

# CONTRACT APPROVAL FORM

(Contract Management Use only)

**CONTRACT TRACKING NO.**

*Cm2869*

## CONTRACTOR INFORMATION

Name: Johnson Controls Fire Protection

Address: 10255 Fortune Parkway Suite 120 Jacksonville, FL 32258

City State Zip

Contractor's Administrator Name: Tracy Maddama Title: Sales Representative

Tel#: (866) 275-5189 Fax: (904) 363-0674 Email: tracy.maddmama@jci.com

## CONTRACT INFORMATION

Contract Name: Simplx/Grinnell 411/4020 Fire Alarm System Test & Ins Contract Value: \$ 5,727.00 (3 Yrs)

Brief Description: Detention Center- Annual Fire Alarm System Test and Inspections 3 Yr Agreement: (5/1/20-4/30/21 =\$1,909.00) (5/1/21-4/30/22 =\$1,909.00) (5/1/22-4/30/23 = \$1,909.00) (As per Proposal # 758535)

Contract Dates : From: 5/1/20 to: 4/30/23 Status:  New  Renew  Amend#  WA/Task Order

How Procured:  Sole Source  Single Source  ITB  RFP  RFQ  Coop.  Other

### If Processing an Amendment:

Contract #: \_\_\_\_\_ Increase Amount of Existing Contract: \_\_\_\_\_

New Contract Dates: \_\_\_\_\_ to \_\_\_\_\_ TOTAL OR AMENDMENT AMOUNT: \$ \_\_\_\_\_

### APPROVALS PURSUANT TO NASSAU COUNTY PURCHASING POLICY, SECTION 6

1.	<u>[Signature]</u> Department Head Signature	<u>6-5-20</u> Date	Facilities Maintenance Dept./Detention Center
2.	<u>[Signature]</u> Contract Management	<u>6/15/2020</u> Date	Submitting Department <u>01072523-546020</u>
3.	<u>[Signature]</u> Office of Management & Budget	<u>6/22/20</u> Date	Funding Source/Acct #
4.	<u>[Signature]</u> County Attorney (approved as to form only)	<u>6/23/20</u> Date	

Comments: \_\_\_\_\_

### COUNTY MANAGER - FINAL SIGNATURE APPROVAL

[Signature]  
Michael Mullin

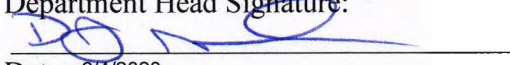
[Signature]  
Date

### RETURN ORIGINAL(S) TO CONTRACT MANAGEMENT FOR DISTRIBUTION AS FOLLOWS:

Original: Clerk's Services; Contractor (original or certified copy)

Copy: Department  
Office of Management & Budget  
Contract Management  
Clerk Finance

Nassau County Board of County Commissioners  
Sole Source/Single Source Certification Form

Vendor Name: Johnson Control Fire Protection Department: Facilities Maintenance Dept.  
Address: 10255 Fortune Parkway Suite 120 Department Head Signature:   
Jacksonville, FL 32258  
Phone: 866-275-5189 Fax: 904-363-0674 Date: 6/4/2020  
Contact Name: Tracy Madmama  
Account: 01072523-546020 Cost: \$5,727.00 (3Yr Agreement)

Description of Commodity:

Detention Center - Annual Service Agreement for the Fire Alarm System Test and Inspections.

Check one (1) of the following two (2) choices:

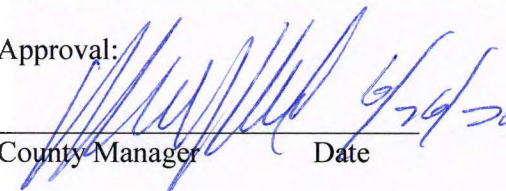
- Sole Source: The goods or services can be legally purchased from only one source.
- Single Source: The goods or services can be purchased from multiple sources, but, in order to meet certain functional or performance requirements, there is only one economically feasible source for this purchase.

Please check all of the following that apply:

- Purchase can only be obtained from original manufacturer-not available through distributors.
- Only authorized area distributor of the original manufacturer.
- Parts/Equipment are not interchangeable with similar parts of another manufacturer.
- This is the only known source that will meet the specialized needs of this department or perform the intended function.
- This source must be used to meet warranty or service maintenance requirements.
- This source is required for standardization.
- None of the above apply.

Comments/Explanations: (required)

The programming to the fire alarm panel is proprietary; and can only be done by Johnson Control/SimplexGrinnell. Repair parts are specific to the system, these parts can be purchased through other vendors, these vendors purchase the parts through Johnson Controls Fire Protection (SimplexGrinnell), and add a mark-up cost to the price and that is passed to us.

Approval: 

County Manager

Date

Johnson Controls Fire Protection  
10255 Fortune Parkway; Suite 120  
Jacksonville, FL 32258  
Tel +1 904 486 1200  
www.JohnsonControls.com



Thursday, May 15, 2020

Nassau County Jail  
Mr. Bill Howard  
76212 Nicholas Cutinna Rd  
Yulee, FL 32097

Mr. Bill Howard,

As means of affirmation, Simplex brand Fire Alarm Systems are sold exclusively through Johnson Control Fire Protection's (formerly Tyco SimplexGrinnell) North American network of company owned District offices. Accordingly, Johnson Controls Fire Protection is the only authorized sales and service provider of the Simplex brand fire alarm systems. Many services (e.g. system programming, configuration, peripheral additions, modifications, deletions, etc.) requested by an owner of a Simplex brand Fire Alarm System are only able to be completed through use of copyrighted Johnson Controls Fire Protection programming / configuration software by a factory trained technician.

With these points in mind, the Simplex 4100/4020 Fire Alarm System located at the Nassau County Jail located at 76212 Nicholas Cutinna Rd is a proprietary system. In order to receive the aforementioned services, a request for service must be placed with a local Johnson Controls Fire Protection office, which for this location is our Jacksonville market.

With regards to the mentioned service efforts (e.g. inspection and general), our Jacksonville – Gainesville Market's Service Department is adequately staffed to perform the contractual annual Fire Alarm Inspections, as well as provide technical support / response upon placement of a request for service, via our Service Resource Center at 904.486.1200, option one.

Thank you and if you should have any further question or require additional information, please do not hesitate to contact me at 904.486.1200.

Respectfully,

Pete J. Willie Jr.  
General Service Manager  
Johnson Control Fire Protection





# SERVICE SOLUTION

**Customer:**  
**Nassau County**  
**Date: 05-MAR-20**  
**Proposal #: 758535**  
**Term: 01-MAY-20 to 30-APR-23**

**Billing Customer:**  
 Nassau County  
 76347 veterans Way, suite 4000  
 YULEE, FL 32097-5404

**Service Location:**  
 Nassau County Jail  
 76212 NICHOLAS CUTINNA RD  
 YULEE, FL 32097-5420

**Johnson Controls Fire Protection LP**  
**Sales Representative:**  
 Tracy Maddamma  
 50 Technology Drive  
 WESTMINSTER, MA 01441-0001  
 tracy.maddamma@jci.com

## INVESTMENT SUMMARY

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

SERVICE/PRODUCT DESCRIPTION	QUANTITY	FREQUENCY	INVESTMENT
<b>Recurring Annual Investment</b>			
FIRE ALARM BASIC SERVICE OFFER			
SIMPLEX 4100/4020 FIRE ALARM SYSTEM			
Main Fire Alarm Panel	1	Annual	
Smoke Detector Conventional	61	Annual	
Duct Detector Conventional	22	Annual	
Pull Station	20	Annual	
Audio-Visual Notification Conventional	4	Annual	
<b>FIRE ALARM BASIC SERVICE OFFER Total:</b>			<b>\$1,909.00</b>
<b>Total Recurring Annual Investment:</b>			<b>\$1,909.00</b>

130 1400  
20/23



# SERVICE SOLUTION

## SUMMARY OF SERVICES

### FIRE ALARM BASIC SERVICE OFFER - SIMPLEX PROGRAMMABLE FIRE ALARM SYSTEM

#### 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. System labor discount on parts and peripherals of 10%. 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.

#### Customer Portal (Basic)

Basic Customer Portal functionality will be provided.

#### System labor discount on parts and peripherals of 10%

System labor discount on parts and peripherals of 10%



## **SERVICE SOLUTION**

### **SPECIAL PROVISIONS**

Basic Inspection Reporting

Customer Portal (Basic)

System labor discount on parts and peripherals of 10%



# SERVICE SOLUTION

This Service Solution (the "Agreement") sets forth the Terms and Conditions for the provision of equipment and services to be provided by Johnson Controls Fire Protection LP ("Company") to **Nassau County** and is effective **01-MAY-20 to 30-APR-23** (the "Initial Term").

**PAYMENT TERM:** *Annual In Advance*

**PAYMENT AMOUNT:** **\$1,909 00** - Proposal # : 758535

**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 Customer may issue. Any changes in the system requested by Customer after the execution of Agreement shall be paid for by 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.**

**Nassau County**

Signature:

Print Name:

Michael Mellia

Title:

County Administrator

Phone#:

904-530-6100

Fax #:

\_\_\_\_\_

Email:

\_\_\_\_\_

PO#:

\_\_\_\_\_

Date:

6/23/2020

**Johnson Controls Fire Protection LP**

Tracy Madmama

Phone #:

866-275-5189

Fax #:

\_\_\_\_\_

License #:  
(If Applicable)

\_\_\_\_\_

Authorized  
Signature:

\_\_\_\_\_

Print Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

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 (subject to Section 3) unless either party gives written notice to the other party at least thirty (30) days prior to the end of the then-current term (each a "Renewal Term").

**2. Payment.** Amounts are due upon receipt of the invoice and shall be paid by Customer within 30 days. Invoicing disputes must be identified in writing within 21 days of the invoice date. Payments of any disputed amounts are due and payable upon resolution. All other amounts remain due within 30 days. Payment is a condition precedent to Company's obligation to perform Services under the 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. Failure to make payment when due will give Company, without prejudice to any other right or remedy, the right to (a) stop performing any Services, terminate or suspend any unpaid software licenses, and/or terminate this Agreement; and (b) charge Customer interest on the amounts unpaid at a rate equal to the lesser of 1.5% per month or the maximum rate permitted under applicable law, until payment is made in full. Customer agrees to pay all of Company's reasonable collection costs, including legal fees and expenses.

**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 Customer 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. Prices in any quotation or proposal from Company are subject to change upon notice sent to Customer at any time before the quotation or proposal has been accepted. Prices for products covered may be adjusted by Company, upon notice to Customer at any time prior to shipment, to reflect any increase in Company's cost of raw materials (e.g., steel, aluminum) incurred by Company after issuance of

Company's applicable proposal or quotation. Company will provide Customer with notice of any pricing adjustments applicable to any Renewal Term no later than 45 days prior to the commencement of that Renewal Term. Unless Customer terminates the Agreement at least thirty (30) days prior to the start of such Renewal Term, the adjusted price shall be the price for the Renewal Term.

**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 Customer that Company is not an insurer and that insurance coverage shall be obtained by 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 Customer's property and the property of others located on the premises. Customer agrees to look exclusively to Customer's insurer to recover for injuries or damage in the event of any loss or injury. 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 aggregate 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. **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 CUSTOMER OR ANY THIRD PARTY.** To the maximum extent permitted by law, in no event shall Company and its affiliates and their respective personnel, suppliers and vendors be liable to Customer or any third party under any cause of action or theory of liability, even if advised of the possibility of such damages, for any (a) special, incidental, consequential, punitive or indirect damages of any kind; (b) loss of profits, revenues, data, customer opportunities, business, anticipated savings or goodwill; (c) business interruption; or (d) data loss or other losses arising from viruses, ransomware, cyber-attacks or failures or interruptions to network systems. 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. 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. Customer is solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network ("Network") and shall supply Company secure Network access for providing its services. Products networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Customer and/or end user against unauthorized access. Customer is responsible to take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files (collectively "Data") prior to receiving the service or products.

**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. 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.

**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; or
- 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. Sold 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. 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 Customer that Company is not an insurer and that insurance coverage shall be obtained by 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 Customer's property and the property of others located on the premises. Customer agrees to look exclusively to 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 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 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 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. **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 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 and specifically disclaims all representations or warranties that the services, products, software or third party product or software will be secure from cyber threats, hacking or other similar malicious activity.

**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 disclaims 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, cyber-attacks, viruses, ransomware, failures or interruptions to network systems, data breaches, 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 (a) any full or partial termination of this Agreement by Customer before the expiration of the then-current Term, (b) failure of Customer to pay any amount when due and payable, (c) abuse of the System or the Equipment, (d) failure by Customer to observe, keep or perform any term of this Agreement; (e) 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: (i) discontinue furnishing Services, (ii) by written notice to Customer declare the balance of unpaid amounts due and to become due under this Agreement to be immediately due and payable, (iii) receive immediate possession of any equipment for which Customer has not paid, (iv) proceed at law or equity to enforce performance by Customer or recover damages for breach of this Agreement, and (v) 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.** No claim or cause of action, whether known or unknown, shall be brought against Company more than one year after the claim first arose. Except as provided for herein, Company's claims must also be brought within one year. Claims for unpaid contract amounts are not subject to the one-year limitation. 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 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 License 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, 6805 N. Lamar Blvd., Austin, TX 78752-4422, 512-424-7710. License numbers available at [www.jci.com](http://www.jci.com) or contact your local Johnson Controls office.