

1 STATE OF GEORGIA
2 COUNTY OF CHATHAM

3
4 **SYSTEM SUPPORT AGREEMENT**
5 **between**
6 **SAVANNAH AIRPORT COMMISSION**
7 **and**
8 **INFAX, INCORPORATED**
9

10 **THIS AGREEMENT**, made and entered into by and between the **SAVANNAH**
11 **AIRPORT COMMISSION**, a public body corporate organized under the laws of the State of
12 Georgia, hereinafter called "Commission," and **INFAX, INCORPORATED**, a corporation
13 organized and existing under the laws of the State of Georgia, hereinafter called "Operator."
14

15 **WITNESSETH:**

16
17 **WHEREAS**, Operator desires to provide to the Commission certain services for software
18 and hardware solutions for covered equipment located at the Savannah/Hilton Head International
19 Airport terminal building at 400 Airways Avenue, Savannah, Georgia, hereinafter called
20 "Premises";
21

22 In consideration of the foregoing and of the mutual covenants and agreements herein
23 contained, Commission and Operator do hereby mutually undertake, promise and agree, each for
24 itself and its successors and assigns, as follows:
25

26 **1. TERM**

27 The initial term, hereinafter referred to as "Term," of the Agreement shall commence on
28 July 1, 2009, and shall continue until June 30, 2010. Upon completion of the initial term
29 specified above, this Agreement shall be automatically renewed for additional one-year periods,
30 unless thirty (30) days prior written notice is given prior to the end of the initial Term or any
31 renewals thereof.
32

33 **2. SCOPE OF WORK**

34 **a. The services to be covered under this System Support Agreement will be:**
35

36 **(1) Operator Responsibilities**

37 **(a) Telephone and electronic assistance to help diagnose software and**
38 **hardware problems with the system components covered by this**
39 **Agreement;**

40 **(b) Provide cost estimate for repairs or replacement of hardware as**
41 **required by Commission;**

42 **(c) Provide a cost estimate if required for repair of damage caused by**
43 **viruses, hacking and other such third party influence.**

44 **(d) If Operator is not able to resolve problems within a reasonable time**
45 **period, a site visit by INFAX representatives will be arranged.**
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1 (2) Commission Responsibilities

- 2 (a) Confirm that the problem is not the result of damage by third
3 parties, including power failures, cut network or power cables and
4 other such third-party influence;
- 5 (b) Will back up all data before beginning repairs and hold Operator
6 harmless for any loss of software or data;
- 7 (c) Maintain updated virus definitions and operating system security
8 patches;
- 9 (d) Ensure availability of system to INFAX Technician;
- 10 (e) Maintain internet or dial-up access to system;
- 11 (f) Assume cost of customer's repairs, replacement, or shipping of
12 equipment;
- 13 (g) Will provide technical description of problem by telephone or
14 electronic mail, and will designate two (2) authorized contact
15 persons whose names are listed in the attached Exhibit A.
16 Commission reserves the right to change the authorized
17 spokespersons upon written notice to Operator.
- 18 (h) Will provide trained equipment operators.
- 19

20 **4. FEES AND CHARGES**

21 In consideration of the services to be granted to Commission, the Operator shall be
22 entitled as compensation therefore, the following fees and charges:

23 a. Annual fee of Twenty-eight Thousand Seven Hundred Forty and no/100
24 (\$28,740.00) Dollars, billed monthly at Two Thousand Three Hundred Ninety-five and no/100
25 (\$2,395.00) Dollars and paid each month in advance.

26 b. Invoices must be submitted to Commission monthly addressed to:
27 Savannah Airport Commission
28 Accounts Payable
29 400 Airways Avenue
30 Savannah, Georgia 31408

31 c. Additional system components purchased by Commission following the effective
32 date of this Agreement may be added to this Agreement by written amendment, with the fee
33 adjusted to include the additional components based on the suggested list price of the
34 components in effect at the time the system components are added to this Agreement.

35 d. At each renewal term, the annual fee is subject to change by INFAX upon written
36 notice to Commission with thirty (30) days notice. All fees must be paid and current before
37 services are rendered under this Agreement.

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1 **5. INSURANCE AND INDEMNIFICATION**

2 a. Operator shall procure and maintain General Liability Insurance during the term
3 of this Agreement no less than Five Hundred Thousand (\$500,000) Dollars each occurrence,
4 Combined Single Limit (“CSL”), bodily injury and property damage, including Employer’s non-
5 ownership liability and hired auto coverages as applicable, which shall not be subject to
6 cancellation or change until after thirty (30) days written notice shall have been given to
7 Commission, as well as:

8 (1) Comprehensive Automobile Liability Insurance - \$500,000 for all owned
9 vehicles, non-ownership liability, and hired vehicles; \$5,000,000 for all vehicles operated on the
10 AOA.

11 (3) Worker's Compensation in compliance with Georgia Statutory Limits,
12 including an All States Endorsements.

13 b. Operator must maintain on file in the Commission office during the term of this
14 agreement an original signed copy of Operator's Certificate of Insurance reflecting the above
15 limits and naming the Mayor and Aldermen of the City of Savannah and the Savannah Airport
16 Commission, its directors, officers, employees, and agents as additional insured, and shall be
17 delivered to Commission by Operator within ten (10) days of request by Commission.

18 c. Indemnification

19 Operator shall protect, defend, and indemnify Commission and its officers, agents
20 and employees from and against any and all liabilities, losses, suits, claims, judgments, fines or
21 demands arising by reason of injury or death of any person, or damage to any property, including
22 all reasonable costs for investigation and defense thereof (including but not limited to attorney
23 fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this
24 Agreement and/or the use or occupancy of the Commission or the acts or omissions of Operator's
25 officers, agents, employees, contractors, subcontractors, licensees, or invitees regardless of where
26 the injury, death or damage may occur unless such injury, death or damage is caused by the sole
27 negligence and the willful misconduct of the Commission or any of its officers, employees,
28 contractors or agents. The Commission shall give to Operator reasonable notice of any such
29 claims or actions. The Operator shall also use counsel reasonably acceptable to Commission in
30 carrying out its obligations hereunder. The provisions of this Section shall survive the expiration
31 or early termination of this Agreement.

32 d. All insurance policies shall contain a standard cross-liability provision and shall
33 stipulate that no insurance held by Commission will be called upon to contribute to a loss
34 covered thereunder. Commission shall have no liability for any premiums charged for such
35 coverage, and the inclusion of Commission as an additional insured is not intended to and shall
36 not make Commission a partner or joint venturer with Operator in Operator’s operations on the
37 Premises. Such policies shall also insure Operator against the risks to which it is exposed as the
38 operator of the business authorized under this Agreement, shall be for full coverage and shall
39 contain provisions on the part of the respective insurers waiving the right of such insurers to
40 subrogation.

1 **6. CANCELLATION OR DEFAULT**

2 Operator may cancel coverage under this Agreement upon written notice if:

3 (a) any invoice under this Agreement remains unpaid for more than thirty (30) days
4 from due date;

5 (b) Commission fails to pay any amounts due hereunder or breaches any other terms
6 of this Agreement;

7 (c) If the hardware is modified, damaged, altered or serviced by other than employees
8 or authorized agents of INFAX.
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10 **7. MISCELLANEOUS**

11 a. Personal Liability

12 No member of the Commission or employee of either party shall be charged
13 personally or held contractually liable by or to the other party under any term or provision of this
14 Agreement because of any breach thereof or because of its execution or attempted execution.

15 b. Non-Waiver of Rights

16 No waiver or default by the Commission of any of the terms, conditions,
17 covenants, or agreements hereof to be performed, kept, or observed by the Operator shall be
18 construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions,
19 and agreements, herein contained to be performed, kept, or observed by the Operator, and
20 Commission shall not be restricted from later enforcing any of the terms and conditions of this
21 Agreement.

22 c. Governing Law

23 This Agreement shall be deemed to be made in and construed in accordance with
24 the laws of the State of Georgia and that venue of any action brought hereunder shall be
25 exclusively in the County of Chatham.

26 d. Permits, Licenses, Miscellaneous Fees

27 The Operator shall pay all expenses in connection with its performance of this
28 service and support agreement herein and the rights and privileges herein granted, including
29 without limitation by reason of enumeration, taxes, including ad valorem taxes, permit fees,
30 license fees, and assessments lawfully levied or assessed and that Operator will secure all such
31 permits and licenses. Failure to pay said taxes and/or fees shall be considered an event of default
32 under the term of this agreement.

33 e. Contingencies

34 Operator shall not be responsible for failure to render service due to causes
35 beyond its control, including but limited to, work stoppages, fires, civil disorders, riots,
36 rebellions, acts of God, and similar occurrences.

37 f. Binding Agreement

38 The terms of this agreement are the exclusive and binding agreement between the
39 parties hereto covering the services set out herein. No change, modification or revision of this
40 agreement shall be valid unless agreed in writing and signed by both parties.

41 g. Assignment

42 Neither Operator nor Commission may assign this Agreement without the express
43 written consent of the other party.
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1 h. Disclaimer

2 Other than the obligations of Operator expressly set forth herein, Operator
3 disclaims all warranties, express or implied, including but not limited to, any implied warranties
4 of merchantability or fitness for a particular purpose. All rights in the intellectual property,
5 including but not limited to, brand name, trademarks, logos, trade dress, engineering design,
6 patents, patent applications and copyrights remain the exclusive property of Operator, and
7 Operator warrants that it is licensed to use said rights.

8 i. Entire Agreement

9 This Agreement, including exhibits attached hereto at the time of its execution,
10 constitutes the entire Agreement between the parties hereto, and no other form of acceptance,
11 verbal or written, will be valid or binding unless executed in writing by both parties.
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13
14 **IN WITNESS WHEREOF**, said parties have caused these presents to be duly executed
15 by their proper officers thereunto authorized, and corporate seals affixed this _____ day of
16 _____, 20____.

17
18 ATTEST:

SAVANNAH AIRPORT COMMISSION

19
20 _____
21 Notary Public

22 BY: _____
23 PATRICK S. GRAHAM

24 My commission expires: _____

25 { SEAL }

26
27
28 ATTEST:

INFAX, INCORPORATED

29
30 _____
31 Corporate Secretary

32 BY: _____
33 David Michael Davis, President
34 (Typed Name and Title)

35 {CORPORATE SEAL}

