

**SERVICE AGREEMENT BETWEEN
THE RALEIGH-DURHAM AIRPORT AUTHORITY AND**

THIS **AGREEMENT**, made and entered into this ____ day of _____, 2024 by and between the **RALEIGH-DURHAM AIRPORT AUTHORITY**, a public body chartered by the General Assembly of North Carolina under Chapter 168 of the 1939 Session Laws, as amended, whose address is 1000 Trade Drive, Post Office Box 80001, RDU Airport, North Carolina, 27623, hereinafter referred to as the “**Authority**,” and _____ whose address is _____, _____, hereinafter referred to as the “**Contractor**.”

WITNESSETH:

THAT WHEREAS, the Authority desires to obtain the services of the Contractor to provide _____ services as further described herein (the “**Services**”);

WHEREAS, the Contractor has represented to the Authority that it is fully qualified to provide and capable of providing such Services in a competent manner; and

WHEREAS, the Authority desires to engage the Contractor to provide such Services.

NOW, THEREFORE, the Authority and the Contractor, for and in consideration of the mutual covenants and agreements hereinafter set forth, do hereby agree as follows:

I. SCOPE OF SERVICES AND TERM

Subject to the provisions for early termination as set forth herein, the Contractor agrees that it will perform the Services enumerated in the scope of services attached hereto as **Exhibit A** and incorporated herein by reference (the “**Scope of Services**”) for a term of

one (1) year beginning _____, 2024 through _____, 2025 (the “**Term**”). The Authority in its sole discretion may extend the Agreement for two (2) additional one (1) -year periods, for a potential maximum term of three (3) years. The Authority will provide any such renewal notice in writing at least thirty (30) days prior to expiration of the Agreement. The maximum payment for the Term is set forth in **Section II(a)**. All work shall be diligently performed by the Contractor in an economical, expeditious and professional manner.

II. PAYMENTS

(a) The Authority will pay the Contractor for services rendered by its personnel associated with the performance of the Scope of Services in the maximum amount of _____ Dollars (\$ _____), and as further described in **Exhibit B** attached hereto and by this reference incorporated herein.

(b) All invoices shall be submitted by the Contractor to the Authority at monthly intervals on or within ten (10) days following the first day of each calendar month. The Authority may provide an invoice form to the Contractor for use in the payment process. Each invoice shall detail each fee, subject to the limitations described herein. Each invoice shall be accompanied by such documentation as may be requested by the Authority to fully support the claims for payment made. If applicable, each invoice shall include a record of payments to Minority and Women-Owned Small Businesses (“**MWSB**”), as applicable. Credit for previous payments on account by the Authority shall be recognized on the invoice. Any items that are disputed by the Authority will be so identified by the Authority. The Authority shall pay the undisputed amount certified by the Contractor based on terms of Net 30 days from the date of invoice receipt by the Authority’s Accounts Payable department (please e-mail a copy of the invoice to RDUPayables@rdu.com).

(c) In the event that the Authority disputes the Contractor's invoice(s) and documentation, or any portion thereof:

- (1) the Authority will identify the disputed items and pay any undisputed items pursuant to **Section II(b)**;
- (2) the Contractor shall continue to perform the Scope of Services and to meet the requirements of this Agreement, even in the absence of an agreement regarding the disputed items;
- (3) the parties may reserve all rights related to the disputed items;
- (4) the parties shall negotiate the disputed items in good faith;
- (5) at any time during said negotiations, either of the parties may refer the matter to a mediator certified by the North Carolina Dispute Resolution Commission and agreed upon by the parties; and
- (6) any disputed item that is not resolved during negotiations and/or mediation may be referred by either party to the Wake County Superior Court for resolution, which shall have exclusive jurisdiction.

(d) The Contractor's final invoice shall be so-identified, shall state the total amount which the Contractor claims to be due, and shall reflect that the Contractor will have received full compensation for all Services pursuant to this Agreement upon payment of such invoice by the Authority. Said final invoice shall be submitted by the Contractor to the Authority within thirty (30) days after the date of the final Services provided by Contractor to the Authority. The Contractor's acceptance of payment pursuant to such final invoice shall constitute a full release of the Authority for any and all claims and payments due or claimed to be due by the Contractor under this Agreement. The maximum payment and/or the maximum fees detailed in **Section II(a)** are subject to adjustment under **Section IV** for any expansions or reductions in the scope of work authorized by the

Authority pursuant to **Section III**. Under no circumstances will the Authority provide any payments to the Contractor in excess of the maximum payment as detailed herein except as provided in **Section II**.

(e) In addition to any right or set off or recoupment provided by law, the Authority may exercise any and all rights of set off or to recoup from any amounts due to Contractor and its affiliates and subsidiaries from the Authority.

(f) (1) If any outstanding check from the Authority to the Contractor has not cleared the bank account on which it was drawn and it has been 90 days or more since the issuance of the check, the check will become void due to the Authority's set stale date. If the Contractor contacts the Authority, the Authority will reissue the check.

(2) If the outstanding check has not cleared the bank account on which it was drawn and it has been a year or longer since the issuance of the check, the Authority will submit the funds to the North Carolina Department of State Treasurer pursuant to Article 4 - North Carolina Unclaimed Property Act, N.C.G.S. § 116B-59-1. At this time, the Contractor will need to contact the state for payment.

III. EXPANSION/REDUCTION OF SCOPE OF SERVICES

(a) The Authority may, at any time, change the Scope of Services to meet its needs. In the event that such a change would reduce or increase the payment(s) due the Contractor as detailed in **Section II**, the Authority shall notify the Contractor in writing not later than thirty (30) days before it is to be made, clearly describing the same therein, and request that the Contractor submit to the Authority within ten (10) business days of receipt of said notice a written statement setting forth the amount of the reduction or increase in cost the Contractor believes is associated with such change, supported by such documentation related thereto as may be requested by the Authority. The Authority shall review the Contractor's statement of cost and documentation, and shall notify the Contractor in

writing of its approval or rejection of such statement, or any part thereof, within ten (10) business days following receipt of said statement. In the event that the Authority rejects the Contractor's statement of cost, or any portion thereof:

- (1) the Authority may proceed to change the Scope of Services, or any portion thereof, even in the absence of an agreement regarding the resulting reduction or increase in the payment(s) due to the Contractor;
- (2) the parties may reserve all rights related to the change in the Scope of Services and the resulting reduction or increase in the payment(s) due to the Contractor;
- (3) the parties shall negotiate the resulting reduction or increase in the payment(s) due to the Contractor in good faith;
- (4) at any time during said negotiations, either of the parties may refer the matter to a mediator certified by the North Carolina Dispute Resolution Commission and agreed upon by the parties; and
- (5) any dispute related to the change in the Scope of Services and the resulting reduction or increase in the payment(s) due to the Contractor that is not resolved during negotiations and/or mediation may be referred by either party to the Wake County Superior Court for resolution, which shall have exclusive jurisdiction.

(b) The Contractor shall not be entitled to payment for any services other than those Services set forth in **Exhibit A**, unless prior to commencement of any additional Services it shall have (1) submitted to the Authority a written statement of cost with respect to the proposed additional Services in the form required by the Authority and (2) received written approval and instructions from the Authority to undertake such additional Services. In no event shall the Contractor alter the Scope of Services without the Authority's prior written approval, unless prior to commencement of any additional Services:

- (1) Contractor shall have submitted to the Authority a written statement of cost with respect to the proposed additional Services in the form required by the Authority;
- (2) Contractor shall provide documentation independent of its own assertions as justification for such cost increases;
- (3) the Authority shall have conducted a reasonable investigation of Contractor's proposal for additional costs. During any such investigation, the Authority shall have the right to audit/review all books and records related to the Agreement. The Authority, through the use of its own personnel or a Contractor, shall have access during reasonable business hours to such of Contractor's records as are necessary to verify the accuracy of the request and justification submitted in subsection (1) and (2) and other Contractor costs and expenses incurred in connection with the Agreement;
- (4) the parties negotiate to a mutually agreed upon increase in additional Services or costs permitted and payment(s) due to the Contractor (Note: the Authority may elect to accept none, all, or to change the Scope of Services, or any portion thereof); and
- (5) the Authority has provided written approval and instructions to Contractor to undertake such additional Services or to charge the Authority such proposed cost increases.

In no event shall the Contractor alter the Scope of Services without the Authority's prior written approval.

IV. ADJUSTMENTS TO PAYMENTS

- (a) If the Scope of Services is reduced by the Authority in accordance with **Section III** hereof, the Maximum Payment which may be paid to the Contractor shall be decreased by the amount of the reduction in the payments due the Contractor as shown in the statement

required to be furnished to and approved in writing by the Authority pursuant to **Section III** of this Agreement.

(b) If additional Services by the Contractor are requested and approved by the Authority in accordance with **Section III** hereof, the Maximum Payment which may be paid the Contractor shall be increased by the amount of the payments due for such additional work as shown in the statement required to be furnished to the Authority and approved in writing by the Authority pursuant to **Section III** of this Agreement.

V. OWNERSHIP AND MANAGEMENT OF WORK PRODUCT

(a) **Definitions.** For the purposes of this Agreement, the following terms shall have the following meanings:

(1) **“Information”** means any writing or other source of recorded information of whatever nature and by whatever means recorded, whether or not claimed to be subject to copyright, including without limitation the following: written memoranda, notes, records, interoffice communications, telegrams, letters, correspondence, reports, minutes, diaries, books, manuscripts, sound recordings, microfilm, computer printouts, drawings or other graphical representations, pictorial reproductions, documents available from electronic data storage equipment, summaries or records of personal conversations, invoices, specifications, spreadsheets, budgets, financial models, forecasts, photocopies, pictures and all other papers and writings, including drafts, originals, and copies.

(2) **“Authority Information”** means any Information the Authority provides to the Contractor in any form, including in electronic form.

(3) **“Work Product”** means all Information the Contractor or its subcontractors prepare or obtain in performing any Services hereunder, or which relates to such Services, except: (i) Information that was in the public domain prior to the execution of this

Agreement; (ii) Information that becomes part of the public domain without any breach of this Agreement; and (iii) Information in Contractor's lawful possession prior to the execution of this Agreement.

(4) **"Third Party"** means any person or entity other than the Authority, the Contractor, or the Contractor's authorized subcontractors and includes without limitation any governmental unit, insurance carrier, private enterprise, or individual.

(b) **Ownership and Management of Authority Information.** All Authority Information is and remains the property of the Authority and is provided to Contractor for the sole purpose of the Contractor providing its Services hereunder. Contractor shall not use Authority Information for any purpose except in providing its Services hereunder.

(c) **Ownership of Work Product.** All Work Product produced or authored by Contractor in the course of performing its Services hereunder, together with any associated copyrights, are works made for hire and are the exclusive property of the Authority. To the extent that any writings or works of authorship may not, by operation of law, be works made for hire, this Agreement shall constitute an irrevocable assignment by Contractor to the Authority of the ownership of, and all rights of copyright in, such items, and the Authority shall have the right to obtain and hold in its own name, rights of copyright, copyright registrations, and similar protections that may be available in the works. Contractor shall give the Authority all assistance reasonably required to perfect such rights. Any use, modifications or extensions of the Work Product by the Authority without the Contractor's specific advance written consent will be at the Authority's sole risk without liability or legal exposure to the Contractor and the Authority shall defend, indemnify and hold harmless the Contractor from all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting therefrom.

(d) The Contractor shall treat all Work Product and Authority Information as confidential information and shall not disclose or make same available to any Third Party

without the Authority's prior written consent. If the Contractor becomes legally compelled (by deposition, interrogatory, request for documents, subpoena, investigation, demand, order or similar process or otherwise) to disclose any Authority Information or Work Product to any Third Party, then before such disclosure is made, Contractor shall notify the Authority of the disclosure demand or obligation, consult with the Authority on the advisability of taking steps to narrow such demand or obligation, and cooperate with the Authority in any attempt to obtain a protective order or other appropriate remedy or assurance that the Authority Information or Work Product shall be afforded confidential treatment. If such protective order or other appropriate remedy is not obtained, the Contractor shall disclose only that portion of the Authority Information or Work Product which Contractor's legal counsel specifies in writing actually is subject to the disclosure obligation.

(e) The Contractor shall retain all Work Product for at least three (3) years after the date of completion of the work. The Contractor shall return any Authority Information or Work Product to the Authority if the Authority makes a written request to the Contractor. If the Authority makes such a request, it shall reimburse the Contractor for reasonable expenses relating to the transportation and delivery of the Authority Information or Work Product.

(f) Prior to destroying or disposing of any Authority Information or Work Product upon the termination of the three (3) year period referenced in **Section V(e)**, the Contractor shall notify the Authority of its intent to do so and shall give the Authority a reasonable time within which to take custody of said Authority Information or Work Product. Within such reasonable time, the Contractor shall furnish those materials to the Authority without charge except for the reasonable cost of transporting and delivering the materials.

(g) The Contractor may make reasonable internal, non-commercial use of Work Product in its possession provided such use is consistent with the Contractor's obligations

under this Agreement. The Contractor shall not commercially exploit any Work Product except pursuant to a licensing and royalty agreement (or other such agreement acceptable to the Authority) between the Contractor and the Authority.

(h) In addition to any other remedies to which the Authority may be entitled by law or in equity, the Authority may enforce the provisions of this **Section V** in an action for equitable relief, including without limitation temporary and permanent injunctions (or their functional equivalents) and/or specific performance of this Section.

VI. PROFESSIONAL SERVICES, INDEMNITY AND INSURANCE

(a) During the Term and for a period of twelve (12) months after the completion of Services or delivery of goods, equipment, and similar tangible items hereunder (whichever occurs last), Contractor warrants that all Services will be diligently performed in an economical manner, with professional care and skill, in a workmanlike manner and in accordance with the Scope of Services in **Exhibit A**, and all goods, equipment, and similar tangible items provided hereunder will be in full conformity with all specifications and other descriptions provided, fit for their particular purpose, and will be merchantable and of good quality material and workmanship, free from defects. Contractor has, and will maintain in effect, all professional licenses, certificates, permissions, authorizations, consents, and permits it needs to carry out its obligations under this Agreement. This warranty shall be in addition to any warranties of broader scope and services warranties and guarantees given the Authority by Contractor. Products or Services required to be corrected or replaced shall be subject to this warranty and a new warranty period to the same extent as products and Services originally delivered under this Agreement. Neither review nor approval of the Contractor's work by the Authority shall in any way relieve the Contractor from its duty to utilize a professional standard of care in the performance of the

Scope of Services, nor will such review or approval limit or remove the Contractor's liability therefore.

(b) To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Authority, its officers, agents and employees, from and against claims, damages, losses, liabilities and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance of the Contractor's Services pursuant to this Agreement to the extent caused in whole or in part by negligent acts or omissions of the Contractor. Notwithstanding the foregoing, neither party hereto shall be liable to the other for any indirect, special or consequential damages, including but not limited to lost profits and loss of use.

(c) The Contractor shall carry and maintain during the life of this Agreement the following insurance with the minimum limits indicated:

(1) Commercial General Liability and Property Damage

\$1,000,000 per occurrence

\$2,000,000 aggregate

(2) Commercial Auto Liability

\$1,000,000 combined single limit

(3) Umbrella Excess Liability

Airside Operations: Excess coverage on insurance required in (1) and (2) above in the amount of \$5,000,000.

Landside Operations: Excess coverage on insurance required in (1) and (2) above in the amount of \$1,000,000

(4) Workers' Compensation / Employer's Liability

\$1,000,000 / \$1,000,000 / \$1,000,000 bodily injury by accident or disease

(d) The Authority shall be designated as an additional insured on the General Liability policy for ongoing operations as well as products and completed operations. All policies will contain a waiver of subrogation in favor of the Authority. Liability policies shall be primary and non-contributory. Prior to the provision of any services pursuant to this Agreement, the Contractor shall submit: (i) Certificates of Insurance, acceptable to the Authority, confirming that the insurance coverages required by this Agreement are in place; (ii) an endorsement (or its equivalent) stating that the coverages will not be cancelled, terminated or allowed to expire without the Authority being provided at least thirty (30) days prior written notice; and (iii) an endorsement(or its equivalent) or policy declaration(s) stating that the Authority is named as an additional insured. When requested by the Authority, the Contractor shall provide additional evidence of insurance demonstrating that the required policies are in force throughout the Term and any Option Period.

VII. TERMINATION

(a) The Authority may terminate this Agreement at any time for any reason upon written notice to the Contractor, which notice shall be effective upon the later of the date stated therein or the date the notice is received by the Contractor. No additional Services shall be performed by the Contractor after the termination date stated in the notice. In the event of such termination, the Contractor's charges to the Authority shall be limited to the charges for the Services theretofore satisfactorily rendered and expenses theretofore incurred or committed and not able to be avoided pursuant to the terms contained herein. The Contractor may terminate this Agreement only upon prior written request to and receipt of written permission from the Authority, in which case the immediately preceding sentence shall apply.

(b) For ninety (90) days, either prior to the expiration date of this Agreement, or upon notice of termination of this Agreement, Contractor shall assist the Authority, upon written request, in extracting and/or transitioning all Work Product in the format determined by the Authority (“**Transition Period**”). During the Transition Period, unless instructed by the Authority otherwise in writing, Services shall continue to be made available to the Authority as provided in the Agreement.

(c) In the event of termination of this Agreement, cessation of business by the Contractor or other event preventing Contractor from continuing to provide the Services, Contractor shall not withhold Authority Work Product or refuse for any reason, to promptly return to the Authority the Authority’s Work Product (including copies thereof) if requested to do so on such media as reasonably requested by the Authority, even if the Authority is then or is alleged to be in breach of the Agreement. As a part of Contractor’s obligation to provide the Authority’s Work Product pursuant to this **Section VII**, Contractor will also provide the Authority any data maps, documentation, software, or other materials necessary, including, without limitation, handwritten notes, materials, working papers or documentation, for the Authority to use, translate, interpret, extract and convert the Authority’s Work Product.

(d) When requested by the Authority, the Contractor shall permanently destroy or render inaccessible any portion of the Work Product in Contractor’s and/or any of its subcontractor’s possession or control following the completion and expiration of all obligations in this Section. Within thirty (30) days, Contractor shall issue a written statement to the Authority confirming the destruction or inaccessibility of the Authority’s Work Product.

(e) The Authority may purchase additional Transition services as may be agreed upon in writing.

VIII. INDEPENDENT CONTRACTOR

(a) In the performance of this Agreement, it is agreed by and between the parties hereto that the Contractor shall be acting as an independent contractor and not as an employee of the Authority. Contractor shall have no authority (and shall not hold itself out as having authority) to bind the Authority and shall not make any agreements or representations on the Authority's behalf without the Authority's prior written consent.

(b) The Contractor shall be solely responsible for, and have control over the means, methods, techniques, sequences and procedures for the service to be performed and for coordinating all portions of the Services unless the Authority gives specific instructions concerning these matters. The Contractor is solely responsible for all hiring and management responsibilities for its agents, employees and independent contractors, including but not limited to recruiting, interviewing, selecting, setting the terms and conditions of employment, disciplining and terminating. The Contractor shall enforce strict discipline and good order among its agents, employees and independent contractors, and shall ensure their compliance with all applicable work rules. Neither the Contractor's agents, employees or independent contractors, nor its subcontractors and/or their agents, employees or independent contractors shall, by reason of their assignment to work on the Services to be performed by the Contractor shall become or be deemed to be employees, agents, or independent contractors of the Authority. The Contractor shall at all times have the right to perform work for other individuals and/or entities as long as it fulfills its obligations to the Authority under the terms of this Agreement, and as long as such services do not conflict with its obligations under this Agreement or create a conflict of interest with the Authority.

(c) The Contractor acknowledges and agrees that it is exclusively responsible and liable for withholding, reporting and forwarding to the appropriate authority all applicable withholdings and payments required by law with respect to any compensation received by

its agents, employees or independent contractors, including but not limited to applicable state and federal income taxes, state and federal unemployment taxes, FICA, workers compensation, and any other taxes measured upon the payroll of, or required to be withheld from, its employees, agents or independent contractors, and the Contractor shall indemnify the Authority and its officers, directors, agents and employees and defend and hold them harmless from and against all claims, damages and losses relating to any obligation imposed by law to pay or withhold any such amounts in connection with compensation received by the Contractor or its employees, agents or independent contractors pursuant to this Agreement.

(d) None of the Contractor's agents, employees or independent contractors shall be eligible for or entitled to participate in any of the Authority's employee benefit plans, programs, policies or practices which may now or in the future be in effect, including, without limitation, any pension, retirement, or 401(k) plan; any profit sharing, stock option, bonus or incentive compensation plan; workers compensation benefits; any life or health insurance plan; any vacation or holiday pay plan; or any separation payment plan. The Contractor shall defend, indemnify, and hold harmless the Authority and its officers, directors, agents and employees from and against any and all claims, damages, losses, penalties, fines, costs and expenses, including attorneys' fees, arising out of or resulting from any claim, proceeding or decision claiming that an agent, employee or independent contractor of the Contractor is eligible for or entitled to any such employee benefit or compensation or payment from the Authority.

(e) Contractor shall identify all of its strategic business partners who will be involved in any Services provided under this Agreement, including but not limited to, all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with Contractor. Contractor shall require all subcontractors to comply with **Sections III through XI, XV, XVII, XIX, and XX** by insertion of these or similar clauses into each respective related subcontract and purchase order relating to the Services.

It is specifically understood, however, that the Authority has no contractual relationship with any subcontractor of Contractor and it shall remain the Contractor's financial and contractual responsibility to resolve all issues with its subcontractors.

(f) Notwithstanding the discussion above, the Contractor shall not employ any person or firm as a subcontractor during the Term of this Agreement except upon advance written notice to and receipt of approval from the Authority. Said notice to the Authority shall specify the Services to be provided by the proposed subcontractor and the qualifications and experience of the proposed subcontractor and its personnel to be employed in the project. Contractor acknowledges and agrees that all such subcontractors shall be duly licensed, experienced, and qualified for the Services to be provided by the subcontractor. Contractor shall not replace or substitute for the above named subcontractors during the Term of this Agreement except upon advance written notice to and receipt of approval from the Authority.

IX. COMPLIANCE WITH APPLICABLE LAWS

(a) The Contractor shall comply with all applicable federal, state and local laws, codes and regulations, including the ordinances, rules, policies, bulletins, notices, directives and regulations of the Authority, the Transportation Security Administration, and the U.S. Customs and Border Protection Service as amended from time to time. Nothing in this Agreement shall be construed to conflict with any applicable Federal, state or local law, code or regulation, including the ordinances, rules, policies, bulletins, notices, directives and regulations of the Authority, the Transportation Security Administration, and the U.S. Customs and Border Protection Service as amended from time to time.

(b) **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES:** Contractor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the Authority for the purpose of obtaining any

contract or award issued by the Authority. Subsequent discovery by the Authority of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding Agreements with Contractor and potential debarment of the Contractor as permitted by applicable law.

(c) The Authority shall have the right to audit the Contractor's accounting, operational and business records as necessary to verify compliance with all applicable laws, regulations, orders, ordinances, codes, notices, requirements and standards, and correction of violations of the same. Contractor will permit the Authority-designated representatives to examine, at a reasonable time and during normal business hours, all records, data, information and Work Product that the Authority may reasonably require in order to confirm that the Services provided by Contractor are (i) being conducted in conformance with this Agreement and (ii) in compliance with applicable laws and regulations. If any audit conducted pursuant to this paragraph reveals that the Contractor has breached its obligations under applicable law, this Agreement, the Authority may conduct follow-up audits to ensure that any such breach has been cured.

(d) Contractor certifies that, as of the date written above, it, and all subcontractors, are not on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. §143-6A-4. Contractor shall not utilize in the performance of this Agreement any subcontractor that is identified on the Final Divestment List.

X. RIGHTS AND REMEDIES

The Authority's rights and remedies as set forth herein shall be in addition to any other right or remedy now and hereafter provided by law or in equity. All rights and remedies shall be cumulative and not exclusive of each other. No delay by the Authority in exercising a right or remedy shall constitute acquiescence thereof.

XI. FORCE MAJEURE

(a) A party hereto shall have no liability to the other hereunder due to circumstances beyond its control, including, but not limited to, acts of God, terrorism, flood, natural disaster, regulation or governmental acts, fire, civil disturbance, or extreme weather (a “**Force Majeure Event**”). Notwithstanding anything to the contrary herein, the Authority may terminate this Agreement in its entirety and without penalty if a Force Majeure Event continues for more than ten (10) consecutive days and prevents or delays Contractor from delivering the Scope of Services.

(b) Any and all payments by the Authority are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the Authority for the purposes set forth in this Agreement. If this Agreement or any purchase order issued hereunder is funded in whole or in part by federal funds, the Authority’s performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Agreement or purchase order. If the term of this Agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the Agreement *is expressly contingent upon* the appropriation, allocation, and availability of funds in each such subsequent fiscal year for the purposes set forth in the Agreement. If funds to effect payment are not available, the Authority will provide written notification to Contractor. If the Agreement is terminated under this paragraph, Contractor agrees to terminate any Services supplied to the Authority under this Agreement, and relieve the Authority of any further obligation thereof. The Authority shall remit payment for Services performed and accepted on or prior to the date of the aforesaid notice in conformance with the payment terms.

XII. OTHER CONDITIONS

(a) The Contractor’s Contract Manager shall be _____. The Contractor shall not replace or substitute for the Contract Manager during the Term except upon written notice to and receipt of written approval of the Authority. Said notice to the Authority shall state the reason(s) for the proposed replacement or substitution and shall specify the qualifications, including education, training and experience, of the proposed replacement or substitute.

(b) The Authority’s Contract Administrator shall be Kristoffer Land (kristoffer.land@rdu.com). The Contractor shall communicate and coordinate all matters related to this Agreement through and with Steven Yanni or his designee.

(c) Notices required to be given under this Agreement shall be delivered to:

FOR THE AUTHORITY:

Michael J. Landguth, President & CEO
PO Box 80001
1000 Trade Dr.
RDU Airport, NC 27623

FOR THE CONTRACTOR:

XIII. MINORITY AND WOMEN-OWNED SMALL BUSINESS PROGRAM

(a) The Authority has established a Minority and Women-Owned Small Business Program to encourage equal opportunity for MWSBs to compete for employment as contractors, subcontractors, suppliers and service providers.

(b) MWSB Goals for MWSB participation on this contract represent the total dollars that will be spent with MWSBs as a percentage of the total contract amount, including any change orders and contingency (“**MWSB Goals**”). The Authority has assigned the following MWSB Goals for work assigned to the Contractor hereunder:

1. Minority-owned business participation (“**MB Goal**”): 5%.
2. Woman-owned business participation (“**WB Goal**”): 5%.

Such participation can be included in any portion of the Contractor’s Scope of Services. MWSB Goals for MWSB participation on this contract represent the total dollars that will be spent with MWSBs as a percentage of the total contract amount.

(c) If the Contractor proposes to terminate or substitute a MWSB after submitting a proposal, the Contractor must make good faith efforts to find a substitute MWSB for the original MWSB to meet its MWSB commitment. The Contractor must give the MWSB notice in writing, with a copy to Authority, of its intent to request to terminate and/or substitute, and the detailed reasons for the request. All substitutions shall be coordinated with and approved by the Authority prior to being made.

(d) The Contractor has a continuing obligation to meet the MWSB utilization to which it committed at contract award, inclusive of change orders, amendments, and modifications. The Authority reserves the right to modify any portion of this Agreement (up to and including termination of all of the Agreement) if it determines, in its sole discretion, that the Contractor has failed to make a good faith effort to secure MWSB participation at a percentage equal to or greater than the goal stated above.

(e) The Contractor shall maintain records and submit monthly reports of MWSB payments, concurrent with the Contractor’s submission of invoices, with each invoice. The report shall include a certification by the Contractor and MWSB regarding payment to each

MWSB subcontractor for the prior month's work. These reports will be certified as true and correct by an appropriate Contractor representative.

XIV. TAXES

All sales and use taxes applicable to the Contractor's Services for the Authority shall be paid by the Authority to Contractor, as invoiced, and subsequently remitted by Contractor to the applicable tax collection agency, unless otherwise agreed upon or required by applicable law.

XV. RECORDS REQUIRED FOR GOVERNMENTAL FUNDING

To the extent applicable, records to be furnished by Contractor to assist or enable the Authority to obtain governmental funding for any specific task assigned to Contractor hereunder will be provided to the Authority upon request.

XVI. ASSIGNMENT

Neither the rights nor the obligations of either party arising under this Agreement shall be transferred or assigned without the prior written consent of the other party.

XVII. SUCCESSORS AND ASSIGNS

All covenants and agreements in this Agreement by or on behalf of either of the parties hereto shall bind the successors and assigns of such party and shall inure to the benefit of the successors and assigns of the other party.

XVIII. CONSTRUCTION OF AGREEMENT

In the event of any conflict between the terms of this Agreement and the terms of any document attached hereto and incorporated herein by reference, this Agreement shall control and the conflicting provision of the attachment shall, to the extent of the conflict, be null and void. The headings contained in this Agreement are for reference only and shall not affect the rights or obligations of either of the parties hereunder. The term “Authority” shall mean and include the Authority and its Board, officers, employees and agents, and the term “Contractor” shall mean and include the Contractor, its employees, suppliers and agents.

XIX. GOVERNING LAW

This Agreement and the duties, responsibilities, obligations and rights of the respective parties hereunder shall be governed by the laws of the State of North Carolina. The exclusive venue for any action between the Authority and Contractor arising out of or in connection with this Agreement shall be in Wake County, North Carolina. In addition, the Federal Aviation Authority requires the Authority and its vendors, suppliers, contractors and Contractors to comply with certain contracting requirements. Those relevant additional provisions are contained in **Exhibit C** which by this reference is hereby incorporated herein.

XX. SURVIVAL

Any right or obligation of either party to this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement. Such rights and obligations include but are not limited to those set forth in **Articles V, VI, VII, IX, X, XV, XIX, and XX**.

XXI. WAIVER

No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any right, remedy, power, or privilege.

XXII. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile or PDF signature on this Agreement shall for all purposes be the equivalent to, and shall have the same force and effect as, an original signature.

XXIII. ENTIRE AGREEMENT

This Agreement, including all attachments hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether oral or written, between the parties hereto with respect to such subject matter. This Agreement may be modified only by written agreement between the Contractor and the Authority.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties, by and through their duly authorized agents, have hereunto set their hands and seal(s), all as of the day and year first above written.

RALEIGH-DURHAM AIRPORT AUTHORITY

BY: _____

DATE: _____

NAME: MICHAEL J. LANDGUTH, A.A.E.

TITLE: PRESIDENT & CEO

INSERT NAME OF COMPANY

BY: _____

DATE: _____

NAME: _____

TITLE: _____

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Chief Financial Officer

Approved as to form:

General Counsel

EXHIBIT A

SCOPE OF SERVICES

Background: RDUAA currently manages a LogRhythm SIEM utilizing internal resources. The implementation took place in 2019, and annual support and maintenance have been renewed with LogRhythm yearly. The SIEM is feature rich, but requires a lot of analyst time to manage, as well as the time spent threat hunting.

Services requested:

1. Manage existing SIEM
 - a. Update, patch, maintain log sources, threat feeds
 - b. Create and manage custom reporting
 - c. Monitor, aggregate, deliver concise actionable items to RDUAA Security team
 - d. Perform best-practice work to tune/fine tune sources and feeds

Selection Criteria: Selections will be made based on the RDUAA Security team's assessment of the portfolio, capabilities, cost, and overall best fit to the organization.

1. Candidates should
 - a. Have deep knowledge of the LogRhythm platform
 - b. Provide aggregation and investigation of incidents
 - c. Provide onboarding to the service
 - d. Have established playbooks to utilize trends and industry specific scenarios
 - e. Assist in maintaining the console
 - f. Troubleshoot hardware and software related to LogRhythm
 - g. Have the ability to offer additional professional services where required
 - h. Have local/semi-local resources
 - i. The ability to assist in transitioning to a new product should RDUAA choose a new platform/direction in the future
 - j. Have USA based analysts/datacenters

EXHIBIT B

COMPENSATION FOR SERVICES

The attached **Exhibit** describes Contractor's payment for Services. To the extent it includes hourly rates, an estimated number of hours expected to be performed, expenses, profits, overhead, etc. (collectively, "**Cost Components**"), the Cost Components herein shall not be exceeded except by prior written agreement of the Authority pursuant to the terms of the Agreement.

EXHIBIT C

REQUIRED FEDERAL AVIATION AUTHORITY CONTRACT PROVISIONS

A5. CIVIL RIGHTS - GENERAL

- Used for Contracts

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

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

A6. CIVIL RIGHTS – TITLE VI ASSURANCE

Compliance with Nondiscrimination Requirements:

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

Compliance with Regulations: Contractor (hereinafter includes Contractors) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

Nondiscrimination: Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of the contractor’s obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this Agreement, the Authority will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to Contractor under the Agreement until Contractor complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Contractor will take action with respect to any subcontract or procurement as the Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Contractor may request the Authority to enter into any litigation to protect the interests of the Authority. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.

A15. DRUG FREE WORKPLACE REQUIREMENTS

A16. EQUAL EMPLOYMENT OPPORTUNITY (EEO) REQUIREMENTS

EQUAL OPPORTUNITY CLAUSE

- During the performance of this Agreement, the Contractor agrees as follows:
- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action,

including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- (4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

A17. FEDERAL FAIR STANDARDS ACT (FEDERAL MINIMUM WAGE) REQUIREMENTS

FEDERAL FAIR STANDARDS ACT (FEDERAL MINIMUM WAGE) REQUIREMENTS

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

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

A19. PROHIBITION OF SEGREGATED FACILITIES

PROHIBITION OF SEGREGATED FACILITIES

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this Agreement.

(b) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user restrooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this Agreement.

A20. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

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

A25. TERMINATION OF CONTRACT

TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

The Authority may, by written notice to the Contractor, terminate this Agreement for its convenience and without cause or default on the part of Contractor. Upon receipt of the notice of termination, except as explicitly directed by the Authority, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the must deliver to the Authority all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this Agreement, whether complete or partially complete.

The Authority agrees to make just and equitable compensation to the Contractor for satisfactory work completed up through the date the Contractor receives the termination notice. Compensation will not include anticipated profit on non-performed services.

The Authority further agrees to hold Contractor harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

TERMINATION FOR CAUSE (PROFESSIONAL SERVICES)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner:** The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Contractor to:

1. Perform the services within the time specified in this contract or by Owner approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project; or
3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Contractor must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Contractor must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Contractor for satisfactory work completed up through the date the Contractor receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Contractor harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Contractor was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Contractor:** The Contractor may terminate this Agreement for cause in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Contractor in accordance with the terms of this Agreement;
3. Suspends the project for more than [180] days due to reasons beyond the control of the Contractor.

Upon receipt of a notice of termination from the Contractor, Owner agrees to cooperate with Contractor for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Contractor cannot reach mutual agreement on the termination settlement, the Contractor may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Contractor is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Contractor through the effective date of termination action. Owner agrees to hold Contractor harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.