

**TRANSPORTATION SECURITY CLEARINGHOUSE SERVICES
AGREEMENT BETWEEN AUGUSTA, GEORGIA AND**

This TRANSPORTATION SECURITY CLEARINGHOUSE SERVICES AGREEMENT (“Agreement”) is made and entered into as of _____, 2023 (the “Effective Date”) by and between the Airport Research and Development Foundation’s Transportation Security Clearinghouse (“Clearinghouse”) and Augusta, Georgia, a political subdivision of the State of Georgia, by and through its Augusta Aviation Commission (“Airport”), who, intending to be legally bound, hereby agree as follows:

Recitals:

WHEREAS, Airport desires to obtain the Clearinghouse’s services for a management system to track and monitor application-based commercial ground transportation transacting business to, on, or from Airport property;

WHEREAS, the Clearinghouse desires to provide such services to Airport; and

WHEREAS, Airport and Clearinghouse desire to set forth the terms and conditions pursuant to which the Clearinghouse shall provide to Airport, and Airport shall acquire from Clearinghouse, such services.

NOW THEREFORE, in consideration of the foregoing, of the mutual covenants set forth in this Agreement, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties do mutually agree as follows:

I. DEFINITIONS

Application-Based Commercial Ground Transportation (ABCT):

Transportation to, on, or from an airport for compensation using an online-enabled application (“app”) or technology-based platform to connect passengers with drivers.

Application-Based Commercial Ground Transportation Provider (“ABCT-Provider”): A business entity that provides ABCT services to, on, or from one or more airports. The parties acknowledge and agree that ABCT Provider is a generic term and includes but may not be limited to what some states refer to as Transportation Network Companies (TNCs) and for what other government entities or regulatory bodies may identify in other ways.

Application-Based Commercial Ground Transportation Operating Permit (“ABCT Permit”): Each permit or other form of arrangement entered into between an airport and an ABCT Provider which authorizes such Provider to provide ground transportation services to, on, or from an airport, as any such instrument may be amended from time to time.

II. CLEARINGHOUSE SERVICES

The Airport desires that the Clearinghouse provide services to Airport which includes a management system to track and monitor application-based commercial ground transportation transacting business to, on, or from Airport property to the Airport, described further below.

The following is a description of services (referred to as “Services” under the Agreement) necessary to maintain and support the Airport’s ABCT Permits. The Clearinghouse shall perform the Services with respect to each ABCT Provider as designated in writing by the Airport to the Clearinghouse during the term of this Agreement (collectively, the “Designated ABCT Providers”).

A. Data Collection and Storage. For each “ABCT Driver,” the Clearinghouse shall obtain the “Required Data” upon each of the “Triggering Events.”

1. ABCT Driver. An individual who has been approved by a Designated ABCT Provider to transport passengers using a Designated ABCT Provider’s online-enabled application where such driver is within the Airport Geo-Fence by reason of the driver’s relationship with a Designated ABCT Provider, regardless of whether the driver is carrying a passenger. The term “Geo-Fence” is a polygon whose points are geographic coordinates on Airport property designated by the Airport (as may be amended by the Airport from time to time) pursuant to the Airport’s ABCT Permits with Designated ABCT Providers.

2. Required Data:

- a. transaction type (i.e., entry, exit, drop-off, pick-up);
- b. ABCT Provider identification;
- c. date;
- d. time;
- e. geographical location;
- f. unique driver identifier;
- g. vehicle license plate number; and
- h. number of active rides in the vehicle following the triggering event (based on a value of “0” (no active rides) or “1” (active ride)).

3. Triggering Events:

- a. upon entry into the Geo-Fence;
- b. upon completion of a passenger drop-off within the Geo-Fence
- c. upon pick-up of a passenger within the Geo-Fence; and
- d. upon exit of the Geo-Fence

CONFIDENTIAL

B. ABCT Permit Fees Collection; Payment.

1. ABCT Permit Fees Collection. The Clearinghouse shall establish procedures for billing and collection with each Designated ABCT Provider consistent with the Airport's ABCT Permits. Within thirty (30) days of the close of each calendar month, the Clearinghouse shall invoice each Designated ABCT Provider for the fees owed under the Airport's ABCT Permits for the previous calendar month ("ABCT Permit Fees"), which ABCT Permit Fees shall be consistent with the Required Data received by the Clearinghouse for such month.

2. ABCT Permit Fees Payment. Within thirty (30) days of the invoicing deadline outlined above, the Clearinghouse shall pay to the Airport the ABCT Permit Fees collected and received by the Clearinghouse from all Designated ABCT Providers for the calendar month invoiced, minus the Clearinghouse Fees outlined in section 3.1, which amounts shall be consistent with each Designated ABCT Provider's payment obligations under its respective ABCT Permit with the Airport and the Required Data received by the Clearinghouse.

III. PAYMENT

Fee Payment. In full payment for the Services provided, the Clearinghouse will retain five percent (5%) of the moneys collected and received by the Clearinghouse from the ABCT Providers to be paid to the Airport. The Clearinghouse Services fee will be retained on a monthly basis, within thirty (30) days after the invoicing deadline outlined in Section 2.B.1.

IV. TERM AND TERMINATION

A. Term. The term of this Agreement shall be effective from the date of signature and unless earlier terminated pursuant to Section 4.2 or 4.3, it shall continue for an initial term of twenty-four (24) months. This Agreement shall comply with O.C.G.A. §36-60-13, as amended, regarding multi-year agreements and shall terminate absolutely and without further obligation on the part of the county at the close of the calendar or fiscal year in which it was executed and at the close of each succeeding calendar or fiscal year for which it may be renewed as provided in this Code section. After the initial term, the Agreement shall automatically renew for additional twelve (12) month periods unless otherwise determined by mutual agreement of the parties, but shall not exceed five (5) years.

B. Termination.

1. Termination for Default. This Agreement may be terminated by either party in the event that the other party has not performed any material obligation or has otherwise breached any material term of this Agreement upon the expiration of thirty (30) days (or any longer cure period authorized by the non-breaching party with respect to any individual breach) after receipt of written notice thereof if the breach or nonperformance has not then been cured.

2. Termination by Airport. This Contract shall be subject to termination by the Airport at any time in the opinion of the Airport the Clearinghouse fails to carry out the Contract provisions of any one or more of the following events:

- a. The default by the Clearinghouse in the performance of any of the terms, covenants or conditions of the Contract, and/or the failure of the Clearinghouse to remedy, or undertake to remedy with sufficient forces and to the Airport's reasonable satisfaction. The Airport shall provide the Clearinghouse with notice of any conditions which violate or endanger the performance of the Contract. If after such notice the Clearinghouse fails to remedy such conditions within twenty (20) days to the satisfaction of the Airport, the Airport may exercise its option in writing to terminate the Contract without further notice to the Clearinghouse and order the Clearinghouse to stop providing services immediately.
- b. The Clearinghouse files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of the Clearinghouse and such receivership is not vacated within thirty (30) days after the appointment of such receiver.
- c. the Clearinghouse's failure to provide services according to the specifications contained herein.
- d. the Clearinghouse's failure to keep, perform, or observe any other term or condition of this Contract.
- e. the Clearinghouse's performance of the Contract is unreasonably delayed.
- f. The Airport reserves the right to terminate this Contract if the services provided under this Contract do not meet or exceed existing industry standards. The Airport reserves the right to make the final determination as to the quality of services.

3. Termination for Convenience

The Airport may terminate this contract in whole or in part at any time by providing written notice to the Clearinghouse. Such action may be without cause and without prejudice to any other right or remedy of Airport.

CONFIDENTIAL

4. Action upon Termination. Upon expiration or earlier termination of the Agreement, the Clearinghouse shall provide to Airport a final accounting, including but not limited to, all uninvoiced amounts.

V. REPRESENTATIONS AND WARRANTIES

A. By the Clearinghouse. The Clearinghouse hereby represents and warrants to Airport as follows:

1. Authorization and Binding Obligation. The Clearinghouse has full corporate power and authority to enter into, deliver and perform fully its obligations under this Agreement. This Agreement has been fully executed and delivered by the Clearinghouse, and constitutes the legal, valid and binding obligation of the Clearinghouse, enforceable against it in accordance with its terms.

2. No Conflict. The execution, delivery and performance by the Clearinghouse of its obligations under this Agreement do not knowingly conflict with, result in a breach of or require any consent under the charter or bylaws of the Clearinghouse or any applicable law or regulation, any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which the Clearinghouse is a party or by which it is bound or to which it subject, or constitute a default under such agreement or instrument.

B. By Airport. Airport hereby represents and warrants to the Clearinghouse as follows:

1. Authorization and Binding Obligation. Airport has full corporate power and authority to enter into, deliver and perform fully its obligations under this Agreement. This Agreement has been duly executed and delivered by Airport and constitutes the legal, valid and binding obligation thereof, enforceable against Airport in accordance with its terms.

2. No Conflict. The execution, delivery and performance by Airport of its obligations under this Agreement do not conflict with, result in a breach of or require any consent under, the charter or bylaws of Airport or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Airport is a party, or by which it is bound or to which it is subject, or constitute a default under any such agreement or instrument.

VI. CONFIDENTIALITY

A. Confidentiality. The Parties acknowledge that all records relating to this Agreement may be a public record subject to Georgia's Open Records Act (O.C.G.A. § 50-18-70 et seq.). The parties shall cooperate fully in responding to such request and making all records, not exempt, available for inspection and copying as provided by law. Each party shall immediately notify the other of any request made under the Open Records Act, and

CONFIDENTIAL

shall furnish a copy of the request and the response to such request. Each party shall maintain in strict confidence, and agrees not to disclose to any third party, except as necessary for the performance of this Agreement when authorized by the other party in writing, Confidential Information that one party receives (“Recipient”) from disclosing party (“Discloser”). “Confidential Information” means all non-public information of a competitively sensitive nature concerning the disclosing party, including, but not limited to: (a) software, data, and information regarding services, systems or products; (b) processes, procedures, operations, engineering or technology; (c) present product lines, including without limitation, their design, manufacture, marketing, quality control, costs, configurations and uses for such products, as well as the aforementioned information related to products which are the subject of either party’s research and development; (d) customer lists, customer information, business plans or data, sales volumes, profitability figures, financial information or other economic or business information; or (e) any efforts undertaken by either party on behalf of their members or customers.

B. Exceptions. Confidential Information does not include: information that is or subsequently may come within the knowledge of the public generally through no fault of Recipient; information that Recipient can show was previously known to it as a matter of record at the time of receipt; information that Recipient may subsequently obtain lawfully from a third party who has lawfully obtained the information free of any confidentiality obligations; or information that Recipient may subsequently develop as a matter of record, independently of disclosure by Discloser.

C. Duration. With respect to Confidential Information not constituting a trade secret, this Agreement shall remain in full force and effect for a period of three (3) years; with respect to Confidential Information constituting a trade secret, this Agreement shall remain in full force and effect for so long as the Confidential Information constitutes a trade secret.

D. Injunctive Relief. Recipient acknowledges that disclosure of any Confidential Information by it or its employees will give rise to irreparable injury to Discloser or the owner of such information, not adequately compensated by damages. Accordingly, Discloser or such other party may seek and obtain injunctive relief against the breach or threatened breach of this Section, in addition to any other legal remedies, which may be available, without the requirement of posting bond.

VII. INTELLECTUAL PROPERTY RIGHTS

A. The Clearinghouse and Airport acknowledge that both parties and/or third parties retain all right, title and interest under applicable contractual, copyright, intellectual property, and related laws to their previously owned, developed or obtained intellectual property and any enhancements and modifications to same and in the databases and information contained therein used to provide either party’s products or services hereunder, and the parties shall use such materials consistent with such right, title and interest and notify the applicable party of any threatened or actual infringement

CONFIDENTIAL

thereof.

B. The Clearinghouse retains all its previously owned, developed or obtained intellectual property. The Airport shall use the Clearinghouse's intellectual property with such rights as necessary to perform the functions of the Clearinghouse's Automated Integration Services, and notify the Clearinghouse of any threatened or actual infringement thereof.

C. In the event that development work is undertaken under this contract by the Clearinghouse, which specifically excludes all previously owned, developed or obtained intellectual property, then any such developed items shall be owned by the Clearinghouse.

D. Airport shall not, except as required by applicable law (and then only to that extent):

1. Reverse engineer, translate, disassemble, decompile the whole or any part of the Clearinghouse's service offering, solution or proprietary assets or otherwise attempt to access same;

2. Assign, transfer, sell, license, sub-license, lease, rent, charge or otherwise deal in or encumber the proprietary material of the Clearinghouse or use the proprietary material of the Clearinghouse on behalf of or for the benefit of any third party, or make available the same in any way whatsoever to any third party without the Clearinghouse's prior written consent in a fashion contrary to the terms of this Agreement;

3. Distribute, create derivative works of or modify proprietary material of the Clearinghouse in anyway, nor create or develop a competitive or similar offering to that of the Clearinghouse, nor use, copy, duplicate or display the proprietary material of Clearinghouse on a commercial or development basis except as expressly provided under an agreement.

VIII. DATA PROTECTION

The Clearinghouse is dedicated to protecting the Airport provided data and providing the Airport with the highest level of service.

Airport provided data, which includes personal information sent to the Clearinghouse, is not disclosed, made available or otherwise used for any purposes other than to perform the Services. Such information can be used for other purposes only with the data provider's express permission or as required to comply with applicable laws.

The Clearinghouse does not disclose the Airport provided information to companies outside the Clearinghouse and the Clearinghouse agents and subcontractors, except as required by law. The confidentiality of Airport information is an important part of the Clearinghouse's operations and a standard business practice.

IX. LIMITATION OF LIABILITY

Neither party shall be responsible for special, indirect or consequential damages. Nor shall either party be responsible for lost profits regardless of whether advised of such possibility.

X. MISCELLANEOUS

A. Relationship. This Agreement does not create any partnership, joint venture, franchisor-franchisee or employer-employee relationship between the parties hereto. Neither party hereto is granted any express or implied right or authority to bind the other party hereto in any manner whatsoever.

B. No Third Party Beneficiaries. There are no third-party beneficiaries entitled to enforce any provisions of this Agreement.

C. Entire Agreement. This Agreement, together with the Exhibits attached hereto, contains the entire agreement and understanding of the parties hereto with respect to the matters herein set forth, and all prior agreements, negotiations and understandings relating to the subject matter of this Agreement are merged herein and are superseded and canceled by this Agreement.

D. Amendment. This Agreement may not be modified except in writing, signed by both of the parties hereto.

E. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without giving effect to conflicts of law principles thereof.

F. Notices. All communications between the parties with respect to any of the provisions of this Agreement shall be in writing, and shall be sent by personal delivery or airmail, facsimile transmission, or other commercial means of rapid delivery, postage or costs of transmission and delivery prepaid, to:

If to the Clearinghouse, to:

Transportation Security Clearinghouse
601 Madison Street
Alexandria, VA 22314
Attn: Carter Morris
Tel.: (703) 824-0500
Fax: (703) 820-1395

If to Airport:

Executive Director
Augusta Regional Airport
1501 Aviation Way
Augusta, Georgia 30906

CONFIDENTIAL

With Copy to: Augusta Law Department
Attn: General Counsel
535 Telfair Street, Building 3000
Augusta, Georgia 30901

or at such other address, such other person's attention, or such other facsimile number, as shall be specified by like notice.

G. Severability. In the event that any provision of this Agreement is declared by a court of competent jurisdiction or arbitration tribunal to be void or unenforceable, the parties hereto expressly agree that such void or unenforceable provision shall be deemed severed from this Agreement, and the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect to the extent feasible in the absence of the void and unenforceable provision. The parties furthermore agree to execute and deliver such amendatory contractual provisions to accomplish lawfully as nearly possible the goals and purposes of the provision so held to be void or unenforceable.

H. Waiver. Any party may waive compliance by the other party with any of the provisions of this Agreement. No waiver of any provision shall be construed as a waiver of any other provision or the same provision in a subsequent instance. Any waiver must be in writing.

I. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. No assignment of this Agreement or of any contractual rights or obligations hereunder may be made by either party (by operation of law or otherwise) without the prior written consent of the other party hereto, which shall not be unreasonably withheld, and any attempted assignment without the required consent shall be null and void.

J. Cooperation. Each party hereto shall take all such steps and measures as may be requested by the other party hereto in order to effectuate the purposes of this Agreement.

K. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

L. Headings. The section headings and other descriptions contained in this Agreement are for reference purposes only and shall not affect any way the meaning or interpretation of this Agreement.


M. Further Assurances. Each party hereto shall do and perform or cause to be done and performed all further acts and things and shall execute and deliver all such other certificates, instruments and documents as any other party hereto reasonably may request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

CONFIDENTIAL

N. Dispute Resolution. The parties shall make good faith efforts to first resolve internally any dispute under this Agreement by escalating it to higher levels of management. Any dispute, controversy, or claim arising out of, relating to, involving, or having any connection with this Agreement, shall be decided in the Superior Court of Richmond County, Georgia. The Clearinghouse, by executing this Agreement, specifically consents to venue in Richmond County and waives any right to contest the venue in the Superior Court of Richmond County, Georgia.

IN WITNESS WHEREOF, this Agreement has been duly executed by or on behalf of each of the parties hereto as of the date first above written.

TRANSPORTATION SECURITY CLEARINGHOUSE

By: 

Title: Carter Morris, EVP

AUGUSTA AVIATION COMMISSION

By: _____

Title: _____

Attest: _____