

REQUEST FOR ACTION

To	The Collection Board of Directors			
Subject	Fire Alarm and Sprinkler System			
Preparer	Al Guzman, General Manager			
Date	2/15/18	For Board	x	Action
				Info

EXECUTIVE SUMMARY

The Collection's Fire Alarm and Sprinkler Systems monitors the project for potential life-threatening events due to fire and notifies the residents and staff if it senses smoke, heat or water flow in the sprinkler system. Annual testing is required by law.

Two licensed contractors were asked to submit proposals to test and maintain The Collection's systems. They were ISS, the original installers of the Fire Alarm System and Simplex Grinnell. The service and cost are as follows:

Line	Item	ISS	Simplex
1	Annual Fire Alarm System Testing and Inspection	Yes	Yes
2	Annual Smoke Detector Cleaning	Yes	No
3	Annual In-Unit Audible Testing	Yes	Yes
4	Annual Wet Sprinkler Testing	Yes	Yes
5	Annual Pre-action System Testing	Yes	Yes
6	Annual Fire Pump Testing	Yes	Yes
7	Annual Fire Extinguisher Inspection	Yes	No
8	Total	\$27,225	\$34,759

RECOMMENDATION

It is recommended that ISS be used to test and maintain The Collection's Fire Alarm and Fire Sprinkler Systems at a cost of \$27,225.

2018 Budgeted Amounts

Tower:	\$19,860
Lofts:	\$ 3,000
Commercial:	\$ 0
 Total:	 \$22,860
ISS	<u>\$27,225</u>
 Variance	 \$-4,365

RATIONALE		
As the installer, ISS is familiar with The Collection's Fire Alarm System. They already know the locations and detail of every aspect of the system and can more readily and capably troubleshoot all issues.		
Exhibits (If applicable)	Index	Title
	A	Island Signal and Sound Proposal
	B	Simplex Grinnell Proposal

FOR BOARD USE ONLY											
CERTIFICATE OF BOARD ACTION											
X	Approved		Declined		Noted		Returned		Deferred		Withdrawn
Stipulations											
The Board approved the proposal submitted by Island Signal & Sound (ISS) at the 2/15/18 Board meeting.											
Coordinating Instructions											
Distribution Instructions											
Recording Secretary	Ryan Kamo				Action Date	2/15/18	RFA No.	6-2018			



SERVICE AGREEMENT

Agreement Number: Collection 2-2018
Date: February 2, 2018

By and between

Island Signal & Sound, Inc. (ISS)
335 Ho'okela Place
Honolulu, HI 96819
(808) 845-1351 (808) 847-4399 (F)
iss@islandsignal.com

THE COLLECTION
600 Ala Moana Blvd.
Honolulu, Hawaii 96813
Attention: Al Guzman, General Manager
gm@thecollectionhonolulu.com

Services will be provided at the following location(s): The Collection at 600 Ala Moana Blvd, Honolulu, HI. (Main Tower & Lofts)

Island Signal & Sound shall provide Services as indicated below and in accordance with the attached Service Agreement Terms and Conditions, work scope documents and special provisions which form a part of this Agreement:

<input checked="" type="checkbox"/> Fire Alarm System Annual Testing and Inspection*	<input type="checkbox"/> Fire Alarm System Testing and Maintenance
<input checked="" type="checkbox"/> Smoke Detector Cleaning *	<input checked="" type="checkbox"/> Emergency Services
<input checked="" type="checkbox"/> Testing of Audible Device in Apartment Units	<input type="checkbox"/> Sound & Communications System Maintenance
<input checked="" type="checkbox"/> Fire Sprinkler System Annual Testing and Inspection To Include Pre-Action**	<input checked="" type="checkbox"/> Portable Fire Extinguishers - Annual
<input checked="" type="checkbox"/> Fire Pump Annual Testing & Inspection	<input checked="" type="checkbox"/> Special Provisions

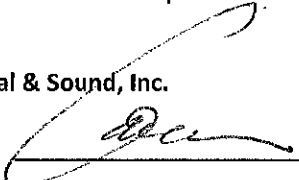
Annual Fee: All for the annual sum of **\$26,000** plus applicable taxes. **Optional 2nd yr. \$26,910, 3rd yr. \$27,852.**

Period of Agreement: The service(s) described in this Agreement shall begin on date of signed acceptance and shall continue for a period of one (1) year from this date with optional years as indicated.

This proposal shall remain valid for a period of thirty (30) days from the above referenced proposal date.

This proposal and the pages attached shall become an Agreement only upon signature below by ISS and CUSTOMER. No waiver or modification of any terms or conditions of this Agreement shall be binding on ISS unless made in writing and signed by an authorized representative of ISS.

Island Signal & Sound, Inc.

Signature:  _____

(Type or Print Name) Carmen Malunao

Title: Service Sales Representative

Date: February 2, 2018

CUSTOMER Acceptance:

Signature: _____

(Type or Print Name) _____

Title: _____

Date: _____

Email: gm@thecollection.com

Terms and Conditions

DEFINITIONS

1. "Equipment" means the equipment covered by the Services to be performed under this Agreement, and is identified in the respective work scope attachments under the "Equipment List".
2. "Services" means those services and obligations to be undertaken by ISS in support of CUSTOMER pursuant to this Agreement, as more fully detailed in the attached work scope document(s), which are incorporated herein.

COVERAGE

1. CUSTOMER agrees to provide access to all Equipment covered by this Agreement. ISS will be free to start and stop all primary equipment incidental to the operation of the mechanical, and life safety system(s) as arranged with Customer's representative.
2. It is understood that the repair, replacement, and emergency service provisions apply only to the Equipment included in the attached Equipment List. Repair or replacement of non-maintainable parts of the system such as, but not limited to, piping, unit cabinets, insulating material, electrical wiring, hydronic and pneumatic piping, structural supports and other non-moving parts, is not included under this Agreement. Costs to repair or replace such non-maintainable parts will be the sole responsibility of CUSTOMER.
3. ISS will not reload software, nor make repairs or replacements necessitated by reason of negligence, vandalism or misuse of the Equipment by persons other than ISS or its employees, or caused by lightning, flood or water damage from any source, electrical storm, or other violent weather or by any other cause beyond ISS control. This clause shall supersede and take precedent over any Emergency Service clause or provision contained elsewhere in this Agreement.
4. This Agreement assumes that the systems and/or Equipment included in the attached Equipment List are in maintainable condition. If repairs are necessary upon initial inspection, repair charges will be submitted for approval. Should these charges be declined, those non-maintainable items will be eliminated from coverage under this Agreement and the price adjusted accordingly. System equipment deemed to be no longer economically maintainable (obsolete) by ISS will be identified throughout the term of this agreement and brought to the Customer's attention and may be removed from this specific Agreement or coverage type on the equipment identified may be reduced.
5. Maintenance, repairs, and replacement of Equipment parts and components are limited to restoring to proper working condition. ISS shall not be obligated to provide replacement software, equipment, components and/or parts that represent a significant betterment or capital improvement to CUSTOMER'S system(s) hereunder.
6. All non-emergency services under this Agreement will be performed between the hours of 7:30 a.m. - 4:00 p.m. local time Monday through Friday, excluding federal holidays and normal ISS observed Holidays. If for any reason CUSTOMER requests ISS to furnish any labor or services outside of the above stated hours, any overtime or other additional expense occasioned thereby, shall be billed to and paid by CUSTOMER except as may be provided under the Emergency Service section or Special Provisions of this Agreement.
7. CUSTOMER will promptly notify ISS of any malfunction in the system(s) or Equipment covered under this Agreement that comes to Customer's attention.

PRICE, BILLING, AND TERM

1. CUSTOMER shall pay or cause to be paid to ISS the full price for the Services as specified on the first page of this Agreement. ISS shall submit annual invoices unless otherwise specified to CUSTOMER in advance for Services to be performed during the subsequent billing period, and payment shall be due within thirty (30) days of the Invoice Date. Payments for Services past due more than ten (10) days shall accrue interest from the due date to the date of payment at the rate of one and one-half percent (1.5%) per month, compounded monthly, or the highest legal rate then allowed. CUSTOMER shall pay all attorney and/or collection fees incurred by ISS in collecting any past due amounts.
2. ISS may adjust the annual price of this Agreement periodically during the term of this Agreement (either up or down), and CUSTOMER agrees to pay for this negotiated increase or decrease in scope of services to the main Agreement between the CUSTOMER and ISS, if additional systems and equipment are added or deleted to the scope of this Agreement.
3. Following the initial term of this Agreement as noted on Page 1 of this Agreement and titled, "Period of Agreement", this Agreement will automatically renew for successive one (1) year periods unless canceled prior to the anniversary date with at least a thirty (30) day written notice issued by the CUSTOMER. Agreements that are automatically renewed beyond the initial term may be subject to a minimum price increase based on the published U.S. Department of Labor, Consumer Price Index (CPI) at the time of renewal.
4. CUSTOMER agrees to pay any sales, excise, use or other taxes, now or hereafter levied, which ISS may be required to pay or collect in connection with this Agreement.

TERMINATION

1. CUSTOMER may terminate this Agreement for cause after giving ISS thirty (30) days advance written notice.
2. ISS may terminate this Agreement for cause (including, but not limited to, CUSTOMER'S failure to make payments as agreed herein) after giving CUSTOMER thirty (30) days advance written notice.

GENERAL TERMS AND CONDITIONS

1. **Assignment and Delegation:** CUSTOMER may not assign its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of ISS. ISS may assign its right to receive payment to a third party.
2. CUSTOMER shall be responsible for maintaining all liability and property insurance. No insurer or other third party will have any subrogation rights against ISS.
3. **Hazardous Materials:** CUSTOMER represents and warrants that, except as otherwise disclosed in this in the areas where ISS will undertake work or provide Services, there are no: (a) materials or substances classified as toxic or hazardous either (i) on or within the walls, floors, ceilings or other structural components or (ii) otherwise located in the work area, including asbestos or presumed asbestos-containing materials, formaldehyde, containers or pipelines containing petroleum products or hazardous substances, etc.; (b) situations subject to special precautions or equipment

required by federal, state or local health or safety regulations; or (c) unsafe working conditions.

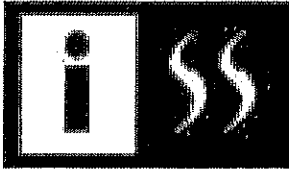
4. CUSTOMER SHALL INDEMNIFY AND HOLD ISS HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND COSTS OF WHATEVER NATURE, INCLUDING BUT NOT LIMITED TO, CONSULTANTS' AND ATTORNEYS' FEES, DAMAGES FOR BODILY INJURY AND PROPERTY DAMAGE, FINES, PENALTIES, CLEANUP COSTS AND COSTS ASSOCIATED WITH DELAY OR WORK STOPPAGE, THAT IN ANY WAY RESULTS FROM OR ARISES UNDER SUCH MATERIALS, SITUATIONS OR CONDITIONS, REGARDLESS OF WHETHER CUSTOMER HAS PRE-NOTIFIED ISS. THIS INDEMNIFICATION SHALL SURVIVE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON.
5. **Warranties and Limitation of Liability:** ISS will replace or repair any product ISS provides or CUSTOMER procures under this Agreement that fails within the warranty period (Typically one-year) due to defective workmanship or materials. The failure must not result from Customer's negligence; or from fire, lightning, water damage, or any other cause beyond ISS control. This warranty applies to ISS fabricated and outside-purchased products. The warranty effective date is the date of CUSTOMER acceptance of the product or the date CUSTOMER begins to receive beneficial use of the product, whichever comes first.
6. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE, AND ISS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SERVICES, EQUIPMENT, AND MATERIALS PROVIDED HEREUNDER. ISS SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM, OR RELATING TO, THIS LIMITED WARRANTY OR ITS BREACH.
7. ISS shall not be liable for damages caused by delay or interruption in Services due to fire or flood; corrosive substances in the air or water supply that may enter or otherwise affect sprinkler piping and sprinkler systems including but not limited to biological growth, Calcium Carbonate Deposits and microbiologically influenced corrosion (MIC); strike, lockout, dispute with workmen, inability to obtain material or services, war, acts of God or any other cause beyond ISS reasonable control. Should any part of the system or any Equipment be damaged by fire, water, water leakage, freezing pipes, lightning, acts of God, third parties or any other cause beyond the control of ISS, any repairs or replacement shall be paid for by CUSTOMER.
8. **Indemnity and Limitation of Liability:** ISS agrees to indemnify and hold CUSTOMER and its agents and employees harmless from all claims for bodily injury and property damages to the extent such claims result from or arise under ISS negligent actions or willful misconduct in its performance of the Services. PROVIDED, THAT NOTHING IN THIS ARTICLE SHALL BE CONSTRUED OR UNDERSTOOD TO ALTER THE LIMITATIONS OF LIABILITY CONTAINED IN THIS ARTICLE OR THE INDEMNIFICATION CONTAINED IN SECTION 4. IN NO EVENT SHALL ISS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, SPECULATIVE, REMOTE, OR CONSEQUENTIAL DAMAGES ARISING FROM, RELATING TO, OR CONNECTED WITH THE SERVICES, EQUIPMENT, MATERIALS, OR ANY GOODS PROVIDED HEREUNDER. SUCH INDEMNITY OBLIGATION IS VALID ONLY TO THE EXTENT CUSTOMER GIVES ISS REASONABLY PROMPT NOTICE IN WRITING OF ANY SUCH CLAIMS AND PERMITS ISS, THROUGH COUNSEL OF ITS CHOICE, TO ANSWER THE CLAIMS AND DEFEND ANY RELATED SUIT.
9. The parties further agree that ISS is not an insurer; that the Services purchased herein is designed only to reduce the risk of loss; that CUSTOMER chose the level and scope of services being provided by ISS from a variety of service options; that ISS will not be held liable for any loss, in tort or otherwise, which may arise from the failure of the system(s) and/or service(s) or any errors and omissions in the above referenced specifications. The parties further agree that this Agreement shall not confer any rights on the part of any person or entity not a party hereto, whether as a third-party beneficiary or otherwise.
10. BECAUSE IT IS IMPOSSIBLE TO ASSESS ACTUAL DAMAGES ARISING FROM THE FAILURE OF A SYSTEM AND/OR SERVICE PROVIDED UNDER THIS AGREEMENT, THE PARTIES AGREE THAT IF ANY LIABILITY IS IMPOSED ON ISS FOR DAMAGES OR PERSONAL INJURY TO EITHER CUSTOMER OR ANY THIRD PARTY, SUCH LIABILITY SHALL BE LIMITED TO AN AMOUNT NOT TO EXCEED THE AMOUNT OF THE ANNUAL SERVICE CHARGE OF THIS AGREEMENT.

MISCELLANEOUS

1. **Extent of Agreement:** Except as and to the extent provided in the Contract, this Agreement represents the entire Agreement between CUSTOMER and ISS for the Services described herein and supersedes all prior negotiations, representations or Agreements between the Parties related to the Services described herein.
2. None of the provisions of this Agreement shall be modified, altered, changed or voided by any subsequent document unilaterally issued by CUSTOMER that relates to the subject matter of this Agreement. This Agreement may be amended only by written instrument signed by both Parties.
3. ISS shall not be liable for any delay in producing, delivering, installing, or giving advice and technical assistance for any of the equipment or software covered hereunder if such delay shall be due to one or more of the following causes: fire, strike, lockout, dispute with workmen, flood, lightning, accident, delay in transportation, shortage of fuel, inability to obtain material, war, embargo, demand or requirement of the United States or any governmental or war activity, or any other cause whatsoever beyond the reasonable control of ISS. In addition, ISS shall not be liable for any delays caused by failure of CUSTOMER, or its agent, or any person or entity not a party hereto, to perform any of its obligations in a timely manner.

DISPUTE RESOLUTION

1. This Agreement shall be deemed to be made in Honolulu County, Hawaii, regardless of the location of any office or representative of CUSTOMER, or the location of the equipment, or the place of signing by any party. This Agreement will be governed by Hawaii law. The venue for any claim arising under this Agreement shall be in Honolulu County, Hawaii.
2. In the event of a dispute regarding the interpretation or enforcement of this Agreement which results in litigation, the prevailing party shall have its attorney's fees and costs paid by the losing party.



Fire Alarm System Testing & Inspection

Scope – Island Signal & Sound will test & inspect the fire alarm system components listed on the attached Equipment List.

Each call will be scheduled with a service report detailing the tasks to perform and any special tools and instrumentation required to properly maintain the system(s). Upon completion of each service call, a summary of the tasks completed will be provided to the CUSTOMER.

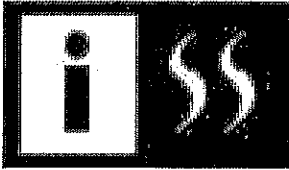
Testing Frequency – ISS will perform **One (1)*** 100% test(s) per year on automatic initiating devices (heat, smoke, duct smoke, manual pull stations and beam/optical smoke detectors & sensors, etc...) and **One (1)*** 100% functional test(s) of notification appliances excluding a Decibel level test. Fire Protection/Sprinkler System Initiating Devices that are connected and supervised by the Fire Alarm system will be tested electrically. All testing will be completed in accordance with the most recent edition of NFPA 72 – National Fire Alarm Code. Please refer to Special Provisions for any additional testing and inspections to be performed under this Agreement.

Inspection Reports – ISS will furnish a report certifying that such tests and inspections have been completed documenting any deficiencies found which may require corrective action.

Hardware Support – Components and parts on the Equipment List that have been found to be defective or have failed will be identified following each test or inspection. If the component or part is covered under a current ISS or factory warranty, said part or component will be replaced at no charge to CUSTOMER including labor during normal business hours. If component or part is found not to be covered under a current ISS or factory warranty, an estimate will be prepared and submitted for approval on a reimbursable basis and repair authorization shall be issued in writing to ISS by an authorized representative of the CUSTOMER before proceeding with the work.

Replaced components will be new and of compatible design as required to maintain CUSTOMER's system in compliance with appropriate Listing Agencies and/or Local Authorities Having Jurisdiction. At ISS's sole discretion, marginal components may also be repaired or replaced. These replacements will be based upon commercial availability of parts and/or components. All exchanged parts shall become the property of ISS.

- Testing of Audible Device in Apartment Units.
- Test(s) will be done 25% quarterly, to be 100% by end of the contract period.

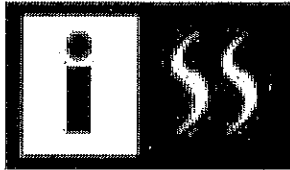


Smoke Detector Cleaning

Scope - Island Signal & Sound will provide, as part of this Agreement, Smoke Detector Cleaning and Sensitivity Testing of all smoke detectors as found on the Equipment List.

Cleaning Frequency and Methods - Each smoke detector including duct type smoke detectors will be cleaned **annually**. The method of cleaning will be in accordance with the manufacturer's recommendations and any special instructions. Specific cleaning tools if required by the manufacturer will also be used. "As-Needed" Cleaning will be performed on Analog/Intelligent Systems where the Fire Alarm Control Unit or Panel is capable of displaying or reporting to a connected printer or display the % Obscuration, or other similar method used by each detector. Detectors found to be at 50% or greater from this report will be cleaned during each scheduled inspection. ISS will provide a report detailing which detectors were cleaned at the conclusion of each inspection.

Note: A smoke detector cleaning program is important to the overall performance of a life safety system. Clean smoke detectors will allow the detectors to operate as originally designed. Detector cleaning also has a significant impact on the reduction of unnecessary and disruptive false alarms.



Fire Sprinkler System Testing & Inspection (Wet Type)

Scope – Island Signal & Sound will test & inspect the Wet Type Fire Sprinkler System(s) listed on the attached Equipment List.

Each call will be scheduled with a service report detailing the tasks to perform and any special tools and instrumentation required to properly maintain the system(s). Upon completion of each service call, a summary of the tasks completed will be provided.

Testing & Inspection Frequency – ISS will perform **ONE (1)** tests per year on the Fire Sprinkler System(s) to include Vane-Type Waterflow and **ONE (1)** tests per year on all Water Motor Gongs, Valve Tamper Switches, Sprinkler Supervisory Switches and Waterflow Pressure Switches. Flow testing shall include the opening of each Inspector's Test Valve to activate Waterflow Alarm Devices (to include Waterflow Pressure Switches). Annually during one of the above scheduled inspections, ISS personnel will visually inspect all accessible sprinklers, sprinkler piping, fittings, hangars and seismic bracing from the floor level and will perform the following:

- Check for signs of leakage, corrosion, improper loading, misalignment, or physical damage.
- Check for proper sprinkler head orientation and for any obstructions to the sprinkler spray pattern
- Check all gauges and control valves for proper operation
- Exercise all valves and annually lubricate all valves stems
- Check all hose connections and inspect Fire Department Connection during each scheduled inspection
- Check the supply of spare sprinklers including required minimum quantity of each type, proper storage and wrench types during each scheduled inspection
- Clean the strainer
- Flush underground lead-in connections (Water mist systems only)
- Perform a Main Drain Test annually and record static and residual pressures
- Test freezing point of antifreeze solutions if applicable
- Apply inspection tag to system

All tests and inspections will be completed in accordance with the **most recent edition of NFPA 25 – Inspection, Testing and Maintenance of Water-Based Fire Protection Systems**. Please refer to Special Provisions for additional testing and inspections to be performed under this Agreement. Other required weekly, monthly, quarterly and five year inspections and tests in addition to laboratory testing of sprinkler heads are not included in this Agreement unless otherwise specified in the Special Provisions.

Inspection Reports – ISS will furnish a report certifying that such tests and inspections have been completed documenting any deficiencies found which may require corrective action.

Repairs – For corrective work, an estimate will be prepared and submitted directly for approval by our Fire Sprinkler Contractor.



Fire Sprinkler System Testing & Inspection (Pre-Action)

Scope – Island Signal & Sound will test & inspect the Dry-Pipe Fire Sprinkler System(s) listed on the attached Equipment List.

Each call will be scheduled with a service report detailing the tasks to perform and any special tools and instrumentation required to properly maintain the system(s). Upon completion of each service call, a summary of the tasks completed will be provided.

Testing & Inspection Frequency – ISS will perform **ONE (1)** tests per year on the Sprinkler System(s) Valve Tamper and associated Pressure Switch Alarm Devices. During each of these inspections, the following tests will be performed unless otherwise noted:

- Check and adjust dry-pipe priming water level
- Test all Low-Air-Pressure Alarm Devices and record air pressure on alarm activation
- Test dry-pipe System Flow Alarm by opening the alarm bypass valve
- Test quick opening devices and accelerators (if applicable) semi-annually
- Test fire detection system for proper operation and interface to the Pre-Action System.

Annually during one of the above scheduled inspections, ISS personnel will visually inspect all accessible sprinklers, sprinkler piping, fittings, hangers and seismic bracing from the floor level and will perform the following:

- Conduct partial Trip-testing of the dry-pipe valve, record the time
- Open the dry-pipe valve; inspect and clean interior
- Check all low-point drains (Drum Drips) – drain thoroughly
- Internally inspect Dry-pipe Valve and clean; Test the air pressure maintenance device (compressor)
- Perform a Main Drain Test annually and record static and residual pressures
- Check all hose connections and inspect FDC if applicable during each scheduled inspection
- Check for signs of leakage, corrosion, improper loading, misalignment, physical damage or if sprinkler heads have been painted or damaged in any way (i.e. Glass bulb sprinklers)
- Check for proper sprinkler head orientation and for any obstructions to the sprinkler spray pattern
- Check all gauges and control valves for proper operation
- Check to ensure adequate heat can be maintained in the dry-pipe valve room.
- Check Hydraulic nameplate if applicable and the supply of spare sprinklers, proper storage and wrench types

All tests and inspections will be completed in accordance with the **most recent edition of NFPA 25 – Inspection, Testing and Maintenance of Water-Based Fire Protection Systems**. Please refer to Special Provisions for additional testing and inspections to be performed under this Agreement. **The required Full Flow Dry-Pipe Trip Test every three years is not included in this Agreement.**

Inspection Reports – ISS will furnish a report certifying that such tests and inspections have been completed documenting any deficiencies found which may require corrective action.

Repairs – For corrective work, an estimate will be prepared and submitted directly for approval by our Fire Sprinkler Contractor.



Portable Fire Extinguishers

Scope – Island Signal & Sound will test & inspect the portable fire extinguishers listed on the attached Equipment List.

Testing Frequency – Island Signal & Sound will perform **One (1)** 100% test(s) per year.

- Check that operating instructions on the nameplates are legible and facing outward
- Examine for obvious physical damage, missing parts, corrosion, leakage, or clogged nozzles
- Check pressure gauge or indicator read in the operable range position
- Check condition of hose and nozzle (and tires for wheel units)
- Annual Inspection Tag for each extinguisher

Note: If services, including the 6-year maintenance and hydro testing of pressurized dry chemical extinguishers, hydro testing of CO2 extinguishers, hose continuity test, inspection of cartridge type extinguishers, wheeled units, or if parts or refills are needed, additional charges will be incurred.

Units requiring these services CANNOT be tagged at the time of the test and inspection unless the service is provided at that time; Island Signal & Sound/Elite will NOT automatically provide service unless requested by customer to do so during or prior to inspection.

Billing will be for ALL units found whether over or under the quantity noted on the Equipment List.

Inspection Reports – ISS will furnish a report certifying that such tests and inspections have been completed documenting any deficiencies found which may require corrective action, or additional services provided.



SHOULD AN EMERGENCY ARISE, ISS PERSONNEL WILL ASSESS THE SITUATION BY PHONE FIRST AND WILL DETERMINE THE REQUIRED COURSE OF ACTION WITH THE CUSTOMER.

Emergency/System Failure: Shall be defined as the inability to input, control or receive accurate information from the Fire Alarm System terminal; and/or the ability to operate, utilize, or access accurate information of less than 75% of the total of system monitored points.

This initial response will be provided within one (1) hour of receipt of call by the CUSTOMER.

On-Site Response Time: IF IT IS DETERMINED that a site visit is required, ISS personnel will arrive at the affected premises within **FOUR (4) hours** of the request of the CUSTOMER. **SIX (6) HOURS** IF REQUEST IS MADE OUTSIDE OF NORMAL BUSINESS HOURS.

Normal Business Hours are between 7:30am and 4:00pm, Monday – Friday.

After Hours are 4:00pm – 7:30am, Monday – Friday, and whole day of Saturdays, Sundays, and City, State, Federal and ISS observed Holidays. Please call our office at **(808) 845-1351 x200**.

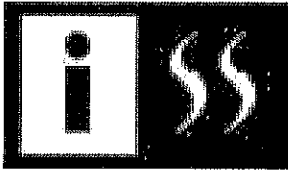
LEAVE A MESSAGE WITH YOUR NAME, PROPERTY NAME, PHONE NUMBER WHERE YOU CAN BE REACHED AND A BRIEF DESCRIPTION OF THE EVENT.

Emergency Services provided under this agreement will be reimbursable by the CUSTOMER to ISS at then current ISS published service labor rates and standard service charges (Minimum Labor Charge, Fuel Surcharge, and Travel & Living Expense) unless specifically included under this Agreement and/or selected below.

If the resolution of the emergency service call requires ISS to provide service for equipment that is not listed in the attached Equipment List, CUSTOMER will be liable for charges and expenses prevailing for such service.

Emergency Service will be provided during the following periods and in accordance with ISS published Service Labor Rates or as stated in the Special Provisions Section of this Agreement:

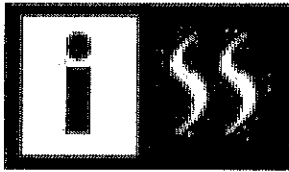
- Billable Emergency Service:** Emergency Service provided under this Agreement will be 100% reimbursable by CUSTOMER in accordance with the Service Labor Rates outlined in the Special Provisions Section of this Agreement. The minimum charge billed by ISS for Emergency Service will be **Two (2) hours** during normal ISS business hours and **Three (3) hours** for evenings, weekends, city, state, federal and ISS observed holidays. ISS will provide a response time as stated and agreed to above.
- Standard Emergency Service:** ISS will provide Emergency Service Monday through Friday **7:00 AM – 4:00 PM** excluding evenings and weekends, city, state, federal and ISS observed holidays at no additional charge to the base annual service fee. Labor for travel time is included under this Agreement. ISS will provide a response time as stated and agreed to above. Emergency Service requested by the CUSTOMER to be provided outside of the above stated times to be reimbursed by the CUSTOMER. ISS will provide a response time as stated and agreed to above.
- 24/7 Emergency Service:** 24 hours per day, 7 days per week, city, state, federal and ISS observed holidays are included. Emergency Service will be provided at no additional charge to the base annual service fee. Labor for travel time is included under this Agreement. ISS will provide a response time as stated and agreed to above.



Special Provisions

These Special Provisions are incorporated by reference into and made a part of this Agreement.
Agreement No. The Collection 2-2018, February 2, 2018.

1. **Performance Review** - A review of the Services provided within this Agreement will be performed by ISS on an annual basis. ISS and CUSTOMER will discuss work performed since the last review, answer questions pertaining to Service delivery, and identify opportunities to further improve performance of the Equipment covered and maintained by this Agreement as well as discuss the schedule for maintenance services in the upcoming year.
2. **Labor Discount:** As part of this Agreement, CUSTOMER will receive a preferred CUSTOMER labor rate for all repairs and/or emergency service performed while this Agreement is in effect. The preferred CUSTOMER labor rate will be 5% less than the published hourly rates.
3. **Parts Discount:** As part of this Agreement, CUSTOMER will receive a preferred CUSTOMER discount on all materials purchased on behalf of the CUSTOMER for repairs to systems covered under this Agreement. The preferred CUSTOMER discount will remain in effect while this Agreement is in effect. The preferred CUSTOMER discount will be 20% less than the List Price. **EST DEVICES ONLY**
4. **Access:** The CUSTOMER shall provide all necessary equipment beyond a 12' Ladder to allow ISS personnel to reach inaccessible equipment and peripheral devices.
5. **Secured Areas** – CUSTOMER agrees to provide free access to secure areas as may be necessary for ISS to perform the required inspections without delay upon arrival at the CUSTOMER's premises. CUSTOMER agrees to provide all necessary security credentials for ISS Personnel and ISS agrees to abide by all CUSTOMER security procedures and policies or CUSTOMER may elect to provide a Security Escort for all ISS personnel as may be required and for the duration of the scheduled inspections. SHOULD ISS NEED TO RETURN DUE TO NO ACCESS - ADDITIONAL HOURLY RATES WILL APPLY.
6. **Testing of Interfaced Fire Alarm Equipment; WHEN NOT A PART OF THIS SERVICE AGREEMENT:** (Sprinkler, Pre-Action, and Suppression Systems, HVAC, etc.). Tests should be performed by the respective service contractors of your choice (at customer's expense), and coordinated with the Fire Alarm system test to ensure proper operation. Charges for our assistance with these tests will be accrued at our hourly service rate.
7. ****Elevator Systems:** Functional Testing of Elevator Pre-Action and /or Elevator Recall systems (may) require access to elevator hoist way(s), mechanical rooms, etc. and should be coordinated with your elevator contractor (at customer's expense) during the fire alarm testing. Should a separate visit be required, additional charges will apply. ISS IS NOT RESPONSIBLE FOR COORDINATION, FEE'S, OR SERVICES PROVIDED BY ANY ELEVATOR CONTRACTOR.
8. **Labor Rates** – Labor required in addition to what is outlined in this agreement will be based on ISS's normal working hours and prevailing labor rates:
 - Standard rate will be charged at **\$135.00** per hour with a **TWO** hour minimum charge.
 - Overtime rate will be charged at **\$202.50** per hour with a **TWO** hour minimum charge.
9. **Proprietary Systems** - ISS will perform a Test & Inspection of the fire alarm system and provide a report with any discrepancies noted. For **non EST systems**, ISS will make every effort to resolve said discrepancies however there may be situations where the customer will have to contact the manufactures local representative for repairs or programming.



Equipment List

QTY	Description	Model Number	Location
	Main Tower		
08	Main Fire Alarm Control Panels	EST 3	
01	Annunciator		
131	Double Action Pull Stations		
1710	Audible Visible Units		
01	Annunciator		
146	Fire Fighter Plug Phones		
55	Water Flow Switch		
411	Smoke Detectors		
11	Heat Detectors		
109	Control/Signal Modules		
48	Booster Power Supply		
56	Batteries		
	The Lofts		
01	Main Fire Alarm Control Panel	EST 3	
13	Double Action Pull Stations		
138	Audible/Visible Units		
01	Annunciator		
08	Water Flow Switch		
57	Smoke Detectors		
01	Duct Detector		
02	Heat Detectors		
29	Control Modules		
01	Monitor Module		
	Fire Sprinkler		
01	FS Riser		
01	Fire Pump		
04	Fire Sprinkler Pre-Action		
225	Fire Extinguisher		

Customer:
The Collection
Date: 07-JAN-18
Proposal #:607277
Term:01-FEB-18 to 31-JAN-19

Billing Customer:
 The Collection
 600 ALA MOANA BOULEVARD
 HONOLULU, HI 96813

Service Location:
 The Collection
 600 ALA MOANA BOULEVARD
 HONOLULU, HI 96813

SimplexGrinnell
Sales Representative:
 Brian Okazaki
 99-1379 Koaha PI
 AIEA, HI 96701-3269
 bokazaki@simplexgrinnell.com

INVESTMENT SUMMARY

(Excludes applicable Sales Tax ■ Service Solution Valid for 45 Days)

SERVICE/PRODUCT DESCRIPTION	QUANTITY	FREQUENCY	INVESTMENT
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Recurring Annual Investment

MAIN TOWER: FIRE ALARM BASIC SERVICE OFFER

EDWARDS FIRE ALARM SYSTEM			
EST3			
Main Fire Alarm Panel	1	Quarterly	
Annunciator	2	Annual	
Smoke Sensor Addressable	411	Annual	
Heat Detector Restorable	11	Annual	
Pull Station	131	Annual	
Audio-Visual Notification Conventional	1710	Annual	
Elevator Recall	1	Annual	
Phone Jacks	146	Annual	
Remote Power Supply/NAC Extender	48	Quarterly	
Transponder	7	Quarterly	

MAIN TOWER: SPRINKLER BASIC SERVICE OFFER

PREACTION SYSTEM			
Preaction System Test & Inspect	2	Annual	
(Includes Tamper, Pressure Switch, Low Air, Gate Valve, Valve Trim, Main Drain Valve, Fire Dept. Plastic Caps Trip Test)			

MAIN TOWER: SPRINKLER BASIC SERVICE OFFER

WET SPRINKLER SYSTEM			
Wet System Test & Inspect (Includes Tamper, Flow, Gate Valve, Fire Dept Connection Plastic Caps, Valve Trim & Main Drain Valve)	2	Annual	

SERVICE/PRODUCT DESCRIPTION	QUANTITY	FREQUENCY	INVESTMENT
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MAINT TOWER: SPRINKLER BASIC SERVICE OFFER

FIRE PUMP SYSTEM

Fire Pump - Electric With Flow Meter	1	Annual	
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Main Tower Recurring Annual Investment:

\$26,911.00 plus tax

LOFTS: FIRE ALARM BASIC SERVICE OFFER

EDWARDS FIRE ALARM SYSTEM

EST3

Main Fire Alarm Panel	1	Quarterly	
Annunciator	1	Quarterly	
Smoke Sensor Addressable	57	Annual	
Heat Detector Restorable	2	Annual	
Duct Sensor Addressable	1	Annual	
Pull Station	13	Annual	
Audio-Visual Notification Conventional	138	Annual	
Elevator Recall	1	Annual	

LOFTS: SPRINKLER BASIC SERVICE OFFER

PREACTION SYSTEM

Preaction System Test & Inspect (Includes Tamper, Pressure Switch, Low Air, Gate Valve, Valve Trim, Main Drain Valve, Fire Dept. Plastic Caps Trip Test)	1	Annual	
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LOFTS: SPRINKLER BASIC SERVICE OFFER

WET SPRINKLER SYSTEM

Wet System Test & Inspect (Includes Tamper, Flow, Gate Valve, Fire Dept Connection Plastic Caps, Valve Trim & Main Drain Valve)	1	Annual	
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Lofts Recurring Annual Investment:

\$3,142.00 plus tax

Total Recurring Annual Investment:

\$30,053.00 plus tax

SUMMARY OF SERVICES

SPRINKLER BASIC SERVICE OFFER - FIRE PUMP SYSTEM

TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible fire sprinkler devices listed and currently connected to fire sprinkler system. Tests will be scheduled in advance.

DOCUMENTATION:

Accessible components and devices logged for:

Test results

Any discrepancies found noted

Inspection documentation provided to Customer. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted Services fulfill requirements.

Annual fire pump test includes: an inspection of the pump equipment (pump, driver, controller, piping, valves, etc.); installing calibrated test gauges (suction & discharge); flowing water thru the flow meter (header requires the use of a flow device); water is flowed at three critical points: churn (no flow), rated (100%), and peak (150%), the following readings are taken at each point, discharge pressure, suction pressure, RPM's, volts and amps*; the net pressure is calculated (discharge - suction = net)

*Volts and amp readings are required (electric pumps only) and to be performed by a qualified person or a subcontractor.

FIRE ALARM BASIC SERVICE OFFER - EDWARDS FIRE ALARM SYSTEM EST3

TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible peripheral devices listed and currently connected to the facility fire alarm system. Tests will be scheduled in advance. Unless otherwise specified herein, batteries installed within wireless initiating and notification peripheral devices are not covered under this agreement. Replacement of such batteries will be at an additional cost.

DOCUMENTATION:

Accessible components and devices logged for:

Location of each device tested, including system address or zone location

Test results and applicable voltage readings

any discrepancies found noted

Inspection documentation provided to Customer's representative. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted services are in compliance with these requirements.

SPRINKLER BASIC SERVICE OFFER - WET SPRINKLER SYSTEM

TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible fire sprinkler devices listed and currently connected to fire sprinkler system. Tests will be scheduled in advance.

DOCUMENTATION:

Accessible components and devices logged for:

Test results

Any discrepancies found noted

Inspection documentation provided to Customer. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted Services fulfill requirements.

Annual Wet pipe sprinkler test & inspect includes inspecting gauges, systems valves, components and signs; operating control valves; testing tamper and flow switches, and local alarms and signals; opening main drain to record static and residual pressures; inspecting the fire department connection; and doing a building walkthrough to visually inspect sprinklers, piping, fittings and hangers from the floor level.

SPRINKLER BASIC SERVICE OFFER - PREACTION SYSTEM

TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible fire sprinkler devices listed and currently connected to fire sprinkler system. Tests will be scheduled in advance.

DOCUMENTATION:

Accessible components and devices logged for:

Test results

Any discrepancies found noted

Inspection documentation provided to Customer. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted Services fulfill requirements.

Annual preaction system sprinkler test & inspection includes inspecting gauges, systems valves, components and signs; operating control valves; testing tamper and flow switches, and local alarms and signals; opening main drain to record static and residual pressures; partial trip test, draining of low point drains [locations to be provided by owner], inspecting the fire department connection; and doing a building walkthrough to visually inspect sprinklers, piping, fittings and hangers from the floor level.

SPECIAL PROVISIONS

SAFE ACCESS TO FIRE PROTECTION DEVICES

Customer shall provide safe access to all areas of the property throughout the scheduled inspection. This includes safe access to the tower condominium units, loft units, electric rooms, mechanical rooms, devices in plenum space above ceiling, and the top of the elevator shaft (if applicable). Access to devices at the top of the elevator shaft will require an elevator contractor and is the responsibility of the Customer.

SMOKE SENSOR CLEANING AS NEEDED

SimplexGrinnell shall clean the fire alarm system smoke sensors which are excessively dirty or considered dirty by the SimplexGrinnell Inspector(s) at the time of the inspection.

This Service Solution (the "Agreement") sets forth the Terms and Conditions for the provision of equipment and services to be provided by SimplexGrinnell LP ("Company") to **The Collection** and is effective **01-FEB-18** to **31-JAN-19** (the "Initial Term").

PAYMENT TERM: *Quarterly In Advance*

ANNUAL PAYMENT AMOUNT: **\$30,053.00 plus tax** - **Proposal # : 607277**

CUSTOMER ACCEPTANCE: In accepting this Agreement, Customer agrees to the Terms and Conditions on the following pages and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that the Customer may issue. Any changes in the system requested by the Customer after the execution of Agreement shall be paid for by the Customer and such changes shall be authorized in writing.

ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.

The Collection

SimplexGrinnell

Signature: _____

Brian Okazaki

Print Name: _____

Phone #: (808)486-6679 x223

Title: _____

Fax #: (808)488-9618

Phone#: _____

License #: _____
(If Applicable)

Fax #: _____

Authorized
Signature: _____

Email: _____

Print Name: _____

PO#: _____

Title: _____

Date: _____

Date: _____

TERMS AND CONDITIONS

1. Term. The Initial Term of this Agreement shall commence on the date of this Agreement and continue for the period indicated in this Agreement. At the conclusion of the Initial Term, this Agreement shall automatically extend for successive terms equal to the Initial Term, each and together a "Term" of this Agreement, unless either party gives written notice to the other party at least thirty (30) days prior to the end of the then-current term.

2. Payment. Payments shall be invoiced and due in accordance with the terms and conditions set forth in this Agreement. Work performed on a time and material basis shall be at the then-prevailing Company rate for material, labor, and related items, in effect at the time supplied under this Agreement.

3. Pricing. The pricing set forth in this Agreement is based on the number of devices and services to be performed as set forth in this Agreement. If the actual number of devices installed or services to be performed is greater than that set forth in this Agreement, the price will be increased accordingly. Company may increase prices upon notice to the Customer or annually to reflect increases in material and labor costs. Customer agrees to pay all taxes, permits, and other charges, including but not limited to state and local sales and excise taxes, installation or alarm permits, false alarm assessments, or any charges imposed by any government body, however designated, levied or based on the service charges pursuant to this Agreement. The Customer's failure to make payment when due is a material breach of this Agreement.

4. Code Compliance. Company does not undertake an obligation to inspect for compliance with laws or regulations unless specifically stated in this Agreement. Customer acknowledges that the Authority Having Jurisdiction (e.g. Fire Marshal) may establish additional requirements for compliance with local codes. Any additional services or equipment required will be provided at an additional cost to Customer.

5. Limitation of Liability; Limitations of Remedy. Customer understands that Company offers several levels of protection services and that the level described has been chosen by Customer after considering and balancing various levels of protection afforded and their related costs. **It is understood and agreed by the Customer that Company is not an insurer and that insurance coverage, if any, shall be obtained by the Customer and that amounts payable to Company hereunder are based upon the value of the services and the scope of liability set forth in this Agreement and are unrelated to the value of the Customer's property and the property of others located on the premises. Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damage in the event of any loss or injury and that Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or Warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or service was designed to detect or avert. It is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from failure on the part of Company to perform any of its obligations under this Agreement. Accordingly, Customer agrees that, Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or service in any respect, Company's liability for Services performed on site at Customer's premises shall be limited to an amount equal to the Agreement price (as increased by the price for any additional work) or, where the time and material payment term is selected, Customer's time and material payments to Company. Where this Agreement covers multiple sites, liability shall be limited to the amount of the payments allocable to the site where the incident occurred. Company's liability with respect to Monitoring Services is set forth in Section 17 of this Agreement. Such sum shall be complete and exclusive. If Customer desires Company to assume greater liability, the parties shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount payable by the Customer for the assumption by Company of such greater liability, provided however that such rider shall in no way be interpreted to hold Company as an insurer. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S), AS HEREINAFTER DEFINED, OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM(S) TO PERFORM. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, Company's employees, agents, officers and directors.**

6. Reciprocal Waiver of Claims (SAFETY Act). Certain of Company's systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT") under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§ 441-

444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5 (e), to the maximum extent permitted by law, Company and Customer hereby agree to waive their right to make any claims against the other for any losses, including business interruption losses, sustained by either party or their respective employees, resulting from an activity resulting from an "Act of Terrorism" as defined in 6 C.F.R. 25.2, when QATT have been deployed in defense against, response to, or recovery from such Act of Terrorism.

7. Indemnity. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third party claims for personal injury, death, property damage or economic loss, arising in any way from any act or omission of Customer or Company relating in any way to this Agreement, including but not limited to the Services under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any such action. Customer's responsibility with respect to indemnification and defense of Company with respect to Monitoring Services is set forth in Section 17 of this Agreement.

8. General Provisions. Customer has selected the service level desired after considering and balancing various levels of protection afforded, and their related costs. Customer acknowledges and agrees that by this Agreement, Company, unless specifically stated, does not undertake any obligation to maintain or render Customer's system or equipment as Year 2000 compliant, which shall mean, capable of correctly handling the processing of calendar dates before or after December 31, 1999. All work to be performed by Company will be performed during normal working hours of normal working days (8:00 a.m. - 5:00 p.m.), Monday through Friday, excluding Company holidays, as defined by Company, unless additional times are specifically described in this Agreement. All work performed unscheduled unless otherwise specified in this Agreement. Appointments scheduled for four-hour window. Additional charges may apply for special scheduling requests, e.g. working around equipment shutdowns, after hours work.

Company will perform the services described in the Service Solution ("Services") for one or more system(s) or equipment as described in the Service Solution or the listed attachments ("Covered System(s)"). UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, ANY INSPECTION (AND, IF SPECIFIED, TESTING) PROVIDED UNDER THIS AGREEMENT DOES NOT INCLUDE ANY MAINTENANCE, REPAIRS, ALTERATIONS, REPLACEMENT OF PARTS, OR ANY FIELD ADJUSTMENTS WHATSOEVER, NOR DOES IT INCLUDE THE CORRECTION OF ANY DEFICIENCIES IDENTIFIED BY COMPANY TO CUSTOMER. COMPANY SHALL NOT BE RESPONSIBLE FOR EQUIPMENT FAILURE OCCURRING WHILE COMPANY IS IN THE PROCESS OF FOLLOWING ITS INSPECTION TECHNIQUES, WHERE THE FAILURE ALSO RESULTS FROM THE AGE OR OBSOLESCENCE OF THE ITEM OR DUE TO NORMAL WEAR AND TEAR. THIS AGREEMENT DOES NOT COVER SYSTEMS, EQUIPMENT, COMPONENTS OR PARTS THAT ARE BELOW GRADE, BEHIND WALLS OR OTHER OBSTRUCTIONS OR EXTERIOR TO THE BUILDING, ELECTRICAL WIRING, AND PIPING.

9. Customer Responsibilities. Customer shall regularly test the System(s) in accordance with applicable law and manufacturers' and Company's recommendations. Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes any existing system(s) are in operational and maintainable condition as of the Agreement date. If, upon inspection, Company determines that repairs are recommended, repair charges will be submitted for approval by Customer's on-site representative prior to work. Should such repair work be declined, Company shall be relieved from any and all liability arising therefrom.

Customer further agrees to:

- Provide Company clear access to Covered System(s) to be serviced including, if applicable, lift trucks or other equipment needed to reach inaccessible equipment;
- Supply suitable electrical service, heat, heat tracing adequate water supply, and required system schematics and/or drawings;
- Notify all required persons, including but not limited to authorities having jurisdiction, employees, and monitoring services, of scheduled testing and/or repair of systems;
- Provide a safe work environment;
- In the event of an emergency or Covered System(s) failure, take reasonable precautions to protect against personal injury, death, and/or property damage and continue such measures until the Covered System(s) are operational; and
- Comply with all laws, codes, and regulations pertaining to the equipment and/or services provided under this agreement.

Customer represents and warrants that it has the right to authorize the Services to be performed as set forth in this Agreement.

10. Repair Services. Where Customer expressly includes repair, replacement, and emergency response services in the Service Solution section of this Agreement, such services apply only to the components or equipment of the Covered System(s). Customer agrees to promptly request repair services in the event the System becomes inoperable or otherwise requires repair. The Agreement price does not include repairs to the Covered System(s)

recommended by Company as a result of an inspection, for which Company will submit independent pricing to customer and as to which Company will not proceed until Customer authorizes such work and approves the pricing. Repair or replacement of non-maintainable parts of the Covered System(s) including, but not limited to, unit cabinets, insulating material, electrical wiring, structural supports, and all other non-moving parts, is not included under this Agreement.

11. System Equipment. The purchase of equipment or peripheral devices, (including but not limited to smoke detectors, passive infrared detectors, card readers, sprinkler system components, extinguishers and hoses) from Company shall be subject to the terms and conditions of this Agreement. If, in Company's sole judgment, any peripheral device or other system equipment, which is attached to the Covered System(s), whether provided by Company, Customer or a third party, interferes with the proper operation of the Covered System(s), Customer shall remove or replace such device or equipment promptly upon notice from Company. Failure of Customer to remove or replace the device shall constitute a material breach of this Agreement. If Customer adds any third party device or equipment to the Covered System(s), Company shall not be responsible for any damage to or failure of the Covered System(s) caused in whole or in part by such device or equipment.

12. Reports. Where inspection and/or test services are selected, such inspection and/or test shall be completed on Company's then current Report form, which shall be given to Customer, and, where applicable, Company may submit a copy thereof to the local authority having jurisdiction. The Report and recommendations by Company are only advisory in nature and are intended to assist Customer in reducing the risk of loss to property by indicating obvious defects or impairments noted to the system and equipment inspected and/or tested. They are not intended to imply that no other defects or hazards exist or that all aspects of the Covered System(s), equipment, and components are under control at the time of inspection. Final responsibility for the condition and operation of the Covered System(s) and equipment and components lies with Customer.

13. Availability and Cost of Steel, Plastics & Other Commodities. Company shall not be responsible for failure to provide services, deliver products, or otherwise perform work required by this Agreement due to lack of available steel products or products made from plastics or other commodities. (i) In the event Company is unable, after reasonable commercial efforts, to acquire and provide steel products, or products made from plastics or other commodities, if required to perform work required by this Agreement, Customer hereby agrees that Company may terminate the Agreement, or the relevant portion of the Agreement, at no additional cost and without penalty. Customer agrees to pay Company in full for all work performed up to the time of any such termination. (ii) If Company is able to obtain the steel products or products made from plastics or other commodities, but the price of any of the products has risen by more than 10% from the date of the bid, proposal or date Company executed this Agreement, whichever occurred first, then Company may pass through that increase through a reasonable price increase to reflect increased cost of materials.

14. Confined Space. If access to confined space by Company is required for the performance of Services, Services shall be scheduled and performed in accordance with Company's then-current hourly rate.

15. Hazardous Materials. Customer represents that, except to the extent that Company has been given written notice of the following hazards prior to the execution of this Agreement, to the best of Customer's knowledge there is no:

- "Permit confined space," as defined by OSHA,
- Risk of infectious disease,
- Need for air monitoring, respiratory protection, or other medical risk,
- Asbestos, asbestos-containing material, formaldehyde or other potentially toxic or otherwise hazardous material contained in or on the surface of the floors, walls, ceilings, insulation or other structural components of the area of any building where work is required to be performed under this Agreement.

All of the above are hereinafter referred to as "Hazardous Conditions". Company shall have the right to rely on the representations listed above. If hazardous conditions are encountered by Company during the course of Company's work, the discovery of such materials shall constitute an event beyond Company's control and Company shall have no obligation to further perform in the area where the hazardous conditions exist until the area has been made safe by Customer as certified in writing by an independent testing agency, and Customer shall pay disruption expenses and re-mobilization expenses as determined by Company. This Agreement does not provide for the cost of capture, containment or disposal of any hazardous waste materials, or hazardous materials, encountered in any of the Covered System(s) and/or during performance of the Services. Said materials shall at all times remain the responsibility and property of Customer. Company shall not be responsible for the testing, removal or disposal of such hazardous materials.

16. Remote Service. If Customer selects Remote Service, Customer understands and agrees that, while Remote Service provides for communication regarding Customer's fire alarm system to Company via the internet, Remote Service does not constitute monitoring of the system and Customer understands that Remote Service does not provide for Company to contact the fire department or other authorities in the event of a fire alarm. The Customer understands that if it wishes to receive monitoring of its fire alarm system and notification of the fire department or other authorities in the event of a fire alarm, it must select monitoring services as a separate service under this Agreement. CUSTOMER FURTHER UNDERSTANDS AND AGREES

THAT THE TERMS OF SECTION 17.F OF THIS AGREEMENT APPLY TO REMOTE SERVICE.

17. Monitoring Services. If Customer has selected Monitoring services, the following shall apply to such services:

A. Alarm Monitoring Service. Customer agrees and acknowledges that Company's sole and only obligation under this Agreement shall be to provide alarm monitoring, notification, and/or Runner services as set forth in this Agreement and to endeavor to notify the party(ies) identified by Customer on the Contact/Call List ("Contacts") and/or Local Emergency Dispatch Numbers for responding authorities. Upon receipt of an alarm signal, Company may, at our sole discretion, attempt to notify the Contacts to verify the signal is not false. If we fail to notify the Contacts or question the response we receive, we will attempt to notify the responding authority. In the event Company receives a supervisory signal or trouble signal, Company shall endeavor to promptly notify one of the Contacts. Company shall not be responsible for a Contact's or responding authority's refusal to acknowledge/respond to Company's notifications of receipt of an alarm signal, nor shall Company be required to make additional notifications because of such refusal. The Contacts are authorized to act on Customer's behalf and, if so designated on the Contact/Call List, are authorized to cancel an alarm prior to the notification of authorities. Customer understands that local laws, ordinances or policies may restrict Company's ability to provide the alarm monitoring and notification services described in this Agreement and/or necessitate modified or additional services and related charges to Customer. Customer understands that Company may employ a number of industry-recognized measures to help reduce occurrences of false alarm signal activations. These measures may include, but are not limited to, implementation of industry-recognized default settings; implementation of "partial clear time bypass" procedures at our alarm monitoring center and other similar measures at our sole discretion from time to time. THESE MEASURES CAN RESULT IN NO ALARM SIGNAL BEING SENT FROM AN ALARM ZONE IN CUSTOMER'S PREMISES AFTER THE INITIAL ALARM ACTIVATION UNTIL THE ALARM SYSTEM IS MANUALLY RESET. Upon receiving notification from Company that a fire or gas detection (e.g. carbon monoxide) signal has been received, the responding authority may forcibly enter the premises. Cellular radio unit test supervision, if provided under this Agreement, provides only the status of the cellular radio unit's current signaling ability at the time of the test communication based on certain programmed intervals and does not serve to detect the potential loss of radio service at the time of an actual emergency event. Company shall not be responsible to provide monitoring services under this Agreement unless and until the communication link between Customer's premises and Company's Monitoring Center has been tested. **SUCH SERVICES ARE PROVIDED WITHOUT WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

B Limitation of Liability; Limitations of Remedy. Customer understands that Company offers several levels of Monitoring Services and that the level described has been chosen by Customer after considering and balancing various levels of protection afforded and their related costs. **It is understood and agreed by the Customer that Company is not an insurer and that insurance coverage, if any, shall be obtained by the Customer and that amounts payable to Company hereunder are based upon the value of the Monitoring Services and the scope of liability set forth in this Agreement and are unrelated to the value of the Customer's property and the property of others located on the premises.** Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damage in the event of any loss or injury and that Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or Warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or services supplied by Company will detect or avert occurrences or the consequences there from that the equipment or service was designed to detect or avert. It is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from failure on the part of Company to perform any of its monitoring obligations under this Agreement. Accordingly, Customer agrees that, **Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences there from, which the equipment or service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or service in any respect, Company's liability with respect to Monitoring Services shall be the lesser of the annual fee for Monitoring Services allocable to the site where the incident occurred or two thousand five hundred (\$2,500) dollars. Such sum shall be complete and exclusive. If Customer desires Company to assume greater liability, the parties shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount payable by the Customer for the assumption by Company of such greater liability, provided however that such rider shall in no way be interpreted to hold Company as an insurer. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S), AS HEREINAFTER DEFINED, OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY.**

COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM(S) TO PERFORM. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, Company's employees, agents, officers and directors.

C. Indemnity, Insurance. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third party claims for personal injury, death, property damage or economic loss, arising in any way from any act or omission of Customer or Company relating in any way to the Monitoring Services provided under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any such action. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and representatives as additional insureds on Customer's general liability and auto liability policies.

D. No modification. Modification to Sections 17 B or C may only be made by a written amendment to this Agreement signed by both parties specifically referencing Section 17 B and/or C, and no such amendment shall be effective unless approved by the manager of Company's Central Monitoring Center.

E. Customer's Duties. In addition to Customer's duty to indemnify, defend, and hold Company harmless pursuant to this Section 17:

i. Customer agrees to furnish the names and telephone numbers of all persons authorized to enter or remain on Customer's premises and/or that should be notified in the event of an alarm (the Contact/Call List) and Local Emergency Dispatch Numbers and provide all changes, revision and modifications to the above to Company in writing in a timely manner. Customer must ensure that all such persons are authorized and able to respond to such notification.

ii. Customer shall carefully and properly test and set the system immediately prior to the securing of the premises and carefully test the system in a manner prescribed by Company during the term of this Agreement. Customer agrees that it is responsible for any losses or damages due to malfunction, miscommunication or failure of Customer's system to accurately handle, process or communicate data. If any defect in operation of the System develops, or in the event of a power failure, interruption of telephone service, or other interruption at Customer's premises of signal or data transmission through any media, Customer shall notify Company immediately. If space/interior protection (i.e. ultrasonic, microwave, infrared, etc.) is part of the System, Customer shall walk test the system in the manner recommended by Company.

iii. When any device or protection is used, including, but not limited to, space protection, which may be affected by turbulence of air, occupied airspace change or other disturbance, forced air heaters, air conditioners, horns, bells, animals and any other sources of air turbulence or movement which may interfere with the effectiveness of the System during closed periods while the alarm system is on, Customer shall notify Company

iv. Customer shall promptly reset the System after any activation.

v. Customer shall notify Company regarding any remodeling or other changes to the protected premises that may affect operation of the system.

vi. Customer shall cooperate with Company in the installation, operation and/or maintenance of the system and agrees to follow all instructions and procedures which may be prescribed for the operation of the system, the rendering of services and the provision of security for the premises.

vii. Customer shall pay all charges made by any telephone or communications provider company or other utility for installation, leasing, and service charges of telephone lines connecting Customer's premises to Company. Customer acknowledges that alarm signals from Customer's premises to Company are transmitted over Customer's telephone or other transmission service and that in the event the telephone or other transmission service is out of order, disconnected, placed on "vacation", or otherwise interrupted, signals from Customer's alarm system will not be received by Company, during any such interruption in telephone or other transmission service and the interruption will not be known to Company. Customer agrees that in the event the equipment or system continuously transmits signals reasonably determined by Company to be false and/or excessive in number, Customer shall be subject to the additional costs and fees incurred by Company in the receiving and/or responding to the excessive signals and/or Company may at its sole discretion terminate this Agreement with respect to Monitoring services upon notice to Customer.

F. Communication Facilities.

i. **Authorization.** Customer authorizes Company, on Customer's behalf, to request services, orders or equipment from a telephone company, wireless carrier or other company providing communication facilities, signal transmission services or facilities under this Agreement (referred to as "Communication Company"). Should any third party service, equipment or facility be required to perform the Monitoring services set forth in this Agreement, and should the same be terminated or become otherwise unavailable or impracticable to provide, Company may terminate Monitoring services upon notice to Customer.

ii. **Digital Communicator.** Customer understands that a digital communicator (DACT), if installed under this Agreement, uses traditional telephone lines for

sending signals which eliminate the need for a dedicated telephone line and the costs associated with such dedicated lines.

iii. **Derived Local Channel.** The Communication Company's services provided to Customer in connection with the Services may include Derived Local Channel service. Such service may be provided under the Communication Company's service marks or service names. These services include providing lines, signal paths, scanning and transmission. Customer agrees that the Communication Company's liability is limited to the same extent Company's liability is limited pursuant to this Section 17.

iv. **CUSTOMER UNDERSTANDS THAT COMPANY WILL NOT RECEIVE ALARM SIGNALS WHEN THE TELEPHONE LINE OR OTHER TRANSMISSION MODE IS NOT OPERATING OR HAS BEEN CUT, INTERFERED WITH OR IS OTHERWISE DAMAGED OR IF THE ALARM SYSTEM IS UNABLE TO ACQUIRE, TRANSMIT OR MAINTAIN AN ALARM SIGNAL OVER CUSTOMER'S TELEPHONE SERVICE FOR ANY REASON INCLUDING NETWORK OUTAGE OR OTHER NETWORK PROBLEMS SUCH AS CONGESTION OR DOWNTIME, ROUTING PROBLEMS, OR INSTABILITY OF SIGNAL QUALITY. CUSTOMER UNDERSTANDS THAT OTHER POTENTIAL CAUSES OF SUCH A FAILURE OVER CERTAIN TELEPHONE SERVICES (INCLUDING BUT NOT LIMITED TO SOME TYPES OF DSL, ADSL, VOIP, DIGITAL PHONE, INTERNET PROTOCOL BASED PHONE OR OTHER INTERNET INTERFACE-TYPE SERVICE OR RADIO SERVICE, INCLUDING CELLULAR OR PRIVATE RADIO, ETC. ("NON-TRADITIONAL TELEPHONE SERVICE")) INCLUDE BUT ARE NOT LIMITED TO: (1) LOSS OF NORMAL ELECTRIC POWER TO CUSTOMER'S PREMISES (THE BATTERY BACK-UP FOR THE ALARM PANEL DOES NOT POWER TELEPHONE SERVICE); AND (2) ELECTRONICS FAILURES SUCH AS A MODEM MALFUNCTION. CUSTOMER UNDERSTANDS THAT COMPANY WILL ONLY REVIEW THE INITIAL COMPATIBILITY OF CUSTOMER'S ALARM SYSTEM WITH NON-TRADITIONAL TELEPHONE SERVICE AT THE TIME OF INITIAL CONNECTION TO COMPANY'S MONITORING CENTER AND THAT CHANGES IN CUSTOMER'S TELEPHONE SERVICE'S DATA FORMAT AFTER THE INITIAL REVIEW OF COMPATIBILITY COULD MAKE CUSTOMER'S TELEPHONE SERVICE UNABLE TO TRANSMIT ALARM SIGNALS TO COMPANY'S MONITORING CENTERS. IF COMPANY DETERMINES IN ITS SOLE DISCRETION THAT IT IS COMPATIBLE, COMPANY WILL PERMIT CUSTOMER TO USE NON-TRADITIONAL TELEPHONE SERVICE AS THE SOLE METHOD OF TRANSMITTING ALARM SIGNALS, ALTHOUGH CUSTOMER UNDERSTANDS THAT COMPANY RECOMMENDS THE USE OF AN ADDITIONAL BACK-UP METHOD OF COMMUNICATION TO CONNECT CUSTOMER'S ALARM SYSTEM TO THE MONITORING CENTER REGARDLESS OF THE TYPE OF TELEPHONE SERVICE USED. CUSTOMER ALSO UNDERSTANDS THAT IF COMPANY DETERMINES IN ITS SOLE DISCRETION THAT CUSTOMER'S NON-TRADITIONAL TELEPHONE SERVICE IS OR LATER BECOMES NON-COMPATIBLE, OR IF CUSTOMER CHANGES TO ANOTHER NON-TRADITIONAL TELEPHONE SERVICE THAT IS NOT COMPATIBLE, THEN COMPANY REQUIRES THAT CUSTOMER USE AN ALTERNATE METHOD OF COMMUNICATION ACCEPTABLE TO COMPANY AS THE PRIMARY METHOD TO CONNECT CUSTOMER'S ALARM SYSTEM TO THE MONITORING CENTER. CUSTOMER UNDERSTANDS THAT TRANSMISSION OF FIRE ALARM SIGNALS BY MEANS OTHER THAN A TRADITIONAL TELEPHONE LINE MAY NOT BE IN COMPLIANCE WITH FIRE ALARM STANDARDS OR SOME LOCAL FIRE CODES, AND THAT IT IS CUSTOMER'S OBLIGATION TO COMPLY WITH SUCH STANDARDS AND CODES. CUSTOMER ALSO UNDERSTANDS THAT IF THE ALARM SYSTEM HAS A LINE CUT FEATURE, IT MAY NOT BE ABLE TO DETECT IF A NON-TRADITIONAL TELEPHONE SERVICE LINE IS CUT OR INTERRUPTED, AND THAT COMPANY MAY NOT BE ABLE TO PROVIDE CERTAIN AUXILIARY MONITORING SERVICES THROUGH A NON-TRADITIONAL TELEPHONE LINE OR SERVICE. CUSTOMER FURTHER UNDERSTANDS THAT THE ALARM PANEL MAY BE UNABLE TO SEIZE THE PHONE LINE TO TRANSMIT AN ALARM SIGNAL IF ANOTHER CONNECTION IS OFF THE HOOK DUE TO IMPROPER CONNECTION OR OTHERWISE.**

G. Verification; Runner Service. Some jurisdictions may require alarm verification by telephone or on-site verification (Runner Service) before dispatching emergency services. In the event that a requirement of alarm verification becomes effective after the date of this Agreement, such services may be available at an additional charge. Company shall not be held liable for any delay or failure of dispatch of emergency services arising from such verification. Where Runner Service is indicated, such services may be provided by a third party. COMPANY WILL NOT ARREST OR DETAIN ANY PERSON.

H. Personal Emergency Response Service. If Customer has selected Personal Emergency Response Services, Customer agrees that the very nature of Personal Emergency Response Services, irrespective of any delays, involves uncertainty, risk and possible serious injury, disability or death, for which Company should not under any circumstances be held responsible or liable; that the equipment furnished for Personal Emergency Response Services is not foolproof and may experience signal transmission failures or delays for any number of reasons, whether or not our fault or under Company's control; that the actual time required for medical emergency providers to arrive

at the premises and/or to transport any person requiring medical attention is unpredictable and that many contributing factors, including but not limited to such things as telephone network operation, distance, weather, road and traffic conditions, alarm equipment function and human factors, both with responding authorities and with Company, may affect response

18. Limited Warranty. COMPANY WARRANTS THAT ITS WORKMANSHIP AND MATERIAL, EXCLUDING MONITORING SERVICES, FURNISHED UNDER THIS AGREEMENT WILL BE FREE FROM DEFECTS FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE OF FURNISHING. Where Company provides product or equipment of others, Company will warrant the product or equipment only to the extent warranted by such third party. EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR EQUIPMENT, IF ANY, SUPPORTED HEREUNDER. COMPANY MAKES NO WARRANTY OR REPRESENTATION, AND UNDERTAKES NO OBLIGATION TO ENSURE BY THE SERVICES PERFORMED UNDER THIS AGREEMENT, THAT COMPANY'S PRODUCTS OR THE SYSTEMS OR EQUIPMENT OF THE CUSTOMER WILL CORRECTLY HANDLE THE PROCESSING OF CALENDAR DATES BEFORE OR AFTER DECEMBER 31, 1999.

19. Taxes, Fees, Fines, Licenses, and Permits. Customer agrees to pay all sales tax, use tax, property tax, utility tax and other taxes required in connection with the equipment and services listed, including telephone company line charges, if any. Customer shall comply with all laws and regulations relating to the equipment and its use and shall promptly pay when due all sales, use, property, excise and other taxes and all permit, license and registration fees now or hereafter imposed by any government body or agency upon the equipment or its use. Company may, without notice, obtain any required permit, license or registration for Customer at Customer's expense and charge a fee for this service. If Customer fails to maintain any required licenses or permits, Company shall not be responsible for performing the services and may terminate the services without notice to Customer.

20. Outside Charges. Customer understands and accepts that Company specifically denies any responsibility for charges associated with the notification or dispatching of anyone, including but not limited to fire department, police department, paramedics, doctors, or any other emergency personnel, and if there are any charges incurred as a result of said notification or dispatch, said charges shall be the responsibility of Customer.

21. Insurance. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and representatives as additional insureds on Customer's general liability and auto liability policies.

22. Waiver of Subrogation. Customer does hereby for itself and all other parties claiming under it release and discharge Company from and against all hazards covered by Customer's insurance, it being expressly agreed and understood that no insurance company or insurer will have any right of subrogation against Company.

23. Force Majeure, Exclusions. Company shall not be responsible for delays, interruption or failure to render services due to causes beyond its control, including but not limited to material shortages, work stoppages, fires, civil disobedience or unrest, severe weather, fire or any other cause beyond the control of Company. This Agreement expressly excludes, without limitation, provision of fire watches; reloading of, upgrading, and maintaining computer software; making repairs or replacements necessitated by reason of negligence or misuse of components or equipment or changes to Customer's premises; vandalism; power failure; current fluctuation; failure due to non-Company installation; lightning, electrical storm, or other severe weather; water; accident; fire; acts of God; testing inspection and repair of duct detectors, beam detectors, and UV/IR equipment; provision of fire watches; clearing of ice blockage; draining of improperly pitched piping; batteries; recharging of chemical suppression systems; reloading of, upgrading, and maintaining computer software; corrosion (including but not limited to micro-bacterially induced corrosion ("MIC")); cartridges greater than 16 grams; gas valve installation; or any other cause external to the Covered System(s) and Company shall not be required to provide Service while interruption of service due to such causes shall continue. This Agreement does not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. All such services may be provided by Company at Company's sole discretion at an additional charge. If Emergency Services are expressly included in the Service Solution, the Agreement price does not include travel expenses.

24. Delays. Company shall have no responsibility or liability to Customer or any other person for delays in the installation or repair of the System or the performance of our Services regardless of the reason, or for any resulting consequences.

25. Termination. Company may terminate this Agreement immediately at its sole discretion upon the occurrence of any Event of Default as hereinafter defined. Company may also terminate this Agreement at its sole discretion upon notice to Customer if Company's performance of its obligations under this Agreement becomes impracticable due to obsolescence of equipment at Customer's premises or unavailability of parts.

26. No Option to Solicit. Customer shall not, directly or indirectly, on its own behalf or on behalf of any other person, business, corporation or entity, solicit

or employ any Company employee, or induce any Company employee to leave his or her employment with Company, for a period of two years after the termination of this Agreement.

27. Default. An Event of Default shall include 1) any full or partial termination of this Agreement by Customer before the expiration of the then-current Term, 2) failure of the Customer to pay any amount within ten (10) days after the amount is due and payable, 3) abuse of the System or the Equipment, 4) failure by Customer to observe, keep or perform any term of this Agreement; 5) dissolution, termination, discontinuance, insolvency or business failure of Customer. Upon the occurrence of an Event of Default, Company may pursue one or more of the following remedies, 1) discontinue furnishing Services, 2) by written notice to Customer declare the balance of unpaid amounts due and to become due under the this Agreement to be immediately due and payable, provided that all past due amounts shall bear interest at the rate of 1 ½% per month (18% per year) or the highest amount permitted by law, 3) receive immediate possession of any equipment for which Customer has not paid. 4) proceed at law or equity to enforce performance by Customer or recover damages for breach of this Agreement, and 5) recover all costs and expenses, including without limitation reasonable attorneys' fees, in connection with enforcing or attempting to enforce this Agreement.

28. One-Year Limitation on Actions; Choice of Law. It is agreed that no suit, or cause of action or other proceeding shall be brought against either party more than one (1) year after the accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, Agreement, or any other legal theory. The laws of Massachusetts shall govern the validity, enforceability, and interpretation of this Agreement.

29. Assignment. Customer may not assign this Agreement without Company's prior written consent. Company may assign this Agreement without obtaining Customer's consent.

30. Entire Agreement. The parties intend this Agreement, together with any attachments or Riders (collectively the "Agreement") to be the final, complete and exclusive expression of their Agreement and the terms and conditions thereof. This Agreement supersedes all prior representations, understandings or agreements between the parties, written or oral, and shall constitute the sole terms and conditions relating to the Services. No waiver, change, or modification of any terms or conditions of this Agreement shall be binding on Company unless made in writing and signed by an Authorized Representative of Company.

31. Headings. The headings in this Agreement are for convenience only.

32. Severability. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement will continue to be valid as to the other provisions and the remainder of the affected provision.

33. Electronic Media. Customer agrees that Company may scan, image or otherwise convert this Agreement into an electronic format of any nature. Customer agrees that a copy of this Agreement produced from such electronic format is legally equivalent to the original for any and all purposes, including litigation. Customer agrees that Company's receipt by fax of the Agreement signed by Customer legally binds Customer and such fax copy is legally equivalent to the original for any and all purposes, including litigation.

34. Legal Fees. Company shall be entitled to recover from the Customer all reasonable legal fees incurred in connection with Company enforcing the terms and conditions of this Agreement.

35. License Information (Security System Customers): AL Alabama Electronic Security Board of Licensure 7956 Vaughn Road, PMB 392, Montgomery, Alabama 36116 (334) 264-9388; AR Regulated by: Arkansas Board of Private Investigators and Private Security Agencies, #1 State Police Plaza Drive, Little Rock 72209 (501)618-8600; CA Alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, CA, 95814. Upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system. Failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act: NY Licensed by the N.Y.S. Department of the State: TX Texas Commission on Private Security, 5805 N. Lamar Blvd., Austin, TX 78752-4422, 512-424-7710. License numbers available at www.simplexgrinnell.com or contact your local SimplexGrinnell office.