

**GATEKEEPER SYSTEMS, INC.**  
**APP- 139 SUBSCRIPTION AGREEMENT**

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**THIS APP-139 SUBSCRIPTION AGREEMENT** (the "Agreement") is made by and between **GateKeeper Systems, Inc.**, a Minnesota corporation, having its principal place of business at 880 Blue Gentian Road, Suite 140 Eagan, Minnesota 55121 ("GSI") and **County of Oneida**, ("Customer"), a body corporate and politic, having its principal place of business at 800 Park Avenue, Utica, New York, 13501, through its Department of Aviation at Griffiss International Airport, 660 Hangar Road, Suite 223, Rome, NY 13441..

**WHEREAS**, GSI is in the business of providing specialized airport software to airports; and

**WHEREAS**, the United States Federal Aviation Agency ("FAA") requires all commercial service airports to conduct airfield inspections ("Inspections") to insure that the airport is maintaining compliance with the FAA's security and operational requirements and to maintain reports of such inspections (the "Inspection Data"); and

**WHEREAS**, GSI has developed its proprietary web-based App-139 computer software system ("App-139") to receive, store, and transmit GIS imagery and Inspection Data to assist airports in complying with the FAA's Inspection and Inspection Data requirements, all as more fully described at [www.app-139.com](http://www.app-139.com).

**NOW, THEREFORE**, in consideration of the foregoing, the parties hereby agree as follows:

**1.     SUBSCRIPTION FOR SERVICES.** GSI will provide Customer with unlimited access to App-139 for Customer's own use during the term of this Agreement. This subscription agreement includes the following services to create an instance of the App-139 software for the Customer's airfield:

- a. License to App-139 Software. Including desktop and mobile versions
- b. Hosted computer server environment and equipment
- c. System support and maintenance
- d. Implementation services including installation, configuration, training, testing and documentation.

**2.     TERM.** The term of this Agreement shall commence on the Start Date and terminate on the End Date, as both dates are set forth on Schedule A. Customer may terminate this Agreement without cause at any time upon ninety (90) days' notice to GSI. However, Customer shall not be entitled to any refund of the annual subscription fee for the term year in which such termination occurs. The contract may be renewed for additional periods upon mutual written consent of both parties.

**3.     PRICE.** The annual subscription fee payable by Customer for App-139 is set forth in *Schedule A* and is payable at the commencement of each year during which this Agreement remains in effect. GSI reserves the right to increase the annual subscription fee after the initial term of this Agreement. Any such increase shall be subject to agreement by Customer, and in the event Customer does not agree, Customer may immediately terminate this Agreement.

**4. CUSTOMER RESPONSIBILITIES.** Customer is responsible for all activity occurring under Customer's account and shall abide in all material respects by all applicable local, state, national and foreign laws, treaties and regulations in connection with Customer's use of App-139.

Customer shall be solely responsible for protection of its transmission facilities, premises, equipment, the integrity of its data entered on App-139, and its ID(s), password(s), user name and the like, from all unauthorized access or use. Customer is not authorized to allow 3<sup>rd</sup> party use of App-139 without prior GSI authorization in writing. Customer shall use reasonable measures commensurate with accepted industry standards for such protection.

Customer acknowledges that the internet, cellular telephone network, or any wide-area communication network that may be utilized ("WAN") for the operation of App-139 is not a secure or an error free network and that transmissions made on the WAN may not be completed or may contain errors or omissions. The WAN, or portions thereof, may become inaccessible or inoperable, in whole or in part, at any time or from time to time.

**5. TAXES.** Customer shall be responsible for all taxes on the App-139 annual subscription fee, exclusive of taxes based solely on GSI's net income. Customer will reimburse GSI for all sales, use, or exercise taxes assessed by any taxing authority, whether such taxes are invoiced initially to Customer or assessed retroactively based upon audits by any governmental taxing authority. If Customer is exempt from state sales taxes it shall provide GSI with an exemption certificate prior to the execution of this contract.

**6. WARRANTY/MAINTENANCE AND LIMITED REMEDY.** GSI warrants that during the term of this Agreement that App-139 will meet the following service level standards:

**Definitions:** For purposes of this Warranty:

1. Cloud Server: Customer's unique virtual machine instance
2. Cloud Server Host: means the physical server which hosts Customer's cloud server;
3. Data Center Network: means the portion of the utilized network extending from the network egress point of Customer's cloud server host to the outbound port of the data center border router;
4. Scheduled Maintenance: means system maintenance that is announced at least ten business days in advance and includes software updates and/or upgrades.

#### **Network**

Data Center Network will be available 99% of the time in any given monthly period, excluding Scheduled Maintenance.

#### **Data Center Infrastructure**

Data Center HVAC and power will be functioning 99% of the time in any given monthly period, excluding Scheduled Maintenance. Infrastructure downtime exists when the host server's downtime occurs as a result of power or heat problems.

#### **Cloud Server Hosts**

If a cloud server host fails, restoration or repair will be complete within one hour of problem identification.

### **Backup**

In order to minimize the risk of data loss, Customer's data will be backed up multiple times per day and stored on a separate server. A complete system backup will be done on a weekly basis.

### **Migration**

If a cloud server migration is required because of cloud server host degradation, GSI will notify Customer at least 24 hours in advance of beginning the migration, unless GSI determines in its reasonable judgment, that GSI must begin the migration sooner to protect Customer's cloud server data. Either way, GSI guarantees that the migration will be complete within three hours of the time that GSI begins the migration.

### **Maintenance Services**

Under this Agreement, GSI will maintain in good working order the computer software licensed to the Customer and known as the GateKeeper Systems App-139 software and other related software components supplied by GSI. This software is used in the operation of FAA required daily airfield inspections and herein after referred to as "Covered Software."

### **Software Support Services**

GSI is providing both the server hardware and application software required to operate the APP-139 software module. GSI will provide software support to Customer's personnel as necessary to eliminate or correct system/software malfunctions and return the system/software to normal operation. The categories of software support to be provided under this contract include:

- Response to System Problems: GSI will provide on-line telephone support to Customer's personnel as needed each month for the period of the contract to remotely diagnose and make required changes to the Covered Software. Support will be provided by qualified GSI personnel familiar with the App-139 software version installed at the Airport site.
- Software Configuration. GSI will make routine configuration changes to the system as needed by the airport for items such as, but not limited to, Users, Facilities, Conditions, security settings.
- System Updates: GSI will install "Critical Updates" and Service Packs for the Microsoft operating and SQL database software.
- Software Upgrade: The Covered Software will be "upgraded" to the most recent version as a part of this contract. Customer's staff will be notified of the scheduling of these upgrades, system downtime and any tasks required of the Customer.

### **Support Availability**

Telephone support is available 24 hours per day and 7 days per week for the term of this subscription Agreement.

### **Support Request Procedure**

Customer shall identify in writing at the initiation of this Agreement Customer's, personnel authorized to request software assistance. When assistance is required, the responsible individual should call GSI as follows:

**GateKeeper Emergency Support:**

**(866) 688-3404**

This number should be used only for support issues that need immediate resolution. This number is answered 24 hours per day, 365 days per year. If the support specialist answering the phone cannot address the problem, the operator will record information about the request or problem and immediately contact the best available GSI specialist to respond.

**GateKeeper Non-Emergency Support:**

**(651) 365-0700**

This number should be used during normal business hours for issues or questions that do not need immediate resolution to maintain system operation. [app139support@gksys.com](mailto:app139support@gksys.com) can also be used for Non-Emergency support issues or questions.

**Response Time**

GSI provides customers covered under an annual maintenance agreement with priority support response times. GSI will respond to issues immediately during normal working hours (8:00 am to 5:00 p.m. Monday through Friday local Minneapolis time) at all other times (nights, weekends, holidays, etc.) a response will be made within 1.5 hours by a qualified software specialist.

**Customer Responsibilities**

Customer personnel making a request for assistance should be prepared to provide detailed information regarding the problem experienced, actions already taken to remedy the problem and current operating condition of the software and entire system. Customer personnel making the phone request should be prepared to work with GSI personnel as necessary for the duration of the phone call.

**Exclusions**

- On-site support
- Formal training of Customer's personnel on the operation of the system other than responding to specific questions.

THIS WARRANTY IS GIVEN IN LIEU OF ALL OTHER EXPRESSED AND IMPLIED WARRANTIES. GSI MAKES NO OTHER WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

In the event of any breach of this limited warranty, GSI's sole liability and Customer's sole remedy shall be that GSI will provide to Customer a credit for the annual Subscription Fee paid by Customer pro-rated to the amount of time App-139 was unavailable for Customer's usage.

**7. INDEMNIFICATION** To the extent permitted by applicable law in Customer's jurisdiction, Customer agrees to indemnify, defend, and hold GSI harmless from any third-party claims, damages, costs and expenses (including reasonable attorney's fees) arising out of or related to the use by Customer of App-139.

GSI agrees to indemnify, defend, and hold Customer harmless from any third-party claims, damages, costs and expenses (including reasonable attorney's fees) for bodily injury, death, or damage to tangible personal property arising out of or related to GSI's performance under this Agreement or that that App-139 infringes any intellectual property right of any third party.

**8. LIMITATION OF LIABILITY.** EXCEPT AS SET FORTH IN SECTION 7, "INDEMNIFICATION" ABOVE, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, LOSS OF PROFIT OR GOODWILL, CONSEQUENTIAL OR OTHER DAMAGES RESULTING FROM OR IN CONNECTION WITH CUSTOMER'S USE OF APP-139 OR ANY OTHER MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT.

This limitation of liability includes, but is not limited to, any damages caused by: (1) the integrity of the data supplied by Customer in Customer's transmissions; or (2) fees, fines, or penalties assessed against Customer by any federal, state or local regulatory agency.

Except for GSI's breach of its indemnification obligations as set forth in Section 7, GSI's entire liability to Customer or any other party for any loss or damage resulting from any claims, demands, or actions arising out of or related to this Agreement or the failure of App-139 to function properly shall not exceed the amount of GSI's available insurance coverage.

**9. DATA OWNERSHIP, SECURITY AND PROTECTION.**

Inspection Data As between the parties, Inspection Data is and shall remain the sole and exclusive property of Customer. No Inspection Data will be sold, assigned, leased, licensed, disclosed or otherwise disposed of to third parties or commercially exploited by GSI.

**10. DATA SECURITY**

- 10.1 GSI will establish and maintain safeguards against the unauthorized access or use, destruction, loss or alteration of Inspection Data in the possession or control of GSI or its agents or subcontractors which are no less rigorous than industry-standard measures and which are no less rigorous than those maintained by GSI for its own data of a similar nature.
- 10.2 Without limiting the generality of the foregoing, GSI will use commercially reasonable efforts to guard against the unauthorized access, alteration, use or destruction of Inspection Data. Such measures will include the installation of software that: (a) requires all users to enter a user identification and password prior to gaining access to App-139; and (b) controls and tracks the addition and deletion of users.

**11. GENERAL.** Neither party may assign this Agreement or any of the rights under this Agreement without prior written consent of the other party. Any attempt to do so is void.

This Agreement represents the entire agreement between the parties with respect to the subject matter hereof.

This Agreement may not be modified except in writing, signed by both parties.

Neither party will be liable for its inability to perform to the extent caused by conditions beyond its reasonable control, including but not limited to environmental conditions at the other party's premises, its third-party provider or other contractors, labor disputes, perils or other hazards, provided that such party shall resume performance as promptly as possible after such condition or occurrence has been resolved.

If any portion of this Agreement is held invalid, such invalidity shall not affect the remaining portions of this Agreement. The parties agree to replace the invalid portion with a valid provision that most closely reflects the intent and economic effect of the invalid provision.

Failure or delay by either party to exercise any right, power, privilege or remedy will not constitute a waiver thereof. Any provision contained herein that by its nature could reasonably be construed to survive expiration of this Agreement shall so survive.

This Agreement shall be governed by and construed according to the laws of the state where Customer's principal place of business as stated at the beginning of this Agreement is located.  
This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**GateKeeper Systems, Inc.**  
  
By: Jamie Beiswanger  
Printed: Jamie Beiswanger  
Title: National Sales Manager  
Date: 10/28/2024

**Customer**  
  
By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## Schedule A

**Airport Name:** Griffiss International Airport

**Airport ID:** RME

**Enplanement Category:** GA-139

**Term of the Agreement:**

Full Production Start Date: November 1, 2024

End Date: October 31, 2027

Annual Renewal Date: November 1

**Modules Included:**

Base Software	Y
GIS Data/Module	N

**Pricing:**

**Annual App-139 Subscription Fee:**

**Year #1     \$4,700**

**Year #2     \$4,750**

**Year #3     \$4,800**

**Other Fees:**

Implementation Fee - One Time:	\$2,000
GIS Data/Module would be \$300 more per year	
Other:	

**Total Payment Due:**

**Year #1     \$6,700**

**Year #2     \$4,750**

**Year #3     \$4,800**

**Billing Information:**

**Form of invoice desired: Paper Copy\_\_\_\_\_**

**E-Mail copy\_\_\_\_\_**

**Contact Person:**

**Mailing Address:**

**Phone Number:**

**E-Mail Address:**