

FORM OF AGREEMENT

UNINTERRUPTIBLE POWER SUPPLY UNITS MAINTENANCE AND
RELATED SERVICES

AGREEMENT BETWEEN

WAYNE COUNTY AIRPORT AUTHORITY

and

<CONTRACTORNM>

Contract No. [xxxxxxxxx]

Table of Contents

1.	SCOPE OF WORK	1
2.	ADMINISTRATION	2
3.	PAYMENT BY THE AIRPORT AUTHORITY	3
4.	TERM; AMENDMENTS	3
5.	INDEMNIFICATION	3
6.	INSURANCE	4
7.	ASSIGNMENT; TRANSFER; SUBCONTRACTING; BANKRUPTCY OR INSOLVENCY; SBE PARTICIPATION.....	5
8.	WAIVER OF DEFAULT OR BREACH	8
9.	RELATIONSHIP OF PARTIES; PUBLICITY.....	8
10.	NONEXCLUSIVE AGREEMENT	8
11.	OWNERSHIP OF DOCUMENTS AND MATERIALS	8
12.	RESPONSIBILITY FOR LOSS OR DAMAGE OF DOCUMENTS AND MATERIALS	9
13.	THE CONTRACTOR'S RECORDS; ACCESS TO RECORDS; AUDITING	9
14.	DISPUTES	11
15.	TERMINATION OF THIS AGREEMENT	11
16.	FEDERAL GOVERNMENT AGREEMENTS	13
17.	NATIONAL EMERGENCY	13
18.	COMPLIANCE WITH LAWS, RULES AND REGULATIONS	13
19.	STATE, FEDERAL, AND LOCAL REQUIRED PROVISIONS FOR ALL CONTRACTS	13
20.	LICENSES AND PERMITS.....	15
21.	FORCE MAJEURE	16
22.	SUCCESSORS	16
23.	CONFIDENTIAL INFORMATION	16
24.	MISCELLANEOUS.....	17
25.	JURISDICTION AND GOVERNING LAW	18
26.	SEVERABILITY OF INVALID CONTRACTUAL TERMS.....	18
27.	NOTICES	18
28.	ENTIRE AGREEMENT	19

EXHIBIT A – SCOPE OF SERVICES

EXHIBIT B – FEES

EXHIBIT C – FORM LETTER OF CREDIT

AGREEMENT FOR UNINTERRUPTIBLE POWER SUPPLY UNITS MAINTENANCE AND RELATED SERVICES

This Agreement is entered into this ____ day of _____, 2020 (the "*Effective Date*"), between the Wayne County Airport Authority, a public body corporate, with principal offices located at 11050 Rogell Drive #602, Detroit Metropolitan Wayne County Airport, Detroit, Michigan 48242 (the "*Airport Authority*"), and <ContractorNm>, a [State] [type of corporate entity], with offices located at [address] (the "*Contractor*"). The Airport Authority and the Contractor may each be referred to individually as a "*Party*," or collectively as the "*Parties*".

WHEREAS, pursuant to amendment to the Michigan Aeronautics Code, being the Public Airport Authority Act, MCL 259.108 - 259.125c, the Airport Authority operates and maintains the Detroit Metropolitan Wayne County Airport and Willow Run Airport (together, the "*Airport*"), and has the authority to grant rights and privileges and enter into all contracts and agreements necessary to the performance of its duties with respect to the Airport;

WHEREAS, the Airport Authority requires a Contractor to provide preventative and corrective maintenance, capital replacement and related services for the Uninterruptible Power Supply Systems (UPSs) for the Airport Authority, and issued Request for Bids No. 210034 (the "*RFB*"), which is referenced in and made part of this Agreement;

WHEREAS, the Contractor desires to perform such services, and submitted a bid in response to the Airport Authority's RFB, which bid is dated _____, and is referenced in and made part of this Agreement (the "*Bid*"); and

NOW, THEREFORE, in consideration of the premises and mutual undertakings of the Parties hereto, it is agreed as follows:

1. SCOPE OF WORK

- A. The Airport Authority hereby engages the Contractor, who agrees to faithfully and diligently perform the services described in this Agreement, the RFB, the Bid, and as set forth in the attached *Exhibit A* (together, the "*Services*") in accordance with the terms and conditions of this Agreement, and to the complete satisfaction of the Airport Authority's Chief Executive Officer (the "*CEO*") or his or her designee.
- B. The Contractor will only use experienced personnel to provide the required Services, and agrees that all such personnel are qualified and authorized to perform under the state and local laws and governing professional association rules where the employee is employed. The Contractor agrees that once assigned to work under this Agreement, key personnel and any approved subcontractors shall not be removed or replaced without written notice to and written approval from the Airport Authority. If the Airport Authority has concerns or objections regarding any Contractor personnel, the Airport Authority shall bring the matter to the attention of the Contractor for appropriate resolution. The Contractor agrees to remove any personnel who do not perform satisfactorily. Whenever an employee assigned to this Agreement must be replaced for any reason, the Contractor must supply an acceptable replacement as soon as possible and agrees not to substitute a lower classified employee to perform without obtaining prior written Airport Authority approval.

- C. In the event there is a dispute between the Parties regarding the extent and character of the Services to be performed, or whether a provision of, or clause in, this Agreement, the RFB, the Bid, or some combination thereof shall apply, the interpretation and determination of the Airport Authority shall govern.
- D. The Services shall be subject to the approval and acceptance by the Airport Authority through its Chief Executive Officer or his or her designee.
- E. The Airport Authority's Chief Executive Officer, or his or her designee, will act as a project manager who will work with the Contractor to monitor progress under this Agreement, including work to be performed pursuant to this Agreement and any amendments to this Agreement.
- F. The Contractor warrants all goods and software used in providing the Services against functional, design and workmanship defects. In the event defects become evident, the Contractor will furnish replacement goods or software, as applicable, and labor as necessary, at no cost to the Airport Authority. The warranty period, inclusive of workmanship and labor, shall be a minimum of 24 months from the date of the Airport Authority's acceptance.
- G. The Contractor may determine employees' daily working hours. When the employees are working in or about an Airport Authority facility, the Contractor agrees to adjust its employees' daily working hours to be the same as those worked by Airport Authority employees working at the facility, or as otherwise agreed to with the Airport Authority.
- H. Upon execution of this Agreement by the Contractor, the Contractor shall provide the Airport Authority with a performance guarantee in the amount of \$75,000 to secure the full and faithful performance by the Contractor of all terms, conditions and covenants of this Agreement. The Contractor may provide this performance guarantee in the form of a cash deposit or an irrevocable letter of credit written by a bank approved by the CEO and in the form set forth in the attached *Exhibit C*. This performance guarantee will be forfeited and used by the Airport Authority to off-set (i) fees owed the Airport Authority or (ii) costs incurred by the Airport Authority in the event of Contractor's failure to (i) pay any fees due and payable under this Agreement or (ii) perform any of its obligation under this Agreement to the satisfaction of the Airport Authority. If the Airport Authority utilizes the performance guarantee, the Contractor must restore it to the amount required above within 10 calendar days after the date such deposit or letter of credit falls below the required amount. The Airport Authority will not reimburse Contractor for the cost of furnishing the performance guarantee required by this section.

2. ADMINISTRATION

The Contractor must inform the Airport Authority as soon as the following types of conditions become known:

- A. Probable delays or adverse conditions that do or may materially prevent the meeting of the objectives of this Agreement. The Contractor must accompany this disclosure with a statement of any remedial action taken or contemplated by it; and

- B. Favorable developments or events which enable meeting time schedules or goals sooner than anticipated.

The Contractor must maintain the organizational and administrative capacity to carry out all its duties and responsibilities, and understands and agrees that time is of the essence under this Agreement.

3. PAYMENT BY THE AIRPORT AUTHORITY

- A. In consideration for all Services the Contractor is required to perform under this Agreement, the Airport Authority agrees to pay the Contractor a not to exceed amount of [\$_____]. Costs shall be paid to the Contractor based upon the amounts, fees and rates set forth in *Exhibit B*, which is attached to and made a part of this Agreement.
- B. The Airport Authority will pay the Contractor for the proper performance of the Services, commensurate with the progress of the work as evidenced by the timely performance of the Services and upon receipt and approval of an invoice, provided that: (i) such invoice is submitted electronically to AP@wcaa.us; (ii) the invoice certifies the cost of the Services (a) rendered to date and (b) for that billing period; (iii) describes the Services rendered. The Contractor must sign the invoice and send it to the Airport Authority for each calendar month.
- C. Final billing under this Agreement shall be submitted in a timely manner but not later than six months after completion of the Services. Billings for work submitted later than six months after completion of the Services will not be paid.
- D. If the Services, or any part thereof, are terminated before being completed, the Airport Authority shall pay the Contractor for the percentage of the work that has been completed up to the time of termination and accepted by the Airport Authority. In no case shall the compensation paid to the Contractor for the Services under this provision exceed the amount the Contractor would have received had the Services, or the terminated portion of the Services, been completed. No amount shall be allowed for anticipated profits or unperformed Services.

4. TERM; AMENDMENTS

- A. Term: The term ("Term") of this Agreement shall be a period of five (5) years, commencing on [_____, 20__] and terminating on [_____, 20__], unless terminated sooner pursuant to the terms of this Agreement. [The Airport Authority shall have the option, at its sole discretion and by and through the CEO, to extend the term of this Agreement for [___] additional [___]-year period[s].]
- B. Amendments: No amendment to this Agreement is effective unless it references this Agreement, is written, is signed and acknowledged by duly authorized representatives of both parties, and if required by the Airport Authority, approved by the board members of the Airport Authority.

5. INDEMNIFICATION

The Contractor will indemnify, hold harmless, and upon the Airport Authority's request, defend the Airport Authority – and its board members, officers, agents, representatives and employees – at the Contractor's sole expense, from and against all lawsuits, claims, liability, loss,

cost, expense, and damages of any nature whatsoever, including claims or demands of third persons, just or unjust, for personal injuries, including death, or property damage, including theft or loss, arising or alleged to arise, either directly or indirectly, out of or in connection with the Contractor's operations and performance under this Agreement, including failure to perform, under this Agreement. This indemnity shall survive acceptance of the Services.

6. INSURANCE

- A. Types and Amounts: The Contractor, at its own expense and in its own name, and with the Airport Authority and the County of Wayne, as additional insureds for commercial general and automobile liability coverage, must provide and keep in force during the Term of this Agreement, the following types of insurance in not less than the amounts indicated below, with a financially responsible insurance company or companies licensed to conduct business in the State of Michigan and satisfactory to the Airport Authority:

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$5,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$5,000,000 per accident for bodily injury and property damage.

3. Workers' Compensation insurance as required with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$500,000 per accident for bodily injury or disease.

4. Builder's Risk (Course of Construction) insurance utilizing an "all Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provision. Such coverage shall name the Airport Authority as the loss payee.

The foregoing notwithstanding, the Contractor agrees as a material provision of this Agreement that if from time to time the Contractor actually maintains limits or insurance coverage amounts greater than those specified above, then the actual limits and coverage amounts so maintained by the Contractor shall be substituted for the limits and amounts above and shall be deemed to be, and shall constitute, for all contractual and other legal purposes, the limits and amounts required by this Agreement.

All insurance policies must be issued by recognized, responsible insurers licensed or approved by the Insurance Bureau of the State of Michigan and shall have a financial rating no lower than A-VII as rated by AM BEST, or an equivalent rating by an acceptable recognized agency. All insurance policies must name the Contractor as insured, name the Authority and the County of Wayne, Michigan as additional insureds with respect to general and automobile liability coverage on a

primary and non-contributory basis, and shall not be canceled, terminated or materially changed without at least thirty (30) days prior written notice from the Contractor to the Authority. Certificates evidencing such insurance must be submitted by Contractor to the Authority prior to the Contractor providing any Goods or Services, and at least fifteen (15) days prior to the expiration dates of expiring policies. The Authority reserves the right to request complete copies of any insurance policies required by these Terms and Conditions if deemed necessary to ascertain the details of coverage not provided by the Certificates. Such copies shall be "Originally Signed Copies" and so designated. The Contractor shall provide complete copies of any insurance policies no later than thirty (30) days following the request of the Authority.

- B. Cancellation Notice: Each policy required hereunder must provide for at least thirty (30) days unconditional advance written notice to the Airport Authority prior to any cancellation of, or material change in, the terms of insurance and/or coverage afforded by the policy. In the event of a material change in the terms of insurance and/or coverage afforded by the policy, including cancellation, the Contractor shall provide thirty (30) days unconditional advance written notice to the Airport Authority of such change.
- C. Proof of Insurance: At the time this Agreement is returned to the Airport Authority for execution, and by the expiration date of any expiring policies, the Contractor must file with the Airport Authority's Procurement Department, either a certified copy of each insurance policy required by the Airport Authority in the preceding paragraphs, or a certificate of insurance, as evidence of the Contractor's compliance with this Section; provided, however, that within thirty (30) days following the written request of the Airport Authority, the Contractor will replace any insurance certificate with a certified copy of each insurance policy.
- D. The Contractor's compliance with this Section is a continuing obligation during the Term of this Agreement. If any of the required insurance policies are terminated or canceled during the Term of this Agreement, the Contractor will cease operations until such insurance is reinstated.

7. ASSIGNMENT; TRANSFER; SUBCONTRACTING; BANKRUPTCY OR INSOLVENCY; SBE PARTICIPATION

- A. Assignment and Transfer: No assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration, may occur without the Airport Authority's express, prior, written approval, through its Chief Executive Officer, which will not be unreasonably withheld or delayed. If such assignment, assumption, takeover, or unauthorized performance occurs without such prior written approval, and adversely impacts the Contractor's performance of the services required under this Agreement, then the Airport Authority may terminate this Agreement under the subsection entitled "Termination for Default." If such assignment, assumption, takeover, or unauthorized performance occurs without such prior written approval but does not adversely impact the Contractor's performance of the services required under this Agreement, then the Airport Authority may terminate this Agreement without notice to the Contractor.

- B. Subcontracting: The Contractor must include the following provisions in each subcontract: (i) The subcontractor understands and agrees that the Contractor has the sole responsibility for payment of services rendered by the subcontractor under this Agreement. In the event of Contractor's insolvency or cessation of operations, subcontractor's sole recourse shall be against the Contractor; and (ii) the Subcontractor understands and agrees that the Airport Authority is not liable for or responsible for payment of any the services provided under the subcontract.
- C. Bankruptcy or Insolvency: If the Contractor is adjudicated bankrupt or insolvent, or if a trustee is appointed over the Contractor or its property, whether it is a third party or the Contractor as debtor-in-possession (both shall be the "Contractor" in this Section entitled "Bankruptcy or Insolvency" unless the context clearly requires otherwise) the following rights, obligations and limitations control:
- i. The Contractor or any trustee must not assign any or all of its rights, title, or interest, in or to this Agreement, as this Agreement is for the delivery of goods or related services, or both, as to which the Airport Authority is entitled to insist upon performance solely by the Contractor.
 - ii. The Contractor or any trustee may only assume this Agreement if it provides adequate assurance of future performance. Adequate assurance of future performance means proof reasonably satisfactory to the Airport Authority of: (a) adequate financial capacity to employ or contract with sufficient personnel to perform the Services assigned to the Contractor as provided in this Agreement, and to pay for all services contracted for by the Contractor; (b) adequate financial capacity to own, operate, lease or obtain sufficient facilities and supplies to perform the Services assigned to the Contractor as provided for in this Agreement; and (c) adequate financial and professional capacity to maintain the professional standard provided in this Agreement. The reasonable determination of the Airport Authority as to the adequate professional capacity of the Contractor is determinative.
 - iii. Because of the unique nature of the services this Agreement requires the Contractor to provide, the Contractor agrees that any requests by the Airport Authority that the trustee or it as debtor-in-possession assume or reject this Agreement in a shorter time than provided for in 11 USC 365 is reasonable so long as the trustee or the Contractor receives no less than five business days' notice.
 - iv. If this Agreement is terminated during bankruptcy proceedings or if the trustee or debtor-in-possession successfully and properly obtains a court order rejecting this Agreement, the Contractor as debtor-in-possession or its trustee must cooperate with the Airport Authority in arranging for the orderly transfer of responsibilities to persons or entities as the Airport Authority may designate. The rejection is not effective until the orderly transfer of responsibilities, consistent with sound professional practice, has been completed.
 - v. Although neither party has the right to terminate this Agreement merely because the other is adjudicated bankrupt or insolvent or a trustee or a debtor in possession is appointed over any parties' property, each party retains all of the other termination rights set forth elsewhere in this

Agreement during the period of any proceedings under the United States Bankruptcy Code.

- D. SBE Participation: The Contractor understands that it is the policy of the Airport Authority that Certified SBEs should have the maximum practical opportunity to participate in the performance of contracts at the Airport. Accordingly, during the Term of this Agreement, the Contractor commits and agrees to Certified SBE (defined below) participation of at least 18% in the goods or services provided under this Agreement (the "Certified SBE Commitment").

The Contractor hereby agrees, for the Term of this Agreement, to either (i) meet the Certified SBE Commitment or (ii) demonstrate that it has made all reasonable efforts to meet the Certified SBE Commitment, including all necessary and reasonable steps the Contractor takes to achieve the Certified SBE Commitment. Certified SBE participation toward the Certified SBE Commitment shall be measured as the total value of any goods or services provided by Certified SBEs under this Agreement, inclusive of all amendments, modifications and change orders. The Certified SBE Commitment may be met by the Contractor's status as a Certified SBE, by joint venture with one or more Certified SBEs, by subcontracting a portion of the Agreement to one or more Certified SBEs, by purchasing materials used in the performance of the Agreement from one or more Certified SBEs, or by any combination of the foregoing. The Contractor's failure to meet the Certified SBE Commitment or to provide the Airport Authority with sufficient documentation of the Contractor's reasonable efforts to meet the Certified SBE commitment shall be sufficient cause for the Airport Authority to terminate this Agreement. If the Contractor has not met the Certified SBE Commitment, the Airport Authority has sole and absolute discretion to determine whether the Contractor has made all reasonable efforts to meet the Certified SBE Commitment. The Contractor must use any such forms as are required and made available by the Airport Authority to demonstrate that the Contractor has either met the Certified SBE Commitment or made all reasonable efforts to meet the Certified SBE Commitment.

The Contractor may neither terminate a Certified SBE, reduce the scope of work to be performed by a Certified SBE, nor decrease the payment to a Certified SBE, without in each instance (i) having just cause (termination for convenience is not permissible); (ii) making all reasonable efforts to find another Certified SBE subcontractor to substitute for the original Certified SBE (these reasonable efforts must be directed at finding another Certified SBE to perform at least the same amount of work or service under the Agreement as the Certified SBE that was terminated, to the extent needed to meet the Contractor's Certified SBE participation commitment); and (iii) receiving the prior written approval of the Airport Authority's Chief Executive Officer or their designee in all instances.

For purposes of this Agreement, a Certified SBE is a business that qualifies as a "Certified SBE" under the Airport Authority's Procurement and Contracting Ordinance. Any waiver, inadvertent or otherwise, of this Section by the Airport Authority shall not be deemed to be a waiver for the remainder of the Term of this Agreement and shall not prohibit the Airport Authority from enforcing this Section with regard to subsequent defaults by the Contractor.

8. WAIVER OF DEFAULT OR BREACH

No failure by the Airport Authority to insist upon the strict performance of any term of this Agreement or to exercise any term after a default or breach constitutes a waiver of any default or breach of term. No waiver of any default or breach affects or alters this Agreement, but every term of this Agreement remains effective with respect to any other when existing or subsequent default or breach.

9. RELATIONSHIP OF PARTIES; PUBLICITY

- A. Relationship of Parties: The relationship of the Contractor to the Airport Authority is and will continue to be that of an independent contractor. No liability or benefits, such as workers' compensation, pension rights, or insurance rights, arising out of, or related to a contract for hire or employer/employee relationship, accrues to either party or either party's agent, subcontractor or employee as a result of this Agreement. No relationship, other than that of independent contractor will be implied between the parties, or either party's agent, employee, or subcontractor.
- B. Publicity: The Contractor shall not issue any press release, marketing materials, public statement or announcement, or otherwise reference this Agreement or its relationship with the Airport Authority, orally or in writing, without the prior written consent of the Airport Authority, except as required by law or a court order.

10. NONEXCLUSIVE AGREEMENT

The Airport Authority may contract with other firms or individuals to obtain the same or similar services to those the Contractor will provide under this Agreement.

11. OWNERSHIP OF DOCUMENTS AND MATERIALS

The Airport Authority shall have unlimited rights in all documents, designs, specifications, notes and other works of any sort developed in the performance of this Agreement, including the right to use same on any other Airport Authority project without additional compensation to the Contractor. The Contractor hereby grants the Airport Authority a paid-up license throughout the world to all such works to which it may assert or establish any claim under design, patent or copyright law. The Contractor, for a period of five years after completion of the Services contemplated under this Agreement, agrees to furnish the original or copies of all such works upon the request of the Airport Authority.

Original documents, plans, schedules, surveys, manuals and budgets prepared or obtained under the terms of this Agreement shall be delivered to and become the property of the Airport Authority upon the Airport Authority's request or the termination of this Agreement, whichever occurs sooner, and may be used by the Airport Authority without restriction or limitation on their use.

Any intentional failure or delay by the Contractor to deliver any records or documents to the Airport Authority may cause irreparable injury to the Airport Authority not adequately compensable in damages and for which the Airport Authority has no adequate remedy at law. In the event of such failure or delay, the Contractor will pay the Airport Authority \$1000.00 per day as liquidated damages, and not as a penalty, until it delivers such records or documents to the Airport Authority. The Airport Authority may seek and obtain injunctive relief in a court of

competent jurisdiction and compel delivery, as well as payment by the Contractor all applicable damages and costs. The Airport Authority has unrestricted use of the records and documents for the purpose of completing the Services

12. RESPONSIBILITY FOR LOSS OR DAMAGE OF DOCUMENTS AND MATERIALS

During the performance of the Services, the Contractor shall be responsible for any loss or damage to the documents or materials enumerated as belonging to the Airport Authority while they are in the Contractor's possession or control. Restoration of lost or damaged documents or materials shall be at the Contractor's expense.

13. THE CONTRACTOR'S RECORDS; ACCESS TO RECORDS; AUDITING

- A. The Contractor shall maintain overtly detailed and accurate financial and accounting records relating to or arising from the Services performed and the materials purchased and used to complete, in whole or in part, the Contractor's obligations under this Agreement. At a minimum, the Contractor shall maintain its financial and accounting records in accordance with accounting principles generally accepted in the United States of America ("Generally Accepted Accounting Principles" or "GAAP"), as issued by an appropriate standard setting body within the United States of America. The Contractor's detailed and accurate financial records shall include, but not be limited to, written or electronic: (a) bank statements and investment statements, (b) purchase orders, (c) subcontracts, (d) sales and purchase invoices, (e) payments made and payments received; (f) payroll records; (g) cancelled checks; (h) internal and external financial reports; (i) internal and external audits; (j) tax returns; (k) records of assets and liabilities; (l), ledgers; (m) financial statements of any type; (n) any other document showing how any invoice was calculated; (o) journal entries; (p) shipping and receiving and documents; and (q) any other document that relates to the performance of the Services, whether directly or indirectly. The Contractor shall require any subcontractor, supplier, vendor and agent to maintain their financial and accounting records in accordance with the requirements set forth in this Section 13.
- B. The Airport Authority has the absolute and unconditional right to examine and audit all financial and accounting records referenced in Section 13(A) above, including the Contractor's financial and accounting records, and any financial and accounting records of any subcontractor, supplier, vendor and agent of the Contractor. The Contractor must include a similar covenant allowing for Airport Authority audit in any agreement it has with a subcontractor or agent related to this Agreement. The Airport Authority may withhold any payment otherwise due to the Contractor pending the final results of any such audit, and such withheld amount shall not accrue any interest. By approval of this Agreement, the Airport Authority waives none of its authority to debar the Contractor from further contract award by the Airport Authority should it find the Contractor is less than cooperative in the conduct of an audit.
- C. The Contractor must maintain all records pertaining to the provision of Services under this Agreement for at least five years after the termination or expiration of this Agreement. After this five year period, the Contractor may dispose of such records if the Contractor provides at least 30 days written notice to the Airport

Authority, at the following address, prior to disposing of any such records so that the Airport Authority may elect to obtain copies of such records prior to their disposal:

Wayne County Airport Authority
Detroit Metropolitan Wayne County Airport
11050 Rogell Drive #602
Detroit, Michigan 48242
Attention: Audit Department

- D. The Contractor must make available to the Airport Authority or its authorized representative all financial and accounting records required by this Section 13, at any time requested by the Airport Authority Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. Such records shall be made available at the location among its offices at which this Agreement is principally performed or which is closest and most convenient for the Airport Authority or its authorized representative, at the Airport Authority's election. In the event that the Airport Authority or its authorized representative are required to undertake travel outside of the Detroit–Warren–Livonia Metropolitan Statistical Area to conduct audit activities, the Contractor shall be responsible for any and all travel related costs and expenses incurred by the Airport Authority or its authorized representative, and shall pay such costs upon demand from the Airport Authority or its authorized representative.

The Contractor shall make its officers, directors and employees available to answer all questions and provide all information required by the Airport Authority. If an audit identifies any deficiencies or discovers the Contractor's failure to comply with any of the terms and conditions of this Agreement, the Contractor shall, not later than 10 days after the Airport Authority issues notice to the Contractor, remedy all deficiencies and failures.

If the Contractor fails to produce the financial and accounting records required by this Section 13, the Airport Authority may, upon 10 days' written notice to the Contractor, make a determination that the Contractor's failure to produce such financial and accounting records creates an irrefutable presumption that such financial and accounting records do not exist. The Contractor agrees to be bound by this determination and irrefutable presumption.

- E. If, as a result of any audit conducted of the Contractor's performance under this Agreement by or for the Airport Authority, the State of Michigan, or the Federal government, a discrepancy should arise as to the amount of compensation due or previously paid to the Contractor, the Contractor shall immediately pay any and all amounts required by the Airport Authority. Payment shall be made by the Contractor to the Airport Authority within seven days of the Airport Authority's written demand to the Contractor. If Contractor fails or refuses to make payment to the Airport Authority as required by this Agreement, in addition to any other legal remedies available to the Airport Authority, the Airport Authority may retain said amount from any funds allocated to the Contractor but not yet disbursed under this Agreement. Additionally, the Airport Authority may offset such a deficiency against the compensation to be paid the Contractor in any other contract or agreement between the Airport Authority and the Contractor, including any performance

guarantee or letter of credit provided for this Agreement or any other contract or agreement between the Parties.

- F. The Contractor agrees a breach of this Section 13 constitutes a breach of this Agreement sufficient to warrant termination, the imposition of liquidated damages (not a penalty) equal to 5% of the total compensation paid to date, and debarment from any further work for the Airport Authority for a period not less than three years. The remedies listed herein are not the Airport Authority's sole and exclusive remedies in the event of a material breach of this Agreement.
- G. Termination or expiration of this Agreement does not relieve the Contractor of any obligation under this Section 13.

14. DISPUTES

The presence of disputes between the Airport Authority and the Contractor, or legal proceedings arising from such disputes, shall not relieve the Contractor of its obligations to properly and expeditiously perform the agreed upon Services. The Contractor shall promptly inform the Airport Authority, in writing, of any dispute arising from or relating to this Agreement. The Airport Authority shall not be liable to compensate the Contractor for any additional costs accrued more than three days before the Airport Authority received written notice of the dispute.

The Airport Authority shall pay the Contractor all undisputed fees and costs for which services were rendered by the Contractor and accepted by the Airport Authority pending the resolution of any particular dispute.

15. TERMINATION OF THIS AGREEMENT

- A. Termination by the Airport Authority for Convenience: The Airport Authority may terminate this Agreement without cause at any time upon 15 calendar days written notice to the Contractor, and this Agreement will terminate on the date specified in the notice as if that date were the expiration of the Term.

If or when this Agreement is terminated, the Airport Authority will pay the Contractor for unpaid fees or expenses accrued prior to the termination date and accepted by the Airport Authority, and will not pay for any Services rendered or expenses incurred by the Contractor after the date of termination. Such fees or expenses shall be provided by the Contractor to the Airport Authority through an itemized invoice for such fees or expenses not more than 30 calendar days following the date of termination. The Airport Authority, upon payment of any approved amounts so invoiced, shall have no further liability or obligation to the Contractor whatsoever for any further fees, expenses or other payment.

After receipt of a notice of termination pursuant to this Section, and except as otherwise directed by the Airport Authority, the contractor shall:

- i. stop work under the Agreement on the date and to the extent specified in the Notice of Termination;
- ii. obligate no additional contract funds for payroll and other costs beyond the date specified by the Airport Authority or the date of termination, whichever

is earlier;

- iii. as of the termination date, present and submit to the Airport Authority all records, data, notes, reports, discs, and documents as the Airport Authority relating to this Agreement, all pertinent keys or passwords to files, and carry out such directives as the Airport Authority may issue concerning the safeguarding or disposition of files and property;
- iv. place no further orders on subcontracts for materials, services, or facilities, except as may be necessary for completion of the portion of the Services not terminated, if any;
- v. terminate all orders and subcontracts to the extent that they relate to the portion of the Services terminated; and
- vi. submit within 30 calendar days a listing of all creditors, subcontractors, lessors, and other parties with which the Contractor has incurred financial obligations pursuant to the Agreement

In addition, each party will assist the other party in the orderly termination of this Agreement and the transfer of all aspects, tangible or intangible, as may be necessary for the orderly, non-disrupted business continuance of each party.

Where applicable, and as desirable by the Airport Authority to accomplish the objectives of this Agreement, the Airport Authority shall have the right to immediately acquire all or a portion of the proprietary software licenses, licenses to the Contractor's materials, and other equipment or materials directly or indirectly related to the Services and not then owned by the Airport Authority.

B. Termination for Default: The Airport Authority may by written notice of default to the Contractor, terminate the whole or any part of this Agreement as follows:

- i. The Contractor's failure to perform or inadequate performance of its obligations under the Agreement if such failure to perform or inadequate performance is not cured within 10 calendar days, or such longer period as the Airport Authority may authorize in writing, after receipt of written notice from the Airport Authority specifying such failure or inadequacy. The Airport Authority's Chief Executive Officer, or his or her designee, is the individual designated to provide the written cure notice. Only the Chief Executive Officer is authorized to terminate this Agreement on behalf of the Airport Authority.
- ii. In the event the Airport Authority terminates this Agreement in whole or in part as provided above, the Airport Authority may procure, upon such terms and in such manner as the Chief Executive Officer may deem appropriate, Services similar to those so terminated.
- iii. If this Agreement is terminated as provided above, then the Airport Authority, in addition to any other rights provided in this subparagraph, may require the Contractor to transfer title and deliver to the Airport Authority in

the manner and to the extent directed by the Chief Executive Officer, such partially completed reports or other documentation as the Contractor has specifically produced or specifically acquired for the performance of such part of this Agreement as has been terminated. Payments for completed reports and other documentation delivered to and accepted by the Airport Authority shall be at the prices specified in this Agreement. Payment for partially completed reports and other documentation delivered to and accepted by the Airport Authority shall be in an amount agreed upon by the Contractor and the Airport Authority. The Airport Authority may withhold from amounts otherwise due the Contractor, or may bill the Contractor as a separate item for such completed or partially completed reports or other documentation such sum as the CEO determines to be necessary to protect the Airport Authority against loss.

- iv. The rights and remedies of the Airport Authority provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law, including the collection of liquidated damages.

16. FEDERAL GOVERNMENT AGREEMENTS

This Agreement is subordinate to the provisions of any existing or future agreements between the Airport Authority and the United States of America relative to the operation and maintenance of the Airports, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airports.

17. NATIONAL EMERGENCY

All provisions of this Agreement are subordinate to the right of the United States of America to lease or otherwise assume control of the Airport, or any part thereof, during time of war or national emergency, for military use, and any provisions of this Agreement inconsistent with the provisions of such Agreement with the United States of America will be suspended by such lease or assumption of control.

18. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The Contractor will comply with any and all rules and regulations adopted by the Airport Authority with respect to use of the Airport. It will also comply with all applicable federal and state laws and regulations.

19. STATE, FEDERAL, AND LOCAL REQUIRED PROVISIONS FOR ALL CONTRACTS

In the event of breach of any of the below covenants, the Airport Authority has the right to either terminate this Agreement or re-enter or repossess land covered by this Agreement and the Airport facilities thereon, and hold the same as if said Agreement had never been made or issued, or both, each as applicable.

- A. State Employment Non-Discrimination Requirements: In accordance with Michigan 1976 Public Act 453 and 1976 Public Act 220, the Contractor covenants not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin,

age, sex, height, weight, marital status, or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position and to require a similar covenant on the part of any subcontractor employed in the performance of this Agreement. Breach of this covenant may be regarded as a material breach of this Agreement.

- B. Federal Civil Rights - General: The Contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Contractor from the bid solicitation period through the completion of this Agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964. This provision also obligates the Contractor or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of: (i) personal property; (ii) real property or interest therein; (iii) structures or improvements thereon. In such cases the provision obligates the Contractor or any transferee for the longer of the following periods: (i) the period during which the property is used by the Airport Authority 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 (ii) the period during which the Airport Authority or any transferee retains ownership or possession of the property.
- C. Federal Civil Rights – Title VI: During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (together, the “Contractor” for the remainder of this provision) agrees as follows:
1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
 2. Non-discrimination: The Contractor, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Airport Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
 5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the Non-discrimination provisions of this Agreement, the Airport 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 the Contractor under this Agreement until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending this or any other Agreement with the Contractor, in whole or in part.
 6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Airport Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Airport Authority to enter into any litigation to protect the interests of the Airport Authority. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- D. Airport Authority Ethics in Contracting: The Contractor must comply with the Wayne County Airport Authority Ethics Ordinance or any successor ordinance, resolution, or regulation to the same Ordinance, as it may be amended, and as it may apply.

20. LICENSES AND PERMITS

As applicable, the Contractor shall obtain and keep in force at its own expense for the duration of this Agreement, all licenses and permits required by applicable governmental units having appropriate jurisdiction therefor.

21. FORCE MAJEURE

The Parties to this Agreement shall not be required to perform any term, condition, or covenant in this Agreement so long as such performance is satisfactorily demonstrated to have been absolutely delayed or prevented by force majeure, which shall mean Acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the control of the Parties hereto and which by the exercise of due diligence the Parties hereto are unable, wholly or in part, to prevent or overcome except as otherwise provided herein. In the event of a dispute between the parties with regard to what constitutes a force majeure event, the Airport Authority's reasonable determination is controlling.

22. SUCCESSORS

The terms, conditions, and covenants contained in this Agreement apply and inure to the benefit of, and are binding upon the Parties hereto and their respective successors in interest and legal representatives, except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of the Airport Authority under this Agreement including, but not limited to, any notices required or permitted to be delivered by the Airport Authority to the Contractor hereunder may, at the Airport Authority's option, be exercised or performed by the Airport Authority's agent or attorney, including but not limited to the Chief Executive Officer.

23. CONFIDENTIAL INFORMATION

The information that Airport Authority may disclose to the Contractor includes, but is not limited to, the following: (a) any and all information relating to Airport Authority's proposed construction projects; (b) any and all information relating to the Airport Authority's completed construction projects; (c) any and all information related to the Detroit Metropolitan Wayne County Airport, including but not limited to its operations and secure areas; (d) any and all information related to the Willow Run Airport; (e) any and all information which would do any of the following: (i) constitute an unwarranted invasion of privacy (including, but not limited to, information contained in any personnel, medical, or similar file); (ii) reveal trade secrets or privileged or confidential information obtained from any person; or (iii) be detrimental to the security of transportation; and (f) any and all information designated confidential or sensitive security information by the Airport Authority. In addition to the above enumerated types of information, there may be other related information that the Airport Authority also discloses to the Contractor, and all this information is, together, the "*Confidential Information*".

In consideration of Airport Authority's disclosure of the Confidential Information for the Contractor its use, the Contractor agrees to the following use and disclosure obligations:

- A. Title to the Confidential Information and all related materials and documentation Airport Authority delivers to the Contractor will remain with Airport Authority;
- B. the Contractor agrees to treat such Confidential Information as secret;
- C. the Contractor shall not to disclose any Confidential Information to third parties and to use it solely for the purpose described in this Agreement. The Contractor will restrict circulation of the Confidential Information within its organization and then only to people in the Contractor's organization that have a need to know the Confidential Information for the purpose of providing the services to Airport Authority;

- D. the Contractor will be liable for all costs, damages, liabilities relating to or arising from the disclosure of Confidential Information whether the disclosure is intentional, negligent, or accidental;
- E. the Contractor will return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Agreement; and
- F. if any provision of this Section is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement will remain in full force and effect to the extent that such does not create an absurdity.

24. MISCELLANEOUS

- A. When used in this Agreement, the term "Chief Executive Officer" or "CEO" includes the Chief Executive Officer of the Airport Authority, or his designee, unless the context requires otherwise.
- B. The section headings contained herein are included for convenience in reference only, and are not intended to define or limit the scope or intent of any provisions of this Agreement, nor in any way affect this Agreement.
- C. When used herein, the singular includes the plural, the plural includes the singular, and the use of any gender is applicable to all genders.
- D. Capitalized terms used but not defined herein shall have the meanings ascribed to them: (i) as set forth in *Exhibit C* to this Agreement and (ii) in the RFB, if present in neither Agreement nor *Exhibit C* to this Agreement.
- E. Unless otherwise explicitly provided for in this Agreement, the CEO or his or her designee may take all actions under this Agreement on behalf of the Airport Authority.
- F. The Airport Authority may conduct regular contract performance reviews to ensure Contractors consistently meet all aspects of performance.
- G. The Airport Authority represents and warrants that it is not subject to any federal, state, and local sales, use, ad valorem and other taxes, charges and assessments imposed on or based upon the Services to be provided herein. Upon request from the Contractor, the Airport Authority will provide the Contractor with its current tax exemption identification number and any other pertinent documentation verifying its tax-exempt status.
- H. The Contractor covenants that it is not, and will not become, in arrears to the Airport Authority upon any contract, debt, or any other obligation to the Airport Authority.
- I. All the provisions of this Agreement are "covenants" and "conditions" as though the words specifically expressing or imparting covenants and conditions are used in each provision.
- J. If any Affiliate takes any action, which, if done by the Contractor, would constitute a breach of this Agreement, the action is deemed a breach by the Contractor.

"Affiliate" is a parent, subsidiary or other company controlling, controlled by or in common control with the Contractor.

- K. This Agreement may be executed in any number of counterparts, and all of the counterparts taken together are one and the same document.
- L. Unless the context otherwise requires, the words, "herein", "hereof" and "hereunder", and other words of similar import, refer to this Agreement as a whole and not to any particular article, section, or other subdivision. Additionally, as used, the singular includes the plural, the plural includes the singular, and the use of any gender is applicable to all genders.
- M. The Airport Authority's purchase orders or other ordering documents shall not add to or vary the terms of this Agreement.

25. JURISDICTION AND GOVERNING LAW

This Agreement, and all actions arising from it, must be governed by, subject to, and construed according to the laws of the State of Michigan. The venue for any action involving an alleged default by the Contractor shall only be in a court in the County of Wayne, State of Michigan, unless original jurisdiction is in the United States District Court for the Eastern District of Michigan, Southern Division, the Michigan Supreme Court, or the Michigan Court of Appeals. Service of process at the address specified in this Agreement will be sufficient to put the Contractor on notice of any legal action taken by the Airport Authority.

26. SEVERABILITY OF INVALID CONTRACTUAL TERMS

If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstances is, to any extent, judicially determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, is not affected and is enforceable.

27. NOTICES

All notices, communications or statements required by this Agreement must be sent to the following, each of which may be changed for purposes of this Section by written notice similarly given to the other party:

If to the Airport Authority:	Wayne County Airport Authority Detroit Metropolitan Wayne County Airport contract.notices@wcaa.us
------------------------------	---

If to the Contractor:	[Insert Contractor Information]
-----------------------	---------------------------------

All notices are deemed given on the date of receipt, or two business days after the day of electronic or traditional mailing, whichever occurs first. Any notice given by a party must be signed by an authorized representative of such party.

28. ENTIRE AGREEMENT

This Agreement consists of Sections numbered 1 through 28, and the attached documents identified as **Exhibits A, B, and C**. This Agreement sets forth all the covenants, promises, conditions, and understandings between the Airport Authority and the Contractor concerning the Contractor's performance of the required Services.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on their behalves by their respective duly authorized officers all as of the day and year first above written.

Wayne County Airport Authority

By: _____
Chad Newton
Chief Executive Officer

<ContractorNm>

By: _____

Name: _____

Title: _____

#112491

EXHIBIT A
SCOPE OF SERVICES

1) SCOPE OF WORK:

Contractor Responsibilities:

- a) The Contractor must perform all inspections, preventative maintenance, corrective maintenance and repairs, testing, and any other related services.
- b) The Contractor shall be equipped with all necessary and required devices, instruments and equipment to perform the requested services.
- c) All provided materials are to be non-refurbished OEM parts unless only refurbished parts are available.
- d) All used materials and replaced parts become the property of the Contractor and will be disposed or recycled responsibly by the Contractor or its subcontractor.
- e) The Contractor shall comply with the Airport Authority conditions for operational shut downs.
- f) Normal work hours are Monday – Friday from 7:00 AM to 5:00 PM.
- g) Where factory or manufacturer support for installation testing of new UPSs is approved by the Contract Manager, the Contractor shall coordinate that testing.
 - i. **PREVENTATIVE MAINTENANCE:** The Contractor shall conduct preventative maintenance on designated UPS and related equipment as assigned by the Contract manager at both Detroit Metro and Willow Run Airports. Assigned tasks shall include, but not be limited to the following:
 - A. Conduct a performance check/inspection of the equipment twice a year, or as determined by the Contract Manager.
 - B. The Contractor shall provide the Airport Authority with maintenance and test reports for all equipment inspected with a condition/age assessment.
 - C. The Contractor shall provide a corrective action summary outlining the findings during the inspection.
 - D. The Contractor shall maintain a list or spreadsheet of equipment by model number, serial number, location and date of last service. This list shall be updated Monthly and be delivered to the Airport Authority electronically.
 - E. The Contractor shall inspect and test Units (and all associated components) as follows:

1. Visual Inspection upon contract award with a summary, list and condition assessment of each piece of equipment.
2. Perform two (2) inspections per year as well as on call, as needed, inspections.
3. Inspect the proper operation of all cooling fans.
4. Inspect all power connections and capacitors for signs of leakage or abnormalities.
5. Verify operating condition of ventilating equipment and cooling equipment.
6. Observe general cleanliness of UPS Power Module and clean as required.
7. Inspect air filters and replace as approved by the Contract Manager.
8. Clean control panel/CRT screen as needed.
9. Battery System Checks:
 - a. Inspect and maintain battery systems for UPSs and Station Batteries (substation DC control systems) per IEEE Standards 450 (vented lead-acid batteries), 1106 (nickel cadmium batteries) and 1188 (valve-regulated lead-acid batteries) as applicable.
 - b. Battery system area ambient temperature and condition of the ventilation equipment.
 - c. Condition and operation of installed battery chargers
10. Monitoring System Parameters:
 - a. Alarm archive review and printing each visit, as applicable.
 - b. Alarm lamp test - local and remote each visit.
 - c. Download of alarm history/event queue each visit, as applicable.
 - d. Download of present front panel metering values.
11. Check and Record System Input Voltages, Currents and Frequency (all phases).
12. Check and Record Rectifier Input Voltages, Currents and Frequency (all phases).
13. Check and Record DC Charging Voltages and Current.
14. Check and Record Inverter Output Voltages, Currents and Frequency (all phases).
15. Check and Record System Bypass Voltages and Currents (all phases).

- F. The Contractor shall provide a written report of each inspection to the WCAA Contract Manager on the condition of each System, including any problems or repairs requiring attention, the observed condition of the Power Module Equipment and related Battery System, status of site spares inventory, and recommendations toward future remedial maintenance, upgrades, or spare parts requirements.
- G. Listed below is the current equipment list and quantities and the frequency preventative maintenance is expected to be performed. Actual items and quantities will vary.

Location Name	Manufacturer	Model
North Terminal 601 Room 1362	Eaton Powerware	9390-160
North Terminal 601 Room 2031	Eaton Powerware	9355-30
North Terminal 601 Room 2058	Eaton Powerware	9355-30
North Terminal 601 Room 2076	Eaton Powerware	9355-30
North Terminal 601 Room 2214	Eaton Powerware	9355-30
North Terminal 601 Room 2243	Eaton Powerware	9355-30
North Terminal 601 Room 2252	Eaton Powerware	9355-30
North Terminal 601 Room 2281	Eaton Powerware	9355-30
Building 601 Room 1127	Eaton Powerware	9355-30
Willow Run Emergency Lighting Inverter	DSPM	ETERNALIGHT 1
Willow Run - MGE	MGE	COMET 72-160812-22
Comm Tower UPS 1	Liebert	NFINITY
Comm Tower UPS 2	Liebert	NFINITY
Building 601 Public Safety	APC	GALAXY PW
Bldg. 611 Console Room	APC	SURT6000XLT
Building 703	APC	SMX750
Building 803	APC	SUA2200RM2U
Building 803	APC	SUA1000RM2U
Building 609 BBD-GTC-UPS	Liebert	NXB 10
Bldg. 611 Switchgear	SWGR Battery	C&D UPS12-540MR
Bldg. 610 Public Safety Building Vycon	Vycon	UA6CHHTMJ025000
Bldg. 610 Public Safety Building GE	GE	VH1500 UL
Bldg. 826 McNamara Terminal - Radio Room	Eaton	EX7RT

Bldg.803ALV2 - Switchgear UPS	VERTIV	GXT4-1500RT120
Bldg.803 ALV2 - Switchgear UPS	VERTIV	GXT4-1500RT120
Bldg.739 Wayne County Airport Authority - ALV1	APC	SMT1000RM2U
building 601 Ramp Control - Room 2017	Vertiv EXM	EXM
Building 601 CTX #3 - South EDS Room 1289	Vertiv EXM	51SA050BAA01OF0
Building 601 CTX #4 - South EDS Room 1289	Vertiv - EXM	51SA050BAA010F0
Building 601 00039 CTX #5 - NORTH EDS Room 1313	Vertiv - EXM	51SA050BAA010F0
Building 601 00039 CTX #6 - NORTH EDS Room 1313	Vertiv - EXM	51SA050BAA010F0
Bldg.803 ALV2 - Cabinet UPS	APC	SMT1000RM2U
Bldg.803 ALV2 - Cabinet UPS	APC	SMT2200RM2U
Bldg 611 - Boiler #1 UPS	Allen Bradley	RW500DR
Bldg 611 - Boiler # 2 UPS	Allen Bradley	RW500DR
Bldg 611 - Boiler # 3 UPS	Allen Bradley	RW500DR
Bldg 611 - Boiler # 4 UPS	Allen Bradley	RW500DR

Note: This list is a representative sample. Equipment may be added or removed from this list as necessary throughout the contract term by the Contract Manager.

Schedule of Work: Upon award of the Contract, and as needed thereafter, the Contractor will meet with the Contract Manager to develop a schedule of preventative maintenance. The Contract Manager will have final approval of the schedule.

The schedule will consist at a minimum of the following:

- (a) Location work is to be performed
- (b) Description of services to be performed
- (c) Start date and approximate time of each task
- (d) Completion date of each task
- (e) All work is expected to be performed with in a timely manner.

ii) **CORRECTIVE ACTIONS/REPAIRS:**

- A. Any corrective action or recommended improvement (installing networked monitoring equipment, for example) shall be performed only after receiving written authorization from the Contract Manager.
- B. The Contractor shall perform corrective action action/repairs of authorized items outlined in the corrective action summary and based on the maintenance schedule given by the Contract Manager.

- C. The Airport Authority reserves the right to have repairs or other corrective actions performed by internal staff, through other available contracts, or other means as deemed appropriate by the Airport Authority.
- D. Emergency Repairs: In the event of an emergency, the Airport Authority may request the Contractor to repair equipment outside normal working hours. Emergency Response requires staff respond by being onsite and able to work within four (4) hours during regular work week hours and (8) hours on holidays and overtime schedules.
- E. The Contractor must be able to provide emergency services 24 hours a day, 7 days a week, 365 days a year. Off-hours labor will be paid per the time-and-a-half or double-time rates in the price page.

Airport Authority Responsibilities: The Airport Authority will provide the following:

- ii. The Contract Manager shall designate the specific equipment that will be evaluated for repair or replacement.
- iii. The Contract Manager shall de-energize the equipment for Contractor inspection or removal if needed.
- iv. The Contract Manager will determine which equipment will be replaced or repaired after evaluating the Contractor's recommendation.
- v. The Airport Authority will provide escort as required for especially security sensitive work areas.

EXHIBIT B

FEES

[To be finalized based on pricing documents and successful Contractor's submission]

EXHIBIT C

FORM OF LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT
(SECURITY LC)

[DATE]

LETTER OF CREDIT NO. [PROVIDED BY BANK]

Wayne County Airport Authority
11050 Rogell Drive #602
Detroit Metropolitan Wayne County Airport
Detroit, MI 48242

Ladies and Gentlemen:

On behalf of (insert successful Bidder's name), a (corporation/sole proprietor, partnership/sole proprietor) (the "Company"), we irrevocably and unconditionally authorize, pursuant to this Irrevocable Letter of Credit No. xxxxxxxx ("Letter of Credit"), the Wayne County Airport Authority (the "Airport Authority") to draw on us up to an aggregate amount not to exceed xxxxxxxxxxxxxxxx (U.S. \$.00), as reduced from time to time pursuant to the terms hereof (as so reduced from time to time, the "Stated Amount"). This Letter of Credit is furnished to the Airport Authority pursuant to Section 1(H) of that certain Agreement dated , 2017, between the Airport Authority and the Company (the "Agreement")..

This Letter of Credit is issued for a term effective from the date hereof through the first anniversary of the date hereof (the "Stated Expiration Date"), unless sooner terminated as provided below. Unless we provide at least 60 advance days written notice to the Airport Authority, the Stated Expiration Date shall automatically be extended each year for one year on that date, and this Letter of Credit shall continue from year to year under its then-existing conditions until and unless we provide the Airport Authority no less than 90 days written notice of termination prior to expiration of the initial term or of the one year extension then in effect.

Partial drawings hereunder are permitted. The Stated Amount shall be reduced by the amount of any partial drawing.

Funds under this Letter of Credit are available to the Airport Authority upon delivery to us of either (i) a Drawing Certificate in the form of Attachment 1 hereto or (ii) in the event we have delivered, at least ninety (90) days prior to the Stated Expiration Date, to the Airport Authority notice of our intent not to extend this Letter of Credit, a Drawing Certificate in the form of Attachment 2 attached hereto. Each Drawing Certificate described in clauses (i) and (ii) of this paragraph must be signed by a duly Authorized Officer (as defined below) of the Airport Authority. In the event that we deliver to the Airport Authority the notice described in clause (ii) of this paragraph, then the Stated Expiration Date will be automatically extended to the date provided in such notice with no further action required by any party.

This Letter of Credit will automatically terminate upon our close of business on the first to occur of the following dates: (i) the date we receive written notice from the Airport Authority that

the Agreement has expired or has been terminated and all amounts due to the Airport Authority have been paid in full; (ii) the date on which the then Stated Amount is reduced to zero by a drawing or drawings hereunder; (iii) the date we receive written notice from the Airport Authority that the Airport Authority has accepted a letter of credit or other form of security acceptable to the Airport Authority as a substitute for this Letter of Credit; or (iv) the date on which the Airport Authority surrenders this Letter of Credit for cancellation, whether pursuant to the terms of the Agreement or otherwise.

Upon payment to the Airport Authority of any amount demanded hereunder, we will be fully discharged on our obligation under this Letter of Credit with respect to such amount, and we will not thereafter be obligated to make any further payments to the Airport Authority or to any other person under this Letter of Credit with respect to such amount.

In connection with the presentation to us of any certificate by the Airport Authority, we may rely upon the authenticity of any such certificate signed by one or more persons represented to be your respective Authorized Officer(s).

Presentation of all certificates hereunder must be made in person, by first class mail (return receipt requested), or by a reputable courier service (receipt acknowledged) at our office located at **xxxxxxxxxxxxxxxxxx, Attention: Letter of Credit Department.**

If a drawing is made by the Airport Authority hereunder at the above address at or prior to 10:00 a.m., Eastern Time (ET) on a business day, provided that such drawings and the documents and other items presented in connection therewith conform to the terms and conditions hereof, payment will be made to the Airport Authority, or the Airport Authority's designee, of the amount specified, in immediately available funds, not later than the close of business, ET, on that same business day. If a drawing is made by you hereunder at the above address after 10:00 a.m., ET on a business day, and provided that such drawing and the documents and other items presented in connection therewith conform to the terms and conditions hereof, payment will be made to you, or your designee, of the amount specified, in immediately available funds, not later than 3:00 p.m., ET, on the next succeeding business day. If requested by the Airport Authority, payment under this Letter of Credit will be made by deposit of immediately available funds into a designated account. If a demand for payment made by the Airport Authority hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we must give the Airport Authority prompt written notice that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefor and that we will upon your instructions hold any documents at your disposal or return the same to the Airport Authority. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, the Airport Authority may attempt to correct any such non-conforming demand for payment.

As used herein, (a) "business day" means any day on which we are open for the purpose of conducting a commercial banking business, and (b) "Authorized Officer" means the Chief Executive Officer of the Airport Authority or Chief Financial Officer of the Airport Authority.

Only the Airport Authority may draw upon this Letter of Credit. This Letter of Credit is transferable, but may not be transferred or assigned in whole or in part without the prior written consent of the Company and prior notice to the [Issuer].

This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or

agreement referred to herein, except only the certificates referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such certificates. This Letter of Credit shall not be amended except by the written concurrence of the Company and the Airport Authority.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision) International Chamber of Commerce Publication No. 600 (the "Uniform Customs"). This Letter of Credit shall be deemed to be a contract made under the laws of the State of Michigan, including Article 5 of the Uniform Commercial Code, and shall, as to matters not governed by the Uniform Customs, be governed by and construed in accordance with the laws of the State of Michigan.

Very truly yours,

[Issuer]

By: _____

Name: _____

Title: _____

ATTACHMENT 1 TO
LETTER OF CREDIT
(FORM OF DRAWING CERTIFICATE)

Re: Irrevocable Letter of Credit
No. _____ (the "Letter of Credit")

"DRAWING CERTIFICATE"

Dear Sir or Madam:

The undersigned, duly Authorized Officer of the Wayne County Airport Authority ("Airport Authority"), hereby certifies to [Issuer] with reference to [Issuer] Irrevocable Letter of Credit No. _____ (the "Letter of Credit") (any capitalized term used herein without definition has the meaning specified in the Letter of Credit) that:

(1) The Airport Authority is making a drawing under the Letter of Credit in the amount of \$ _____;

(2) The foregoing amount, plus the amount of all other drawings heretofore made by the Airport Authority under the Letter of Credit, does not exceed _____ Dollars (\$); and

(3) The amount stated in Section (1) above represents amounts due and payable by [insert successful Bidder's name] to the Airport Authority under Section ____ of that certain Agreement, dated as of _____, 2012, between the Airport Authority and [insert successful Bidder's name].

You are hereby directed to make payment of the requested drawing to our account # _____ at [INSERT NAME OF BANK].

IN WITNESS WHEREOF, the Airport Authority has executed and delivered this Certificate as of the _____ day of _____.

WAYNE COUNTY AIRPORT AUTHORITY

By: _____
Name: _____
Title: _____

ATTACHMENT 2 TO
LETTER OF CREDIT
(FORM OF DRAWING CERTIFICATE)

Re: Irrevocable Letter of Credit
No. _____ (the "Letter of Credit")

"DRAWING CERTIFICATE"

The undersigned, duly Authorized Officer of the Wayne County Airport Authority ("Airport Authority"), hereby certifies to [Issuer] (the "Bank"), with reference to Bank's Irrevocable Letter of Credit No. _____ (the "Letter of Credit") (any capitalized term used herein without definition shall have the meaning specified in the Letter of Credit), that the Airport Authority is making a drawing under the Letter of Credit in the amount of \$ _____, which represents amounts required by _____ to be maintained under Section ___ of the Agreement, which is in effect as of the date hereof, and the Letter of Credit is scheduled to expire within sixty (60) days from the date of delivery of this certificate and the Airport Authority has received notice from the Bank that it intends not to extend the Letter of Credit and no substitute security satisfactory to the Airport Authority has been delivered to the Airport Authority as of the date hereof.

As of the date hereof, the aggregate amount drawn under such Letter of Credit plus the amount requested in this Drawing Certificate does not exceed _____ Dollars (\$).

IN WITNESS WHEREOF, the Airport Authority has executed and delivered this Certificate as of the _____ day of _____.

WAYNE COUNTY AIRPORT AUTHORITY

By: _____
Name: _____
Title: _____

ATTACHMENT 3 TO
LETTER OF CREDIT
(FORM OF NOTICE OF RENEWAL)

Wayne County Airport Authority
11050 Rogell Drive #602
Detroit Metropolitan Wayne County Airport
Detroit, MI 48242
Attention: Director of Airport Finance

Re: Irrevocable Letter of Credit No. _____ - Notice of Renewal

Ladies and Gentlemen:

The undersigned, a duly authorized officer of [Issuer] (the "Bank"), hereby advises you, with reference to Irrevocable Letter of Credit No. _____ (the "Letter of Credit"; any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in your favor, that:

(1) At the request and for the account of the Company, we hereby extend the Stated Expiration Date (as such date may have been extended previously from time to time) to _____.

(2) Except as specifically provided in Section (1) above, all of the terms and conditions of the Letter of Credit remain unchanged and in full force and effect.

(3) This Notice of Renewal is an integral part of the Letter of Credit.

IN WITNESS WHEREOF, the undersigned, on behalf of the Bank, has executed and delivered this Notice of Renewal as of the _____ day of _____, ____.

_____, [Issuer], a
By: _____
Name: _____
Title: _____