryption using at least Advanced Encryption Standard 256-bit encryption keys (“AES-256”) or current industry security standards for the connection from County to Provider's production network.

1.3 If and to the extent Provider accepts, transmits or stores any credit cardholder data on behalf of the County, or if and to the extent that Provider or its Software or Services is reasonably determined by County to potentially impact the security of County’s cardholder data environment (CDE), Provider shall comply with the most recent version of the Security Standards Council’s Payment Card Industry (“PCI”) Data Security Standard (PCI-DSS), including complying with the following requirements:

1.3.1 Prior to execution of this Agreement, after any significant change to the CDE, and annually Provider shall provide to County:

- a) A copy of their Annual PCI DSS Attestation of Compliance (AOC);

- b) A written acknowledgement of responsibility for the security of cardholder data the service providers possess or otherwise store, process or transmit on behalf of the County, or to the extent that the service provider could impact the security of the county's cardholder data environment.
- c) A PCI DSS responsibility matrix that outlines the exact PCI DSS Controls are the responsibility of the service provider and which controls the service provider shares responsibility with the County.
- d) If Provider subcontracts or in any way outsources the CDE processing, Provider is responsible for providing the AOC for the subcontractor or payment gateway to the County.
- e) Provider agrees that it is responsible for the security of the County's cardholder data that it possesses, including the functions relating to storing, processing, and transmitting of the cardholder data.
- f) Provider will immediately notify Agency if it learns that it is no longer PCI DSS compliant and will immediately provide Agency the steps being taken to remediate the non-compliance status. In no event should Vendor's notification to Agency be later than seven (7) calendar days after Vendor learns it is no longer PCI DSS compliant.
- g) Provider acknowledges that any indemnification provided for under the referenced Contract applies to the failure of the Vendor to be and to remain PCI DSS compliant.

1.3.2 Provider shall enforce automatic disconnect of sessions for remote access technologies after a specific period of inactivity with regard to connectivity into the County infrastructure. (PCI 12.3.8)

1.3.3 Provider shall activate remote access from vendors and business partners into the County network only when needed by vendors and partners, with immediate deactivation after use. (PCI 12.3.9)

1.3.4 Provider shall implement two-factor authentication for securing remote access outside the network into the County's environment with access to any stored credit card data. (PCI 8.3)

1.3.5 Provider shall ensure all non-console administrative access to the SaaS System connecting to the County environment is encrypted. (PCI 2.3)

1.3.6 Provider shall maintain a file integrity monitoring program to ensure critical file system changes are monitored and approved with respect to County data. (PCI 10.5.5)

1.3.7 Provider shall ensure personal firewall software is installed on any mobile or employee- owned device that manages the County's Cardholder Data Environment ("CDE") and connects to the Internet when outside the network in accordance with PCI Standard. (PCI 1.4)

1.3.8 If software is a payment application which processes, stores, or transmits credit card data, the VISA Cardholder Information Security Program ("CISP") payment Application Best Practices and Audit Procedures shall be followed and current validation maintained.

1.4 Provider shall restrict inbound and outbound traffic to the County Network to "deny all, permit by exception" configuration. (PCI 1.2.1)

1.5 Provider's wireless networks shall be configured using current industry security standards to encrypt and protect communications of County Data.

1.6 Except as to PASSUR Landing Fee Management, PASSUR Right ETA, and PASSUR Communicator, Provider agrees to achieve the Statement on Standards for Attestation Engagement No. 16 ("SSAE 16") criteria for security, availability, and confidentiality for the Services, the Software, and the System. All servers that Provider uses to provide these Services under the Agreement shall be protected behind a layer of firewalls. Any subsequent changes are subject to approval by County, which shall not be unreasonably withheld.

1.7 Provider shall ensure that facilities that house the network infrastructure which hosts County Data are physically secure against threats such as unauthorized access and natural and environmental hazards.

1.8 Provider shall ensure entry controls are in place to limit and monitor physical access to Provider's systems housing the County Network.

1.9 Provider shall ensure that separation of duties and least privilege are enforced for privileged or administrative access to County Data and County Systems.

1.10 Provider's IT Security Policy is incorporated herein by reference.

1.11 Within sixty (60) days of the Effective Date of the Agreement, and at least annually for the duration of this Agreement, Provider shall provide County with a copy of a current, annual, unqualified SOC 2 Type II, Report, inclusive of all five Trust Service Principles (Security, Availability, Processing Integrity, Confidentiality, and Privacy) for all Services and portions of the System other than PASSUR Landing Fee Management, PASSUR Right ETA, and PASSUR Communicator, unless the County's Chief Information Officer in his or her sole discretion approves other documentation of appropriate security controls by Provider. If the audit opinion in the SOC 2, Type II report is qualified in any way, Provider shall provide

sufficient documentation to demonstrate remediation of the issue(s) to the satisfaction of the County's Chief Information Officer.

1.12 Provider shall maintain Surface Optimization in facilities with redundant power and internet access and with backup servers sufficient to recover Surface Optimization in the event of a primary component failure within eight (8) business hours.

1.13 Provider shall maintain controls that ensure separation of County Data from that of Provider's other clients. Provider agrees to provide at least AES-256 data encryption for County Data or as otherwise directed by County on all copies of such County Data stored, transmitted, or processed, at no additional charge to County, and shall classify such County Data internally at its highest confidentiality level. Provider shall also ensure that the encryption key(s) are not stored with the encrypted County Data and are secured by a Hardware Security Module ("HSM"). Provider shall immediately notify County of any compromise of the encryption keys. Provider shall provide a copy of County's encryption key(s) at County's request. Provider shall prohibit the use of unencrypted protocols such as FTP and Telnet for the County Data.

1.14 If Provider receives County Data from County, Provider shall maintain industry best practices for data privacy, security, and recovery measures including disaster recovery programs, physical facilities security, server firewalls, virus scanning software, current security patches, user authentication, and intrusion detection and prevention. Provider shall maintain the same standards set forth herein regardless of whether the County Data is stored at any primary or other location. Upon request (or as otherwise provided in this SLA), if Provider receives County Data, Provider shall provide documentation of such procedures and practices to County. In addition, Provider agrees not to allow Peer to Peer Software ("P2P") to be installed onto any Provider network where County Data reside unless County specifically permits it in writing on a case-by-case basis.

1.15 Provider shall report to County within twenty-four (24) hours of becoming aware of the incident if any unauthorized party is successful in accessing any servers or fail-over servers where County Data exists or are housed. Provider shall provide County with a detailed incident report within five (5) days of any such breach, including remedial measures instituted and any law enforcement involvement. Provider shall fully cooperate with County on County's incident response, forensics, and investigations that involve a breach of the Provider's infrastructure relating to any County Data or County Network.

1.16 Provider shall protect any Internet interfaces provided under this Agreement using a security certificate from a certification authority ("CA") that meets or exceeds the CA/Browser Forum's latest Secure Sockets Layer ("SSL") Baseline Requirements and Network and Certificate Systems Security Requirements.

1.17 Provider shall connect its hosting site through at least two (2) independent Internet Service Providers ("ISPs") with different Internet Points-of-Presence.

1.18 Provider shall ensure adequate background checks have been performed on any personnel having access to County Data. To the extent permitted by such checks, Provider shall not knowingly allow access to any County Data to convicted felons or other persons deemed by Provider to be a security risk.

1.19 Provider shall ensure that its service providers, subconsultants, and any third parties performing any Services relating to this Agreement shall comply with all terms and conditions specified in this Agreement unless County, in writing, excuses specific compliance with any such term or condition. Provider shall provide County annually, or more frequently at County's request, with a list of any service providers, subconsultants or other third-parties that Provider utilizes to provide Services to County and that have access to County Data.

1.20 Provider shall cooperate and provide any reasonably requested information during the term of the Agreement in connection with County's initial and on-going review and inspection relating to compliance and regulatory requirements. Request for information or review by County may include, but is not be limited to, the results of any external audit and penetration tests of Provider's systems used in delivering the Services to County.

1.21 If new or unanticipated threats or hazards are discovered by either County or Provider, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

1.22 Provider must take reasonable steps to mitigate critical or high risk vulnerabilities immediately after critical or high risk vulnerabilities are formally identified.

1.23 Provider shall provide County with the names and contact information for a security point of contact and a backup security point of contact to assist County with security incidents prior to the Effective Date of this Agreement.

1.24 Except as otherwise permitted under this Agreement, Provider shall not release County Data or copies of County Data to any third parties without the advance written consent of County.

1.25 County Data or copies of County Data must be available to County upon request within one (1) business day in the then-current format or any other format as may reasonably be requested by County.

1.26 Upon termination or expiration of this Agreement, after written confirmation by County that the applicable County Data is currently maintained by County or otherwise securely stored, Provider shall securely erase all County Data on all decommissioned hard drives or storage media to National Institute of Standards and Technology ("NIST") standards.

1.27 Provider shall provide privacy and information security training to its employees

upon hire.

1.28 Upon request by County and where applicable, Provider shall submit a network architecture diagram of the County Data that is stored and transmitted by Provider, to include location of data center and connectivity from all third parties who have access to County Data.

## **2. Compliance**

2.1 For the duration of the Agreement, if applicable to the Services, Provider shall provide County with the ability to generate account reports consisting of the account holder's name and application access rights.

2.2 For the duration of the Agreement, Provider shall provide County with the ability to generate account management reports showing new users, access rights changes, and account termination with the associated time stamp information.

2.3 For the duration of the Agreement, Provider shall provide County with the ability to generate time-stamped user and administrator access (login/logout) and a list of modifications performed by administrators, privileged users, or third party contractors while using the Surface Optimization System. No record will be made of read-only actions performed by administrators, privileged users, or third party contractors while using the Services.

## **3. Service Availability**

### **3.1 System Availability**

3.1.1 Provider guarantees that the network uptime will be 99.5% of Prime Time (defined as County business days from 7 a.m. – 7 p.m. Eastern Time) and 98.00% of non-Prime Time for each calendar month during the term of the Agreement for System Optimization only, excluding Scheduled Maintenance as defined herein (collectively, the "Network Uptime Guarantee"). The Network Uptime Guarantee requires proper functioning of all network infrastructure, including routers, switches, and cabling, affecting County's ability to reliably transmit or receive data by and through Surface Optimization. Network downtime is measured from the time the trouble ticket is opened to the time the network uptime is fully restored. As long as Surface Optimization is available over the Internet to at least two other comparable customers (i.e., Surface Optimization is functioning properly and there are no technical issues with Provider or its ISP's hardware or software), any inability on the part of County to access Surface Optimization as a result of a general Internet outage will not be counted toward any unavailability time period.

3.1.2 Provider will refund to County five percent (5%) of the monthly fees (or monthly pro rata equivalent, if recurring fees under the Agreement are charged other

than monthly) paid for Surface Optimization under the Agreement for each failure to meet the Network Uptime Guarantee (each, a "Service Level Credit").

3.1.3 Normal availability of Surface Optimization shall be twenty-four (24) hours per day, seven (7) days per week. Planned downtime (i.e., taking Surface Optimization offline such that it is not accessible to County) ("Scheduled Maintenance") shall occur during non-Prime Time and with at least five (5) business days' advance written notice to County. Provider may conduct Scheduled Maintenance at other times and upon less notice upon written consent from County, which consent will not be unreasonably withheld. During non-Prime Time, Provider may perform routine maintenance operations that do not require Surface Optimization to be taken offline but may have immaterial effect on Surface Optimization performance and response time without any notice to County. Such degradation in performance and response time shall not be deemed network downtime. Provider shall provide County with reasonable prior notice of all changes that are expected to take more than four (4) hours to implement or are likely to impact user workflow.

3.1.4 By the tenth day of each calendar month, Provider shall provide to County a report detailing Provider's performance under this SLA for the prior calendar month. To the extent the performance fails to meet the Network Uptime Guarantee, the report shall calculate: the total number of minutes of uptime for each of Prime Time and non-Prime Time; the total number of minutes for each of Prime Time and non-Prime Time minus any applicable Scheduled Maintenance, respectively; and the percentage of uptime versus total time minus Scheduled Maintenance for each (e.g., monthly minutes of non-Prime Time network uptime / (Total minutes of non-Prime Time – Minutes of Scheduled Maintenance) = %).

3.1.5 Provider guarantees the functioning of all hardware components necessary for Provider to provide Surface Optimization and Service Availability herein, and will replace any failed or defective component at no cost to County. Downtime for the purpose of building redundancy or other recovery systems that is approved by County in advance shall not be charged as downtime in computing the Network Uptime Guarantee. Network downtime due to hardware failure is subject to the Network Uptime Guarantee.

3.1.6 Any Service Level Credit(s) will be applied against future sums due to Provider within thirty (30) days of County's written request for such Service Level Credit.

3.1.7 In no event shall the County receive more than one Service Level Credit attributable to a single root cause.

3.1.8 In no event shall the total amount of Service Level Credits credited to



County in any one month exceed, in the aggregate, the monthly fees payable by County.

### **3.2 Infrastructure Management**

3.2.1 Provider's Surface Optimization System shall support up to 100 simultaneous users.

3.2.2 Provider's Services shall ensure that an unlimited number of transactions may be processed to County production database, but Provider may recommend that non-routine reports and queries be limited to certain timeframes, quantities or other specifications if Provider determines that such reports and queries cause degradation to response times affecting performance levels established in the SLA.

3.2.3 Provider will retain all database records for the Surface Optimization System regardless of number or size for a period of thirty (30) days from the date of creation of the record

3.2.4 Provider shall routinely apply upgrades, new releases, and enhancements to the System as they become available and shall ensure that these changes will not adversely affect the System.

3.2.5 To the extent Provider's System includes an ad-hoc reporting tool and/or standard reports, Provider agrees to provide unlimited access to such functionality to County. Provider agrees to support an unlimited number of queries and reports against County's data. County agrees that Provider may put reasonable size limits on queries and reports to maintain System performance, provided such limits do not materially impact County's regular business operations.

3.2.6 A development and test system for Surface Optimization, which shall mirror the production system, shall be made available for use by County for testing purposes upon five (5) business days' request, including without limitation, upon request for County's testing of application upgrades and fixes prior to installation in the production environment.

3.2.7 A demonstration/training system will be available for use by County upon five (5) business days' request. County may control data that is populated on the demonstration/training system by requesting that Provider:

- a) periodically refresh data from production;
- b) perform an ad-hoc refresh of data from production;
- c) not refresh data from production until further notice from County; or
- d) refresh data on an ad hoc basis with training data supplied by County.

### **3.3 Performance Monitoring and Hosting Capacity Increases**

3.3.1 If requested by County, Provider shall provide standard reporting metrics to County on a monthly basis which shall include: traffic patterns by user and by time; server load, including Central Processing Unit (“CPU”) load, virtual memory, disk and input/output (“I/O”) channel utilization; Transmission Control Protocol (“TCP”) load for each server allocated in part or in full to County System; and system errors in System, database, operating system, and each server allocated in part or in full to System.

3.3.2 In the event County anticipates an increase in transaction volume or seeks to expand capacity beyond the limitations, if any, provided under the Agreement, Provider will provide timeline and cost estimates to upgrade existing servers or deploy additional servers dedicated to County’s System within fifteen (15) calendar days of written notice by County. Any incremental or additional costs shall be handled pursuant to the “Change of Scope” procedures in the Agreement.

## **4. Data**

4.1 All data and information provided by County or its agents under this Agreement, including County Data is the property solely of County and may not be reproduced or used with the prior written consent of County. Provider and its subcontractors will not publish, transmit, release, sell, or disclose any County Data to any other person without County’s prior written consent. The provisions of this Section 4.2 shall survive the termination or expiration of the Agreement.

4.2 In the event of any impermissible disclosure, loss or destruction of County Data, Provider must promptly notify County and take all reasonable and necessary steps to mitigate any potential harm or further disclosure, loss or destruction.

4.3 To the extent County Data is stored by Provider pursuant to the terms of a Statement of Work, County shall have the option of receiving County Data at a frequency and in a format as set forth in a Statement of Work.

4.4 Upon the termination of this Agreement or the end of serviceable life of any media used in connection with this Agreement, Provider shall, at County’s option, (a) securely destroy all media (including media used for backups) containing any County Data and provide to County a signed certificate of destruction within ten (10) business days, and/or (b) return to County all County Data and provide a signed certification within two (2) business days, documenting that no County Data or information is retained by Provider in any format or media.

## 5. Transition/Disentanglement

5.1 Provider will complete the transition of any terminated Services to County and any replacement providers that County designates (collectively, the “Transferee”), without causing any unnecessary interruption of, or adverse impact on, the Services (“Disentanglement”). Provider will work in good faith (including, upon request, with the Transferee) at no additional cost to County to develop an orderly Disentanglement plan that documents the tasks required to accomplish an orderly transition with minimal business interruption or expense for County. Upon request by County, Provider shall cooperate, take any necessary additional action, and perform such additional tasks that County may reasonably request to ensure timely and orderly Disentanglement, which shall be provided at the rate(s) specified in the Agreement or, if no applicable rate is specified, at Provider’s then current time and materials rates. Specifically, and without limiting the foregoing, Provider shall:

- a) Promptly provide the Transferee with all nonproprietary information needed to perform the Disentanglement, including, without limitation, data conversions, interface specifications, data about related professional services, and complete documentation of all relevant software and hardware configurations;
- b) Promptly and orderly conclude all work in progress or provide documentation of work in progress to Transferee, as County may direct;
- c) If applicable, with reasonable prior written notice to County, remove its assets and equipment from County facilities;
- d) Deliver to Transferee all County Data. After confirming in writing with County that the applicable County Data is received intact or otherwise securely stored by County, Provider shall securely erase all County Data, including on any hard drives and backup media, to NIST standards.

### Exhibit E – Insurance Requirements

#### Insurance Requirements for Credentialing System

The following coverages are deemed appropriate for minimum insurance requirements for this project and will be required of the selected firm and identified in the negotiated agreement. Any deviation or change during the contract negotiation period shall be approved by Risk Management.

TYPE OF INSURANCE	Limits on Liability in Thousands of Dollars		
		Each Occurrence	Aggregate
<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises–Operations <input checked="" type="checkbox"/> Explosion & Collapse Hazard <input type="checkbox"/> Underground Hazard <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> mobile equipment	Bodily Injury		
	Property Damage		
	Bodily Injury and Property Damage Combined	<b>\$1 mil</b>	<b>\$1 mil</b>
	Personal Injury		
<b>AUTO LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto If applicable	Bodily Injury (each person)		Broward County reserves the right to review and revise any insurance requirements at the time of contract renewal, not limited to the limits, coverages and endorsements based on insurance market conditions and/or changes in the scope of services.
	Bodily Injury (each accident)		
	Property Damage		
	Bodily Injury and Property Damage Combined	<b>\$300 k non airside</b> <b>\$5 mil airside</b>	
<input type="checkbox"/> <b>POLLUTION &amp; ENVIRONMENTAL LIABILITY</b>	Max Ded \$50k	\$	
<input checked="" type="checkbox"/> <b>WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY (NOTE *)</b>  <b>Chapter 440 FS</b>	<input checked="" type="checkbox"/> STATUTORY		
		(each accident)	<b>\$500 k minimum</b>
<input checked="" type="checkbox"/> <b>PROFESSIONAL LIABILITY ~ E&amp;O</b>	<b>Max. Ded. \$10k</b>	<b>\$1 mil</b>	<b>\$2 mil</b>
<input type="checkbox"/> <b>PROPERTY COVERAGE / ALL RISK</b>	<b>Max. Ded.</b>		Agreed value Replacement Cost
<input checked="" type="checkbox"/> Cyber Breach Response Coverage (**see attached limits and sublimits)	Maximum Deductible	\$ 20K	Replacement value
	Each Claim	<b>Vendor Responsible for Deductible</b>	
<b>Contractor responsible for all tools, materials, equipment, machinery, etc., until completion and acceptance by County.</b>			
Description of Operations/Locations/Vehicles Certificate must show on general liability and excess liability <b>Additional Insured: Broward County.</b> Also when applicable certificate should show <b>B.C. as a named insured for property and builders risk and as a loss payee for installation floater when coverage's are required.</b> Certificate Must be Signed and All applicable Deductibles shown. <b>CONTRACTOR RESPONSIBLE FOR ALL DEDUCTIBLES UNLESS OTHERWISE STATED.</b> Indicate bid number, RLI,RFP, and project manager on COI.			

**NOTE \*** - If the Company is exempt from Workers' Compensation Coverage, please provide a letter on company letterhead or a copy of the State's exemption which documents this status and attaché to the Certificate of Insurance for approval. If any operations are to be undertaken on or about navigable waters, coverage must be included for U.S. Longshoremen & Harbor Workers' Act/ & Jones Act

**CANCELLATION:** Thirty (30) Day written notice of cancellation required to the Certificate Holder:

**Name & Address of Certificate Holder**  
 Broward County  
 2200 Southwest 45<sup>th</sup> Street, Suite 101  
 Dania Beach, Florida 33312  
**RE: (Security)**

Digitally signed by Tracy Meyer  
 DN: cn=Tracy Meyer, o=bcaad,  
 ou=risk,  
 email=tracymeyer@broward.org, c=US  
 Date: 20160328 13:48:30 -0400  
**Tracy Meyer**  
 Aviation Department  
 Risk Insurance and Contracts Manager

InsuranceLimitsForm 03 Revised certificateofinsrevised2005.DOC COI

Exhibit E page 2

PASSUR

Cyber Breach Response Coverage Sub limits

Limits of Liability (inclusive of claim expenses):

- (a) \$ 2,000,000 Each Claim
  
- (b) \$2,000,000 Policy Aggregate subject to the following aggregate sub limits;
  - a. \$1,000,000 for all privacy notification costs
  - b. \$1,000,000 for all regulatory fines and claim expenses for Privacy Liability
  - c. \$1,000,000 for all extortion damages for extortion threat
  - d. \$1,000,000 for all crisis management expenses
  - e. \$1,000,000 for all reduction in business income caused by Business interruption

**Exhibit F – Work Authorization Form**  
**WORK AUTHORIZATION FOR AGREEMENT \_\_\_\_\_**

Contract Number: \_\_\_\_\_

Work Authorization No. \_\_\_\_\_

This Work Authorization is between Broward County and \_\_\_\_\_ (“Provider”) pursuant to the Agreement, executed on \_\_\_\_\_. In the event of any inconsistency between this Work Authorization and the Agreement, the provisions of the Agreement shall govern and control.

**Services to be provided:** [DESCRIBE IN DETAIL]

Agreement at issue is \_\_ Lump Sum/ \_\_ Not-to-Exceed for amount: \$\_\_\_\_\_

The time period for this Work Authorization will be from the date of complete execution until \_\_\_\_ (\_\_) days after County’s Notice to Proceed for the Services to be provided under this Work Authorization, unless otherwise extended or terminated by the Contract Administrator.

**Fee Determination:** Payment for services under this Work Authorization is as follows:

Professional Services	\$ _____
General Services	\$ _____
Goods/Equipment	\$ _____
Total Cost of this Work Authorization	\$ _____

The foregoing amounts shall be invoiced by Provider upon written acceptance by County of all goods and services provided under this Work Authorization.

**County**

	Contract Administrator	Date
Project Manager	Date	Board or Designee
		Date

**Provider**

	Signed	Date
Attest	Typed Name	
	Title	

## EXHIBIT G

### NONDISCRIMINATION REQUIREMENTS

I. Nondiscrimination - 49 CFR Part 21 Requirements. During the performance of this contract, Provider for itself, its personal representatives, assigns and successors in interest (hereinafter referred to collectively as the "Provider") agrees as follows:

(a) Compliance With Regulations. Provider shall comply with the Regulations relative to nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(b) Nondiscrimination. Provider shall not discriminate on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Provider shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including "employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(c) Solicitation for Subcontractors, Including Procurement of Materials and Equipment. In all solicitation either by competitive bidding or negotiation made by Provider for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Provider of Provider's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation.

(d) Information and Reports. Provider shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the County or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of Provider is in the exclusive possession of another who fails or refuses to furnish this information, Provider shall so certify to the County or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(e) Sanctions for Noncompliance. In the event of Provider noncompliance with the nondiscrimination provisions of this contract, the County shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to: (1) withholding of payments under the contract until there is compliance, and/or (2)

cancellation, termination, or suspension of the contract, in whole or in part. In the event of cancellation or termination of the contract (if such contract is a lease), the County shall have the right to re-enter the Premises as if said lease had never been made or issued. These provisions shall not be effective until the procedures of Title 49 CFR Part 21 are followed and completed, including exercise or expiration of appeal rights.

(f) Incorporation of Provisions. Provider shall include the provisions of paragraphs (a) through (e), above, in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. Provider shall take such action with respect to any subcontract or procurement as the County or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event Provider becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Provider may request the County to enter into such litigation to protect the interests of the County and, in addition, Provider may request the United States to enter into such litigation to protect the interests of the United States.

(g) Provider, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this contract, for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Provider shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulation may be amended.

(h) Provider, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the premises and the furnishing of services thereon, no person on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that Provider shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

II. Nondiscrimination - 14 CFR Part 152 Requirements. During the performance of this contract, Provider, for itself, its assignees and successors in interest agrees as follows:



(a) Provider agrees to undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participation in any employment, contracting, or leasing activities covered in 14 CFR Part 152, Subpart E. Provider agrees that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. Provider agrees that it will require its covered sub organizations to provide assurances to Provider that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations as required by 14 CFR Part 152, Subpart E, to the same effect.

(b) Provider agrees to comply with any affirmative action plan or steps for equal employment opportunity required by 14 CFR Part 152, Subpart E, as part of the affirmative action program, and by any federal, state, County or local agency or court, including those resulting from a conciliation agreement, a consent decree, court order or similar mechanism. Provider agrees that state or County affirmative action plans will be used in lieu of any affirmative action plan or steps required by 14 CFR Part 152, Subpart E, only when they fully meet the standards set forth in 14 CFR 152.409. Provider agrees to obtain a similar assurance from its covered organizations, and to cause them to require a similar assurance of their covered sub organizations, as required by 14 CFR Part 152, Subpart E.

(c) If required by 14 CFR Part 152, Provider shall prepare and keep on file for review by the FAA Office of Civil Rights an affirmative action plan developed in accordance with the standards in Part 152. Provider shall similarly require each of its covered sub organizations (if required under Part 152) to prepare and to keep on file for review by the FAA Office of Civil Rights, an affirmative action plan developed in accordance with the standards in Part 152.

(d) If Provider is not subject to an affirmative action plan, regulatory goals and timetables, or other mechanism providing for short and long-range goals for equal employment opportunity under Part 152, then Provider shall nevertheless make good faith efforts to recruit and hire minorities and women for its aviation workforce as vacancies occur, by taking any affirmative action steps required by Part 152. Provider shall similarly require such affirmative action steps of any of its covered sub organizations, as required under Part 152.

(e) Provider shall keep on file, for the period set forth in Part 152, reports (other than those submitted to the FAA), records, and affirmative action plans, if applicable, that will enable the FAA Office of Civil Rights to ascertain if there has been and is compliance with this subpart, and Provider shall require its covered sub organizations to keep similar records as applicable.

(f) Provider shall, if required by Part 152, annually submit to the County the reports required by Section 152.415 and Provider shall cause each of its covered sub organizations that are covered by Part 152 to annually submit the reports required by Section 152.415 to Provider who shall, in turn, submit same to the County for transmittal to the FAA.

**III. Nondiscrimination - General Civil Rights Provisions.** Provider, for itself, its assignees and successors in interest agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision obligates Provider or its transferee, for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the Provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of Provider, this Provision binds Provider from the bid solicitation period through the completion of the contract.

**IV. Nondiscrimination - 49 CFR Part 26.** Provider shall not discriminate on the basis of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation in the performance of this contract. Failure by Provider to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate.

### **PROVISIONS PERTAINING TO AIRPORT PROJECTS**

The following provisions apply only in the event and to the extent Provider performs any on-site services at a County location under this Agreement:

Provider agrees to observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Provider, including without limitation, all regulations of the United States Department of Transportation, the Federal Aviation Administration and the Transportation Security Administration, and Provider agrees to comply with the County's Airport Security Program and the Air Operations Area (AOA) Vehicle Access Program, and any amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by the County, and to take such steps as may be necessary or directed by the County to insure that sublessees, employees, invitees and guests observe these requirements. If required

by the Aviation Department, Provider shall conduct background checks of its employees in accordance with applicable Federal Regulations.

If as a result of the acts or omissions of Provider, its subcontractors, employees, invitees or guests, the County incurs any fines and/or penalties imposed by any governmental agency, including without limitation, the United States Department of Transportation, the Federal Aviation Administration or the Transportation Security Administration, or any expense in enforcing any federal regulations, including without limitation, airport security regulations, or the rules or regulations of the County, and/or any expense in enforcing the County's Airport Security Program, then Provider agrees to pay and/or reimburse to County all such costs and expenses, including all costs of administrative proceedings, court costs, and attorney's fees and all costs incurred by County in enforcing this provision. Provider further agrees to rectify any security deficiency or other deficiency as may be determined as such by the County or the United States Department of Transportation, Federal Aviation Administration, the Transportation Security Administration, or any other federal agency with jurisdiction. In the event Provider fails to remedy any such deficiency, the County may do so at the sole cost and expense of Provider. The County reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency.

(a) Access to Security Identification Display Areas and Identification Media. Provider shall be responsible for requesting the Aviation Department to issue Airport Issued Identification Media to all Provider's and its subcontractors employees who are authorized access to Security Identification Display Areas ("SIDA") on the Airport, as designated in the Airport Security Program. In addition, Provider shall be responsible for the immediate reporting of all lost or stolen Airport Issued Identification Media and the immediate return of the media of Provider's and its subcontractor's personnel transferred from the Airport, or terminated from the employ of Provider or any of its subcontractors, or upon termination of this Agreement. Before an Airport Issued Identification Media is issued to an employee of Provider or any of its subcontractors, Provider shall comply with the requirements of applicable federal regulations with regard to fingerprinting for criminal history record checks and security threat assessments, and shall require that each employee complete security training programs conducted by the Aviation Department. Provider shall pay or cause to be paid to the Aviation Department such charges as may be established from time to time for lost or stolen Airport Issued Identification Media and those not returned to the Aviation Department in accordance with these provisions. The Aviation Department shall have the right to require Provider to conduct background investigations and to furnish certain data on such employees before the issuance of Airport Issued Identification Media, which data may include the fingerprinting of employee applicants for such media.

(b) Operation of Vehicles on the AOA: Before Provider shall permit any employee of Provider or of any subcontractor to operate a motor vehicle of any kind or type on the AOA (and unless escorted by an Aviation Department approved escort), Provider shall ensure that all such vehicle operators possess current, valid, and appropriate Florida driver's licenses. In addition, any motor vehicles and equipment of Provider or of any subcontractor operating on the AOA

must have an appropriate vehicle identification permit issued by the Aviation Department, which identification must be displayed as required by the Aviation Department.

(c) Consent to Search/Inspection: Provider agrees that its, and its subcontractors, vehicles, cargo, goods and other personal property are subject to being inspected and searched when attempting to enter or leave and while on the AOA. Provider further agrees on behalf of itself and its subcontractors, that it shall not authorize any employee or other person to enter the AOA unless and until such employee or other person has executed a written consent-to-search/inspection form acceptable to the Aviation Department. Provider acknowledges and understands that the foregoing requirements are for the protection of users of the Airport and are intended to reduce incidents of cargo tampering, aircraft sabotage, thefts and other unlawful activities at the Airport. For this reason, Provider agrees that persons not executing such consent-to-search/inspection form shall not be employed by Provider or by any subcontractor at the Airport in any position requiring access to the AOA or allowed entry to the AOA by Provider or by any of its subcontractors.

(d) Provider understands and agrees that if any of its employees, or the employees of any of its subcontractors, are required in the course of the work to be performed under this Agreement to access or otherwise be in contact with Sensitive Security Information ("SSI") as defined and construed under federal law, that individual will be required to execute a Sensitive Security Information Non-Disclosure Agreement promulgated by the Aviation Department.

(e) The provisions hereof shall survive the expiration or any other termination of the Agreement to which this exhibit is attached.