



**veriScan™**

**SOFTWARE AS A SERVICE  
AGREEMENT**

**Lee County Port Authority**

This Software as a Service Agreement (this “Agreement”), effective as of January 16, 2025 (the “Effective Date”), is entered into by and between the Pre LLC dba Pangiam (“Provider”) and Lee County Port Authority a State of Florida county agency whose registered office is at 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida 33913 (“Customer”).

Provider and Customer may be referred to herein collectively as the “Parties” or individually as a “Party.”

WHEREAS, The Provider has developed a software as a service platform called veriScan™ for use on Apple Inc. (“Apple”) iPads and iPhones, which enables port authorities to (i) use facial recognition technology to verify the identity of passengers leaving the United States through the U.S. Customs and Border Protection Traveler Verification System (the “CBP Verification System”) and (ii) integrate such platform into commercial port authorities departure control systems, to be used in connection with the passenger boarding process;

WHEREAS, Provider provides customers with access to the Services (as hereinafter defined);

WHEREAS, Customer is a Port Authority that desires to access the Services for use in its operations at Southwest Florida International Airport (the “Port”); and

WHEREAS, in furtherance of the foregoing, Provider has provided Customer with Apple iPads and/or iPhones (the “iPads” and/or “iPhones”), with which the Customer can access the Services as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

- (a) “Aggregated Statistics” means aggregate and anonymized data and information related to Customer’s use of the Services that Provider may use to compile statistical and performance information related to the provision and operation of the Services.
- (b) “Authorized User” means an employee or employees of Customer to whom Customer is authorized under this Agreement to grant access to and use the iPads and/or iPhones, the Services, veriScan™ Hardware and/or Documentation.
- (c) “CBP” means the United States Customs and Border Protection.
- (d) “CBP Traveler Verification Service” means a biometric entry/exit system administered by CBP to record arrivals and departures from the United States.

- (e) “Change of Control” means the earlier of a public announcement of an agreement in principle or the closing of (a) a merger, consolidation or similar transaction providing for the acquisition of the direct or indirect ownership of more than fifty percent (50%) of Customer’s equity interests or voting power of the outstanding voting securities that represents the power to direct Customer’s management or (b) the sale of all or substantially all of a Customer’s assets.
- (f) “Documentation” means Provider’s user guide for veriScan™ (as hereinafter defined) and veriScan Agent™ (as hereinafter defined), as may be provided by Provider to Customer either electronically or in hard copy form.
- (g) “iOS” means the then-current version of Apple’s operating system which is preinstalled on all iPads and/or iPhones.
- (h) “Provider IP” means the Services, the Documentation, Aggregated Statistics and any anonymized information, data, or other content derived from Provider’s monitoring of Customer’s access to or use of the Services, and any and all intellectual property provided to Customer or any Authorized User in connection with the Services and Documentation.
- (i) “Services” means the complete veriScan™ software as a service offering developed and provided by Provider under this Agreement which permits port authorities, in collaboration with CBP, subject to all the terms and conditions of this Agreement, to (i) use facial recognition technology to verify the identity of passengers through the CBP Traveler Verification Service (“veriScan™ CBP Verification”), and (ii) use facial recognition technology to verify the identity of passengers during the boarding process (the “veriScan™ Boarding Verification”). Whether used for veriScan™ CBP Verification or veriScan Boarding Verification, Services are comprised of one application, veriScan™, which is the iPad and/or iPhone based facial recognition application (“veriScan™”) accessed by the Authorized Users.
- (j) “Third Party Software” means any third-party software provided with or incorporated into the Services, including iOS, and may also include any open source software.
- (k) “veriScan™ Hardware” means one or more iPads and/or iPhones that have been prepared and provided by the Provider for Customer’s access to and use of the Services.

## 2. Services.

- (a) Access and Use. Subject to terms and conditions of this Agreement and the Customer’s and Authorized Users’ compliance therewith, Provider hereby grants Customer a non-exclusive, non-transferable right during the Term to use the Services (in conjunction with the veriScan™ Hardware, as applicable) for (i) veriScan™ CBP Verification of passengers leaving the United States on Customer’s international flights from the Port and (ii) veriScan™ Boarding Verification of passengers for Customer’s international flights from the Port. In addition, Customer may use and make a reasonable number of copies of the Documentation, solely for Customer’s internal business purposes in connection with Customer’s use of the Services.

- (b) Use Restrictions. Customer shall not use the Services for any purposes other than as set forth in this Agreement. In particular, Customer shall only be permitted to use, and shall only use, the Services or Documentation for CBP verification for international flights departing the United States from the Port and Boarding Verification for international flights or cruises departing from the Port. Without limiting the foregoing and except as otherwise expressly set forth in this Agreement, Customer shall not at any time, directly or indirectly: (i) copy, modify, or create derivative works of the Services or the Documentation, in whole or in part; (ii) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or the Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Services, in whole or in part; (iv) bypass or breach any security device or protection used by the Services or access or use the Services other than by an Authorized User through the use of such Authorized User's valid access credentials; (v) remove any proprietary notices from the Services or Documentation; (vi) use the Services in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; or (vii) otherwise access or use the Services or Documentation beyond the scope of the authorization granted under Sections 2(a) and 2(b).
- (c) Reservation of Rights. Provider reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third-party any intellectual property rights or other right, title, or interest in or to any of the Provider IP.
- (d) Suspension. Notwithstanding anything to the contrary in this Agreement, Provider may suspend Customer's and any Authorized User's access to any portion or all of the Services (any such suspension, a "Service Suspension") if: (i) Provider reasonably determines in its sole discretion that (A) there is a threat or attack on the Services and/or any of the Provider IP; (B) Customer's or any Authorized User's use of the Provider IP disrupts or poses a security risk to the Provider IP or to any other customer or vendor of Provider; (C) Customer, or any Authorized User, is using the Provider IP for fraudulent or illegal activities; or (D) Provider's provision of the Services to Customer or any Authorized User is prohibited by applicable law or governmental authority; or (ii) any vendor of Provider has suspended or terminated Provider's access to or use of any third-party services or products required to enable Customer to access the Services. Provider shall use commercially reasonable efforts to provide prior written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Services following any Service Suspension. Provider shall use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Customer agrees that Provider shall have no liability for any damages, liabilities, losses (including any loss of data or profits), or other consequences of any nature that Customer or any Authorized User may incur as a result of a Service Suspension.

- (e) Hardware Delivery. Provider has or will provide the veriScan™ Hardware for Customer's use at Customers' boarding gates at Airport. The iPads and/or iPhones will be modified by Provider to (i) provide encrypted and secure access to the Services and (ii) prevent the iPads and/or iPhones from being used for any purpose other than in connection with the Services. By taking possession of the iPads and/or iPhones and using the iPads and/or iPhones in connection with the Services, Customer agrees to be bound by the then current Apple iOS Software License Agreement (as may be modified from time-to-time) (the "iOS License"). Customer further acknowledges that the iOS License must be normally accepted by iPad and/or iPhone end-users upon the initial boot of an iPad or iPhone.

### 3. Customer Responsibilities.

- (a) General. Customer is responsible and liable for all uses of the veriScan™ Hardware, the Services and Documentation resulting from access provided or use allowed by Customer, directly or indirectly, whether such access or use is permitted by or is in violation of this Agreement or Customer's own rules and procedures regarding such access or use. Customer shall log in with the unique credentials provided by the Provider and shall log out after the completion of each passenger processing event. Customer must comply with relevant provisions of any applicable business requirements and technical reference guides provided by CBP for participation for use of the CBP Traveler Verification Service, including, but not limited to, the "U.S. Customs and Border Protection Biometric Air Exit Business Requirements Version 3.0 March 6, 2023" attached hereto as, or referenced in, Exhibit A. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken or not taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall take reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Services, and shall use reasonable endeavors to ensure that all such Authorized Users to comply with such provisions.
- (b) Third Party Software. Provider may distribute certain Third-Party Software with the Services, including but not necessarily limited to iOS. For purposes of this Agreement, such Third-Party Software may be subject to certain license terms not included in this Agreement, which may include open-source software is subject to its own license terms (the "Third Party Licenses"). In the event that Customer does not agree to abide by the applicable terms for any Third-Party Software, Customer may not use the Services. Customer understands and acknowledges that such open-source software is not licensed to Customer pursuant to the provisions of this Agreement and that this Agreement may not be construed to grant any such right and/or license. Customer shall have only such rights and/or licenses, if any, to use the open-source software as set forth in the Third Party Licenses.
- (c) Customer acknowledges that: (i) the Services work on iOS, (ii) by using the Services, Customer is not obtaining any proprietary interest in any Third Party Software; (iii) to the extent permitted by applicable law and notwithstanding the

remainder of this Agreement, any Third Party Software is provided “AS IS” with all faults and neither the licensor of such Third Party Software nor Customer shall be liable for any direct, indirect, incidental, or consequential damages related to such Third Party Software or the use thereof; and (iv) such Third Party Software may be subject to separate license restrictions and obligations set forth in the respective license agreements related to such software.

4. Support. Provider shall provide Customer with in-person support at the Port to initiate use of the Services, including initial Customer and Authorized User training at commissioning. Thereafter, Provider will provide remote support services. Specific service levels and procedures for requesting support are covered in Exhibit B which attached hereto and made a part hereof by reference. Services levels as specified as Exhibit B.
5. Fees. During the Term, Customer shall pay to the Provider such fees and expenses as provided and attached hereto as Exhibit C.
6. Additional Fees and Expenses. As applicable, any additional flow down fees will be included in an addendum to this contract.

7. Disclosure and Data Protection.

(a) The Customer hereby agrees to comply with applicable law in responding to public records requests. In the event of a public records request, the Customer will maintain the confidentiality of the Provider’s confidential and proprietary information, and provide reasonable prior notice to Provider of any judicial or administrative efforts seeking to compel disclosure of such information so that Provider may intervene in such proceedings and defend its interests.

(b) Both Customer and Provider shall implement and maintain security measures, including physical, technological and administrative measures when and where appropriate, to appropriately secure and restrict physical and logical access to any equipment or software used in connection with the Services, including any veriScan™ software and the veriScan™ Hardware. Such measures shall adequately protect the security, confidentiality and integrity of any information collected, used or disclosed through or in connection with the Services against loss, theft and unauthorized access, disclosure, use and modification. Both Customer and Provider shall comply with all applicable privacy laws in the provision and use of the Services. If either Party becomes aware of any security incident that compromises the security, confidentiality or integrity of any such information, then the notifying Party will: (i) notify the other Party in writing of the security incident within 24 hours after the notifying Party first became aware of the security incident; (ii) take reasonable measures to mitigate the effects of the security incident; and (iii) reasonably cooperate with the other Party to remediate such incident.

8. Intellectual Property Ownership; Feedback.

- (a) Customer acknowledges that, as between Customer and Provider, Provider owns all right, title, and interest, including all intellectual property rights, in and to the Provider IP and Documentation and, with respect to Third Party Software, the applicable third-party licensors own all right, title and interest, including all intellectual property rights, in and to the Third-Party Software. Customer also acknowledges that Provider has a right to use the Aggregated Statistics.

- (b) If Customer or any of its employees or contractors sends or transmits any communications or materials to Provider by mail, email, telephone, or otherwise, suggesting or recommending changes to the veriScan™ Hardware, the Services or Documentation, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“Feedback”), Provider is free to use or not use such Feedback. Customer agrees that Provider is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever.
- 9. DISCLAIMER OF WARRANTIES. THE PROVIDER IP, DOCUMENTATION, VERISCAN HARDWARE, INFORMATION, MATERIALS AND SERVICES PROVIDED BY PROVIDER ARE PROVIDED “AS IS.” PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, PROVIDER MAKES NO WARRANTY OF ANY KIND THAT THE PROVIDER IP, THE SERVICES, THE DOCUMENTATION, VERISCAN HARDWARE OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER’S OR OTHER PERSONS’ REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL OPEN-SOURCE COMPONENTS AND OTHER THIRD-PARTY MATERIALS ARE PROVIDED “AS IS” AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF SUCH OPEN SOURCE COMPONENTS AND THIRD-PARTY MATERIALS.
- 10. Indemnification.
  - (a) Provider Indemnification.
    - (i) Provider shall fully indemnify, defend, and hold harmless at Customer option from and against any and all losses, damages, liabilities, costs (including attorneys’ fees) (“Losses”) incurred by Customer resulting from any third-party claim, suit, action, or proceeding (“Third-Party Claim”) in which the third -party asserts that the Services or Documentation (or any part thereof), or any use of the Services or Documentation (or any part thereof) in accordance with this Agreement, infringes or misappropriates such third -party’s intellectual property rights, provided that Customer promptly notifies Provider in writing of the claim, cooperates with Provider, and allows Provider sole authority to control the defense and settlement of such claim.
    - (ii) If such a Third-Party Claim is made or appears reasonably likely to be made, Customer agrees to permit Provider, at Provider’s sole discretion, to (A) modify or replace the Services or Documentation, or component or part

thereof, to make it non-infringing, or (B) obtain the right for Customer to continue use. If Provider determines not to take these alternatives, Provider may terminate this Agreement, in its entirety or, so as long doing would not materially and adversely affect the Services, with respect to the affected component or part, effective immediately on written notice to Customer.

- (iii) This Section 10(a) will not apply to the extent that the alleged infringement arises from: (A) use of the Services in combination with data, software, hardware, equipment, or technology not provided by Provider or authorized by Provider in writing; (B) modifications to the iPads and/or iPhones not made by Provider or made on Provider's behalf; (C) use of any version other than the most current version of the Documentation delivered to Customer; or (D) Third Party Software.

- (b) Customer Indemnification. Subject to the limitations of Florida Statutes 768.28, Customer shall indemnify, hold harmless, and, at Provider's option, defend and have sole control of any such defense, or indemnify Provider for its attorney fees and costs, at Provider's discretion, Provider from and against any Losses resulting from any Third-Party Claim based on Customer's, or any Authorized User's: (i) negligence or willful misconduct in connection with the use of and access to the Services and Documentation; (ii) use of the Services or Documentation in a manner not authorized or contemplated by this Agreement or not in compliance with applicable law; (iii) use of the Services in combination with data, software, hardware, equipment or technology not provided by Provider or authorized by Provider in writing; or (iv) modifications to the Services or the veriScan™ Hardware not made by Provider, provided that Customer may not settle any Third-Party Claim against Provider unless such settlement completely and forever releases Provider from all liability with respect to such Third-Party Claim or unless Provider consents to such settlement, and further provided that Provider will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

- (c) Sole Remedy. THIS SECTION 10 SETS FORTH CUSTOMER'S SOLE REMEDIES AND PROVIDER'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES OR DOCUMENTATION INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

## 11. Limitations of Liability.

- (a) SUBJECT TO CLAUSE 10(c), IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY:
  - (i) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES;

- (ii) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS;
  - (iii) LOSS OF GOODWILL OR REPUTATION;
  - (iv) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA; OR
  - (v) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER PROVIDER WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.
- (b) SUBJECT TO CLAUSE 10(c), IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE FEES PAID OR PAYABLE UNDER THIS AGREEMENT.
- (c) THE LIMITATIONS AND EXCLUSIONS SET OUT IN THIS AGREEMENT SHALL NOT APPLY (AND NO LIMITATION OR EXCLUSION OF LIABILITY SHALL APPLY) WITH RESPECT TO THE LIABILITY OF:
- (i) not used;
  - (ii) EITHER PARTY FOR BREACH OF CLAUSE 6;
  - (iii) not used;
  - (iv) EITHER PARTY FOR ANY FRAUD OR FRAUDULENT MISREPRESENTATION;
  - (vi) EITHER PARTY TO THE EXTENT SUCH LIMITATION OR EXCLUSION IS NOT PERMITTED BY LAW.

12. Term and Termination.

- (a) Term. This agreement shall commence on the Effective Date and, unless terminated earlier pursuant to any of the Agreement's express provisions, will continue in effect until 3 years from such date (the "Term"). Upon the expiration of the Term, this Agreement shall automatically renew for successive one (1) year periods (each, a "Renewal Term"), unless at least sixty (60) days prior to the expiration of the Term or any Renewal Term, either Party gives the other Party written notice of its intent to terminate the Agreement upon the expiry of the Term or the Renewal Term as applicable. Provider may increase or decrease the Fees of any Renewal Term in its sole discretion.
- (b) Termination. In addition to any other express termination right set forth in this Agreement:
- (i) either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains



uncured 30 days after the non-breaching Party provides the breaching Party with written notice of such breach; or

- (ii) either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- (iii) For Convenience. This Agreement may be terminated by the Customer at its convenience, or for cause, by giving thirty (30) calendar days written notice to Provider.
- (c) Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, the access and use rights granted hereunder will also terminate, and, without limiting Customer's obligations under Section 6, Customer shall cease using and delete, destroy, or return all copies of the Documentation and shall return all iPads and/or iPhones to Provider and certify to such.
- (d) Survival. This Section 11(d) and Sections 1, 3, 5, 6, 7, 8, 9, 10 and 12 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

### 13. Miscellaneous.

- (a) Entire Agreement. This Agreement, together with any other documents incorporated herein by reference and all related Exhibits, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, the related Exhibits, and any other documents incorporated herein by reference, the following order of precedence governs: (a) first, this Agreement, excluding its Exhibits; (b) second, the Exhibits to this Agreement as of the Effective Date; and (c) third, any other documents incorporated herein by reference.
- (b) Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") must be in writing and addressed to the Parties at the addresses set forth below (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is

effective only: (i) upon receipt by the receiving Party, and (ii) if the Party giving the Notice has complied with the requirements of this Section.

**If to Provider:**

Pre LLC dba Pangiam  
Contracts Department  
7950 Jones Branch Drive  
Tysons, VA 22102  
[Bbai-contracts@bigbear.ai](mailto:Bbai-contracts@bigbear.ai)

**If to Customer:**

LEE COUNTY PORT AUTHORITY  
11000 Terminal Access Road  
Suite 8671  
Fort Myers, FL 33913  
Attention: Airport Executive Director

**with copies to:**

[Adam.barringer@bigbear.ai](mailto:Adam.barringer@bigbear.ai) and  
[Norman.Jordan@bigbear.ai](mailto:Norman.Jordan@bigbear.ai)

**with a copy to:**

[procurement@flylcpa.com](mailto:procurement@flylcpa.com)

- (c) Force Majeure. In no event shall either Party be liable to the other, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement, if and to the extent such failure or delay is caused by any circumstances beyond that Party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot, pandemic or epidemic or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.
- (d) Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- (e) Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

- (f) Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Delaware. Any legal suit, action, or proceeding arising out of or related to this Agreement or the rights and/or licenses granted hereunder will be instituted exclusively in the courts of the State of Delaware irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
- (g) Assignment. This Agreement may not be assigned by Customer without the prior written consent of Provider. Notwithstanding the immediately preceding sentence, Customer may assign this Agreement to an affiliate, subsidiary, or the acquirer of all or substantially all of its assets, or to any successor in interest pursuant to any merger, consolidation, or other business combination to which Customer is a party. Customer must promptly notify Provider in writing of any valid assignment under this section. Provider may terminate this Agreement with immediate effect if it determines in its sole discretion that such assignment Provider shall be permitted to assign this Agreement freely.
- (h) Export Regulation. The Provider IP may be subject to United States export control laws, including the United States Export Administration Act and its associated regulations. Customer shall not, directly or indirectly, export, re-export, or release the Provider IP to, or make the Services accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Customer shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Services available outside the United States.
- (i) Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Software as a Service Agreement as of the Effective Date.

Pre LLC dba Pangiam

BOARD OF PORT COMMISSIONERS  
LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Name: Mark Gallagher  
Title: Travel Lead

By: \_\_\_\_\_  
Chair or Vice Chair

12/6/2024

Approved as to form for the reliance of  
Lee County Port Authority only:

By: \_\_\_\_\_  
Port Authority Attorney's Office

**EXHIBIT A**

**U.S. Customs and Border Protection**

**Biometric Air Exit Business Requirements**

**Version 3.0**

**March 6, 2023**

Customer hereby represents and warrants it is in possession of the U.S. Customs and Border Protection Biometric Air Exit – Business Requirements, Version 3.0 and will comply with all applicable requirements therein.

## EXHIBIT B

### VERISCAN SERVICE LEVELS – PANGIAM AND LEE COUNTY PORT AUTHORITY Version 1 – October 2024

This Exhibit sets forth the individual service levels and measurements of the veriScan™ software as a service offering pursuant to the Agreement between the Parties.

#### 1. Definitions.

- A. **“Severity 1”** means the entire veriScan™ Service, or a major function of the Service, is not operational or is experiencing severe performance degradations. No mutually acceptable workaround, bypass or alternative is immediately available. Major business impact conditions exist.
- B. **“Severity 2”** means the entire veriScan™ Service, or a major function of the Service is operational; however, a substantial feature(s) or key component(s) of the veriScan™ application is degraded or unusable and utilization is restricted. A mutually acceptable workaround, alternative or bypass exists, and there is minimal business impact.
- C. **“Severity 3”** means temporary or minor performance degradations of the veriScan™ Service that do not materially impact Customer activity.
- D. **“Unscheduled Outage”** means any time other than downtime due to Excluded Causes during which the Services are unavailable or not operable with no mutually acceptable workaround.
- E. **“Incident”** means an unplanned IT service disruption affecting normal operations of the Services.
- F. **“Service Request Report”** means a written report, provided by Customer to Provider upon Customer’s discovery of an Incident. Each Service Request Report will describe in reasonable detail all material facts and circumstances relating to the applicable alleged Incident and will include such documentation with respect thereto (e.g., system logs, screenshots) as are reasonably necessary in accordance with industry best practices to allow Provider effectively and efficiently to verify and address such alleged Incident.

#### 2. Service Levels

Provider will provide the Services to the Customer according to the metrics described in this Exhibit.

- A. Availability. Provider will make the veriScan™ application available to the Customer no less than 99.5% of the time in any given calendar month (the **“Availability Service Level”**). Availability covers the veriScan™ application and

connections to required locations within the direct control of Provider. “**Available**” means the application is available and operable for access and use by the Customer and its Authorized Users in conformity with the specifications provided by the Provider, and as measured on an end-to-end basis from the Demarcation Point. “**Availability**” has a correlative meaning. “**Demarcation Point**” means the physical point at which the network of the applicable telecommunications company ends, and the private network of Provider begins. The application is considered unavailable if any component of the veriScan™ Service can not function in a normal and non-degraded manner as designed by the Provider. For example, the June Availability Service Level would be calculated based on 24 hours per day x 60 minutes per hour x 30 days in June (or 43,200 minutes). “**Availability**” for any given calendar month shall be calculated by:

$\frac{(x - y - z)}{(x - z)} \times 100$	<p>x = total number of minutes in a calendar month</p> <p>y = Unschedule Outage</p> <p>z = Excused Downtime</p>
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- B. Excluded Causes. The following are excluded when calculating Availability: (a) actual downtime minutes as the result of scheduled maintenance windows when Provider conducts normal maintenance (Provider will use reasonable efforts to notify Customer as soon as reasonably practicable prior to security-related emergency maintenance); (b) outages that would not have occurred but for the actions, inactions or omissions of the Customer, its agents and/or Affiliates, and their employees; (c) outages that would not have occurred but for the actions, inactions, or omissions of any third party, including, but not limited to, U.S. Customs and Border Protection (collectively “**Excluded Causes**”).
- C. Service Response Times. Upon Provider’s receipt of a Service Request Report from Customer, Provider will acknowledge each Customer Incident within the response time set forth in the table below.

Severity	Response Time	Service Level
Severity 1	60 minutes by phone	99%
Severity 2	120 minutes by phone	99%
Severity 3	240 minutes by phone or email	99%

- D. Service Restore Times. Provider will use reasonable efforts to restore the Services within the restore time set forth in the table below.

Severity	Restore Time	Service Level
Severity 1	Restore or a mutually acceptable workable work-around achieved within eight (8) hours of Provider's receipt of a service request report from Customer. Provider will provide updates to the Customer every hour during resolution, or such lesser frequency as agreed by Customer.	99%
Severity 2	Work-around or resolution within forty-eight (48) hours of Provider's receipt of a service request report from Customer.	99%
Severity 3	Work-around or resolution within 10 business days of Provider's receipt of a service request report from Customer, or as mutually agreed to allow multiple issues to be bundled together into releases to minimize production down time.	95%

### 3. Remedies

- A. In the event the Availability of the veriScan™ application is less than 50% for any period of forty-eight (48) consecutive hours, Provider will apply a proportional discount of up to 50% (the “**Service Credit**”) on the Customer's subsequent monthly invoice.
- B. The Parties may agree to change the Service Credit assignment if the need arises. Any such request shall be reasonable and based upon the quality of service received.

### 4. Support Model.

Provider will provide Tier 3 support to the Customer, and Customer will provide Tier 1- and Tier 2 support.

- A. **Tier 1 (T1) - Basic help desk resolution and services desk delivery.** Performed by the Customer.
- B. **Tier 2 (T2) - In-depth technical support.** Performed by the Customer.



- C. **Tier 3 (T3) - Expert product and service support.** Performed remotely by Provider.

5. **veriScan™ Support Scope**

- A. Provider will only support technology related to veriScan™ Services. Calls or messages received that are not directly related to the Services shall be redirected to the Customer's Help Desk or equivalent.
- B. The Services rely on the availability of the U.S. Customs and Border Protection (CBP) Traveler Verification Service (TVS) to perform its operations. Provider does not have a specific SLA with, or control of, the CBP TVS. Any issue related to CBP TVS system is considered an Excluded Clause and shall be addressed directly with CBP TVS technical support.

**EXHIBIT C****Fees**

<b><u>Description</u></b>	<b><u>Ext. Price</u></b>	<b><u>Comments</u></b>	<b><u>Invoice Date</u></b>
<b>Software</b>			
<b>FY-Year 1 (January 16, 2025-September 30, 2025)</b>			
veriScan™ Software License Subscription	\$25,302.00	Eight veriScan™ Touchpoints (8 Gates) for the sole use of Biometric International Air Exit	Billed Annually
<b>FY-Year 2 (October 01, 2025-September 30, 2026)</b>			
veriScan™ Software License Subscription	\$34,748.08	Eight veriScan™ Touchpoints (8 Gates) for the sole use of Biometric International Air Exit	Billed Annually
<b>FY-Year 3 (October 01, 2026-September 30, 2027)</b>			
veriScan™ Software License Subscription	\$35,790.52	Eight veriScan™ Touchpoints (8 Gates) for the sole use of Biometric International Air Exit	Billed Annually
<b>Maintenance &amp; Support</b>			
<b>FY-Year 1 (January 16, 2025-September 30, 2025)</b>			
L3 Help Desk Remote Support	\$8,306.25	Remote Help Desk including Maintenance & Support	Billed Monthly
<b>FY-Year 2 (October 01, 2025-September 30, 2026)</b>			
L3 Help Desk Remote Support	\$11,407.00	Remote Help Desk including Maintenance & Support	Billed Monthly
<b>FY-Year 3 (October 01, 2026-September 30, 2027)</b>			
L3 Help Desk Remote Support	\$11,750.00	Remote Help Desk including Maintenance & Support	Billed Monthly