

MEETING DATE: 11/14/07

AGENDA ITEM: Authorization to Enter into a New Five Year Agreement with Siemens Building Technologies, Inc. for Regular Testing, Maintenance and Repair of Fire Safety Systems at City Hall and the Transportation Facility.

ATTACHMENTS

		<u>Pages</u>
1	Siemens Proposal	1-15

Advantage Services®

Agreement for City of Culver City

9/1/2007

SIEMENS

1 Overview

1.1 Executive Summary

SIEMENS Fire Safety will perform the annual inspection and test of the MXL Life Safety System – excluding the audible and visuals which will be inspected and tested by Culver City personnel.

All inspections and tests will be performed during normal working hours, Monday – Friday 7:00 AM – 4:00 PM, excluding normal holidays.

The MXL Life Safety System is covered under a Platinum Performance Plus (formerly known as supportLINK) Service Agreement.

1.2 Siemens Capabilities & Commitment to Our Customers

Siemens Building Technologies is the leading single-source provider of cost-effective facility performance solutions for the comfort, life safety, security, energy efficiency and operation of some of the most technically advanced buildings in the world. Siemens is pleased to offer this proposal for technical support services to your facility. For more than 150 years, Siemens has built a culture of long-term commitment to customers through innovation and technology. We are confident that we have the capabilities to meet your critical facility needs today and in the future, and we look forward to the opportunity to serve you.

2

2 Service Solution

2.1 Quality Assurance

Account Management

site360 Service Through site360 Service, customers can securely access detailed information regarding their Service Agreement. The Web interface provides complete service information, such as service in-progress, completed service, and local field office contacts. Customers must have Internet access, their own Internet service provider, and browser.

2.2 FIRE ALARM & LIFE SAFETY SERVICES

2.2.1 Approach

Platinum Level

The Platinum Advantage Services plan is designed for customers who experience serious business interruptions if critical building systems fail. When emergencies occur, Siemens experts will be on site within four hours for critical components 24 hours a day every day. For non-emergency technical problems or for non-critical components, Siemens staff will be on site within eight hours 24x7. In addition to the peace of mind that comes from knowing equipment downtime is minimized, the Platinum plan also eliminates budget surprises. All repair and replacement parts and labor for equipment covered by the plan are included in the service contract. The service program begins with a technology audit by our highly trained professionals that pinpoints any existing problems with the system. Software support and updates are another important aspect of keeping the system functioning optimally and are provided as they are issued, and as applicable to the system, under the Platinum plan. Operator coaching by Siemens provides another layer of confidence by helping your staff identify, verify and resolve problems and concerns in performing tasks to keep systems running smoothly. During coaching sessions, we address specific issues concerning the use of systems in your facility. Siemens patented site360™ service provides a user-friendly Web interface that gives customers instant access to service requests and service status at any time.

The result of the Platinum Advantage Services Plan is confidence in the operation of your critical building technology and the comfort, occupant safety and security of your facility. With the Platinum plan, Siemens offers unsurpassed commitment in fast and efficient repair services. No other plan offers greater support, faster on-site response time, more hours of coverage or a wider range of services.

Performance Plus

To maximize the performance and reliability of your fire protection system, the Advantage Services Performance Plus package provides the most full-featured set of services available. Designed for customers requiring absolute confidence in fire system effectiveness, it provides you with the expertise of Siemens to perform system maintenance and service while assuring compliance with NFPA and local codes. To meet your specific needs, the Performance Plus package includes full testing and inspection, with sensitivity testing and software backup to ensure your systems are operating properly. At the same time, it reduces false alarms and helps minimize system downtime and costly repairs.

Advantage Services testing and inspection includes an annual test of all covered fire systems by certified specialists using testing protocols specified by NFPA 72 guidelines as well as any local guidelines that are required for your facility. In addition, code compliant sensitivity testing is performed on a bi-annual basis to ensure that the equipment is operating within the proper UL-specified range of sensitivity.

Siemens will provide data protection and data recovery for your fire safety systems, including routine on-site backups and quick recovery if data is lost or corrupted due to problems such as computer viruses, power outages, hard drive failures or physical damage. At the completion of your system inspection, Siemens will provide all necessary documentation required to meet local requirements.

The equipment included as part of this service is listed in the List of Maintained Equipment section of this proposal.

4

2.2.2 Benefits

Fire — Performance Plus Platinum

Implementation of this service agreement from Siemens Building Technologies provides the following benefits to your facility:

- Assures code compliant testing adhering to NFPA and local guidelines, with complete reporting
 - Reduces false alarms and related costs, such as fines
 - Maximizes system performance and helps maintain fire system's mission effectiveness, mitigating risks to facility and business
 - Helps minimize system downtime and costly repairs and replacements
 - Provides protection of controls system data with backup and recovery services
 - Extends equipment life cycle of fire systems
 - Minimizes costly business interruptions with 24x7 on-site rapid response
 - No budget surprises for labor or parts on covered equipment
 - User-friendly web access to service requests and service status
 - Operator coaching supports employee performance
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2.2.3 Technical Support Services

Smoke Detector Sensitivity Testing. Smoke Detector Sensitivity testing will be performed, in accordance with NFPA 72 guidelines, using the manufacturer's recommended test methods and a UL approved testing device. We will provide the necessary documentation to satisfy the AHJ and to maintain a Certificate of Occupancy. We will also provide an analysis of the report, along with recommendations for detectors that require either cleaning or replacement.

A list of equipment covered under this proposal, along with test frequencies can be found in the List of Maintained Equipment section of this proposal.

Fire Alarm System Testing & Inspection. As designated agent, we will perform the required annual test and inspection of the fire alarm system, using NFPA recommended functional test frequencies and methods. We will provide the necessary documentation to satisfy the AHJ and to maintain your Certificate of Occupancy.

A list of equipment covered under this proposal, along with test frequencies can be found in the List of Maintained Equipment section of this proposal.

6

3 Service Implementation Plan

3.1 Fire Alarm & Life Safety Services On-site Response Time and Call Windows

Platinum	
Attribute	
Response time - onsite for critical components	4 hours - labor is covered within response time
Response time - onsite for non-emergency	8 hours - labor is covered within response time
Hours of Service	24 x 7 - labor is covered within response window
Response Window	24 x 7
Software Support and Updates	Yes, as issued
R&R Material	Included
R&R Labor	Included
Technology Audit	Included
site360 service	Included
Operator Coaching	Included

7

3.2 Maintained Equipment Table

SIEMENS

Siemens Building Technologies
Service Agreement

List of Maintained Equipment

Equipment Category	Equipment SubCategory	Equipment	Qty	Serial Number	Location	Mfg/Model
Control & Annunciation	Control & Annunciation	Remote Control/Annunciator Panel	1			
Services (Times per year): Test and Inspection (1.0)						
Control & Annunciation	Control & Annunciation	Siemens MXL Alarm Panel	1			
Services (Times per year): Test and Inspection (1.0)						
Detectors	Detectors	Addressable Duct Detector	16			
Services (Times per year): Sensitivity Testing-Man. (1.0), Test and Inspection (1.0)						
Detectors	Detectors	Addressable Heat Detector	4			
Services (Times per year): Test and Inspection (1.0)						
Detectors	Detectors	Addressable Smoke Detector	116			
Services (Times per year): Sensitivity Testing-Man. (1.0), Test and Inspection (1.0)						
Field Peripherals	Field Peripherals	Addressable Pull Station	31			
Services (Times per year): Test and Inspection (1.0)						
Field Peripherals	Field Peripherals	Control Module Contact Output Point	115			
Services (Times per year): Test and Inspection (1.0)						
Field Peripherals	Field Peripherals	Door Holders	7			
Services (Times per year): Test and Inspection (1.0)						
Field Peripherals	Field Peripherals	Speakers or Horns with Strobes	83			
Services (Times per year): Test and Inspection (1.0)						

8

Equipment Category	Equipment SubCategory	Equipment	Qty	Serial Number	Location	Mfg/Model
Field Peripherals	Field Peripherals	Strobe	26			
Services (Times per year): Test and Inspection (1.0)						

Field Peripherals	Field Peripherals	Tamper Switch Monitor Module	12			
Services (Times per year): Test and Inspection (1.0)						

Field Peripherals	Field Peripherals	Waterflow Switch Monitor Module	15			
Services (Times per year): Test and Inspection (1.0)						

USER DEFINED EQUIPMENT						
LED Annunciator						

9

10

4 Siemens Building Technologies, Inc.

4.1 Signature Page and Investment

By and Between:

Siemens Building Technologies, Inc. 10775 Business Center Drive Cypress, California 90630 Cal Jones (714)761-2200	City of Culver City 9505 W. Jefferson Blvd. Culver City, California 90232 Heustace. N. Lewis Sr. (310)253-6420
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Services shall be provided at ^{CM} 9770 Culver ~~9505 W. Jefferson~~ Blvd., Culver City, California 90232.

Siemens Building Technologies, Inc. shall provide the services as outlined in the attached proposal dated 9/1/2007 and the attached terms and conditions.

Duration: This agreement shall remain in effect for an original term of 5 Years beginning 10/1/2007 and from year to year thereafter.

Investments:

Year 1	10/1/2007 to 9/30/2008	\$8,829 annually	paid \$8,829 annually
Year 2	10/1/2008 to 9/30/2009	\$9,096 annually	paid \$9,096 annually
Year 3	10/1/2009 to 9/30/2010	\$9,372 annually	paid \$9,372 annually
Year 4	10/1/2010 to 9/30/2011	\$9,660 annually	paid \$9,660 annually
Year 5	10/1/2011 to 9/30/2012	\$9,960 annually	paid \$9,960 annually

Prices quoted in this proposal are firm for 30 days.

Proposal accepted by:

Heustace. N. Lewis Sr.
Facility Maintenance Operations Manager
City of Culver City

Proposal submitted by:

Cal Jones
FIS Sales Executive
Siemens Building Technologies, Inc.

Signature _____ Date _____

Signature _____ Date _____

P.O.# _____

Approved for Siemens Building Technologies, Inc. by:

Jim Howe
General Manager - Fire

Signature _____ Date _____

11

4.2 Terms And Conditions

SERVICE TERMS AND CONDITIONS (Rev. 04/07)

Article 1: General

1.1 (a) This Agreement constitutes the entire, complete and exclusive agreement between the parties relating to the services ("Services") to be provided by SBT and supersedes and cancels all prior proposals, agreements and understandings, written or oral, relating to the subject matter of this Agreement. Neither party may assign the Agreement or any rights or obligations hereunder without the prior written consent of the other except that either party may assign this Agreement to its affiliates and SBT may grant a security interest in the Agreement; assign proceeds of the Agreement; and/or use subcontractors in performance of the Services. The terms and conditions of this Agreement shall not be modified or rescinded except in writing, with the prior approval of the Legal Departments of SBT and Customer and signed by duly authorized officers or managers of SBT and Customer.

(b) Nothing contained in this Agreement shall be construed to give any rights or benefits to anyone other than the Customer and SBT without the express written consent of both parties. All provisions of this Agreement allocating responsibility or liability between the parties shall survive the completion of the Services and termination of this Agreement.

1.2 This Agreement shall be governed by and enforced in accordance with the laws of the State of Illinois. Any litigation arising under this Agreement shall be brought in the State or Commonwealth in which the Services are provided to Customer. The parties waive any right to a jury trial on matters arising out of this Agreement.

1.3 After the expiration of the Initial Term, this Agreement shall automatically renew for successive periods equal to the Initial Term beginning on the anniversary date of the Initial Term unless stated otherwise in the Agreement.

1.4 Either party may terminate or amend this Agreement at the end of the initial term or at the end of a renewal term by giving the other party at least sixty (60) days prior written notice of such amendments or intent not to renew.

1.5 If, during or within 90 days after the term of this Agreement, Customer engages any SBT employee who has performed work under this or any other agreement between Customer and SBT, Customer shall pay SBT an amount equal to the employee's latest annual salary.

Article 2: Covered Equipment

2.1 "Covered equipment" shall mean that equipment expressly identified as System Components in this Agreement. The Customer represents that at the commencement of this Agreement all Covered Equipment is in satisfactory working condition and complies with all applicable codes.

2.2 If the fire or life safety system comprised of the Covered Equipment does not comply with all applicable codes or if removal of any Covered Equipment from coverage would compromise or impair the integrity or the compliance with law of any system or Services, and Customer fails to take corrective action, then SBT may terminate this Agreement without further obligation and retain all monies received pursuant to this Agreement.

2.3 All testing and inspection of any Covered Equipment provided for in this Agreement will be performed at the time and place and in the manner deemed appropriate by SBT, in accordance with applicable law and the requirements of then current National Fire Protection Association ("NFPA") guidelines and other relevant standards. Customer is solely responsible for, and hereby indemnifies and holds SBT harmless from and against, any liability arising from Customer's specification of a testing schedule other than then current NFPA or other applicable standards or laws.

2.4 If the Covered Equipment is altered or moved by any person, including Customer, other than SBT or a person authorized by it, Customer shall immediately notify SBT in writing, and SBT reserves the right to perform a reacceptance test on, or, if necessary, a recommissioning of the system at Customer's expense. Reacceptance tests will be performed in accordance with then current NFPA or other applicable requirements, and charged on a time and materials basis.

Article 3: Services by SBT

3.1 SBT shall only perform the identified Services for and upon Covered Equipment.

3.2 SBT shall have no liability or obligation to continue providing Services in the event Customer fails to (a) authorize a reacceptance test or recommissioning that SBT reasonably deems necessary; (b) notify SBT of any modifications or changes to the Covered Equipment or unusual or materially changed operating conditions, hours of usage, system malfunctions or building alterations that may affect the Services; (c) provide the access to any site where Services are to be performed; or (d) operate, service or maintain the Covered Equipment in accordance with manufacturer's or supplier's instructions or this Agreement. After any of the aforesaid events SBT may terminate or suspend services under this Agreement immediately, upon giving notice to Customer.

3.3 Any repairs and replacements of Covered Equipment as may be expressly included in the Services are limited to restoring the proper working condition of such Covered Equipment. SBT will not be obligated to provide replacement Covered Equipment that represents significant capital improvement compared to

the original. Exchanged or removed components become the property of SBT, except Hazardous Materials, which under all circumstances remain the property and responsibility of Customer.

3.4 Unless agreed otherwise, Services do not include and SBT is not responsible for (a); (a) service or provision of consumable supplies, including but not limited to batteries and halon cylinder charging; (b) reinstallation or relocation of Covered Equipment; (c) painting or refinishing of Covered Equipment or surrounding surfaces; (d) changes to Services; (e) parts, accessories, attachments or other devices added to Covered Equipment but not furnished by SBT; (f) failure to continually provide suitable operating environment including, but not limited to, adequate space, ventilation, electrical power and protection from the elements; or (g) the removal or reinstallation of replacement valves, dampers, waterflow switches, venting or draining systems. SBT is not responsible for services performed on any Covered Equipment other than by SBT or its agents.

3.5 The Services shall be performed in a manner consistent with the degree of care and skill ordinarily exercised by persons performing the same or similar Services in the same locale under similar circumstances and conditions.

3.6 SBT shall perform the Services during its local, normal working hours, unless otherwise stated in this Agreement.

3.7 SBT is not required to conduct safety or other tests, install or maintain any devices or equipment or make modifications or upgrades to any equipment beyond the scope of this Agreement. Any request to change the scope or the nature of the Services must be in the form of a mutually agreed change order, effective only when executed by all parties hereto.

3.8 All reports and drawings specifically prepared for and deliverable to Customer pursuant to this Agreement ("Deliverables") shall become Customer's property upon full payment to SBT. SBT may retain file copies of such Deliverables. All other reports, notes, calculations, data, drawings, estimates, specifications, manuals, other documents and all computer programs, codes and computerized materials prepared by or for SBT are instruments of SBT ("Instruments") and shall remain SBT's property. Siemens conveys no license to software unless otherwise expressly provided in this Agreement. All Deliverables and Instruments provided to Customer are for Permitted Users' use only for the purposes disclosed to SBT, and Customer shall not transfer them to others or use them or permit them to be used for any extension of the Services or any other purpose, without SBT's express written consent. Any reuse of Deliverables or Instruments for other projects or locations without the written consent of SBT, or use by any party other than Permitted Users, will be at Permitted Users' sole risk and without liability to SBT; and, in addition to any other rights SBT may have, Customer shall indemnify, defend and hold SBT harmless from any claims, losses or damages arising therefrom.

3.9 Customer acknowledges that SBT, in the normal conduct of its business, may use concepts, skills and know-how developed while performing other contracts. Customer acknowledges the benefit which may accrue to it though this practice, and accordingly agrees that anything in this Agreement notwithstanding Siemens may continue, without payment of a royalty, this practice of using concepts, skills and know-how developed while performing this Agreement.

3.10 The Customer represents that all Equipment is in satisfactory working condition. Except as set forth below, by the later of the first forty-five (45) days of this Agreement, the first scheduled operational inspection, or the first seasonal start-up, SBT will have inspected all the Equipment. However, SBT may extend the testing and inspection period for portions of Equipment relating to Fire Alarm and Life Safety systems, provided that during the course of the year following execution of this Agreement the entire system will be tested and inspected as set forth in NFPA 72, or as otherwise may be required pursuant to the law of the applicable jurisdiction. Testing and inspection will not be deemed to be complete until all of such Equipment has been so tested and inspected. If SBT determines as a result of such inspection and/or testing that the Equipment is in need of repair or replacement, the Customer will be so notified and shall take corrective action within thirty (30) days, or such Equipment shall be automatically removed from coverage hereunder. SBT will not be liable or responsible for the continued testing, maintenance, repair, replacement or operating capabilities of any portion of the Equipment until it has been inspected and/or tested and has been, if necessary, restored to an acceptable initial condition at Customer's sole expense. Any services provided by SBT in the course of such restoration will be separately charged, on a time and materials basis, and not included in fees paid hereunder. If individual items of Equipment cannot, in SBT's sole determination, be properly repaired or replaced due to age, obsolescence, lack of availability of refrigerant gas, halon gas, necessary parts, materials, compatibility or otherwise, or as a result of excessive wear or deterioration, SBT may, within ten (10) days of such inspection, give written notice that it is withdrawing such items from coverage under this Agreement and adjust the amounts to be paid hereunder accordingly.

3.11 If the removal of Equipment from coverage would compromise or impair the integrity or compliance with law of any Fire Alarm and Life Safety system, then SBT will provide a written statement thereof for execution by Customer. Customer's failure to execute such a statement within ten (10) days will void this Agreement and release SBT from any further obligations hereunder.

Article 4: Responsibilities of Customer

4.1 Customer, without cost to SBT, shall:

(a) Designate a contact person with authority to make decisions for Customer

regarding the Services and provide SBT with information sufficient to contact such person in an emergency. If such representative cannot be reached, any request for work received from a person located at Customer's site will be deemed authorized by Customer, and SBT will, in its reasonable discretion, act accordingly;

- (b) Provide or arrange without cost all reasonable provisions, means and access for SBT to any site and the equipment where Services are to be performed;
- (c) Permit SBT to control and/or operate all controls, systems, apparatus, equipment and machinery necessary to perform the Services;
- (d) Furnish SBT with all available information pertinent to the Services;
- (e) Obtain and furnish to SBT all approvals, permits and consents from government authorities and others as may be required for performance of the Services except for those SBT has expressly agreed in writing to obtain;
- (f) Maintain the Services site in a safe condition; notify SBT promptly of any site conditions requiring special care; and provide SBT with any available documents describing the quantity, nature, location and extent of such conditions;
- (g) Comply with all laws and provide any notices required to be given to any government authorities in connection with the Services, except such notices SBT has expressly agreed in this Agreement to give;
- (h) Provide SBT with Material Safety Data Sheets (MSDS) conforming to OSHA requirements related to all Hazardous Materials at the site which may impact the Services;
- (i) Furnish to SBT any contingency plans related to the site;
- (j) Furnish the specified operating environment, including without limitation, suitable, clean, stable, properly conditioned electrical power and other utilities; and
- (k) Maintain all Covered Equipment in good working order in compliance with all applicable laws and service, repair and replace all Covered Equipment as necessary.
- (l) Perform inspections and tests as indicated in the Life Safety System Logbook and record same in the Life Safety System logbook.

4.2 Customer acknowledges that the technical and pricing information herein is proprietary to SBT and agrees not to disclose or otherwise make it available to others.

4.3 Customer acknowledges that it is now and shall be at all times in control of the Services site. SBT shall not have any responsibility, duty or authority to direct, supervise or oversee any employees or contractors of Customer or their work or to provide the means, methods or sequence of their work or to stop their work. SBT work and/or presence at a site shall not relieve others of their responsibility to Customer or to others. Except as expressly provided herein, SBT is not responsible for the adequacy of the health, safety or security programs or precautions related to Customer's or its other contractors' activities or operations; the work of any other person or entity, or Customer's site conditions. SBT is not responsible for inspecting, observing, reporting or correcting health or safety conditions or deficiencies of Customer or others at Customer's site. So as not to discourage SBT from voluntarily addressing such issues, in the event SBT does make observations, reports, suggestions or otherwise regarding such issues, SBT shall not be liable or responsible for same.

4.4 Except as expressly stated in this Agreement, Customer is solely responsible for any removal, replacement or refinishing of the building structure or finishes that may be required to perform or gain access to the Services.

4.5 Customer alone shall act to protect life and property from the time a partial or full system failure occurs until SBT notifies Customer that such system is operational or the emergency has been cleared. Customer's actions shall include all appropriate interim safety precautions (such as a manual "fire watch"). SBT shall have no obligation to provide guards, fire watch personnel, or other services following a system failure, except Services as are specifically provided for in this Agreement.

4.6 Customer shall not attach to the system or Covered Equipment any device that interferes with the Services or the proper operation of the system or Covered Equipment.

Article 5: Compensation

5.1 Annual Fee(s) shall be adjusted for each year after the final year of the Initial Term pursuant to the agreed Price Adjustment hereto and incorporated herein. Unless otherwise agreed in writing, this Agreement is not cancelable and the annual fee is not refundable except as provided herein.

5.2 Payments to be made under this Agreement will provide for, and be in consideration of, only Services specifically included under the Proposed Solution. All other Services, including but not limited to the following, shall be separately billed or surcharged on a time and materials basis: (a) emergency Services performed at Customer's request, if inspection does not reveal any deficiency covered by this Agreement; (b) Services performed other than during SBT's normal working hours; and (c) Service performed on equipment not covered by this Agreement.

5.3 SBT shall invoice Customer as provided in this Agreement, or if not expressly provided, then on an annual basis prior to the Start Date and annually thereafter on the anniversary of such Start Date. Invoices are due and payable net cash upon receipt unless Customer has applied and been approved for credit with SBT, in which case the invoice is payable within 30 calendar days of receipt by Customer or as otherwise set forth in this Agreement. If any payment is not received when due, SBT may

deem Customer to be in breach hereof and may enforce any remedies available to it hereunder or at law, including without limitation, acceleration of payments and suspension or termination of Services at any time and without notice, and shall be entitled to compensation for Services previously performed and costs reasonably incurred in connection with the suspension or termination. Any amount not paid within 30 calendar days of invoice receipt shall accrue interest from the date due, until paid, at the rate of 12% per annum. Customer shall reimburse SBT costs and expenses (including reasonable attorneys' and witnesses' fees) incurred for collection under this Agreement. If Customer disputes any portion or all of an invoice, it shall notify SBT in writing of the amount in dispute and the reason for its disagreement within 21 days of receipt of the invoice. The undisputed portion shall be paid when due, and interest on any unpaid portion shall accrue as aforesaid, from the date due until paid, to the extent that such amounts are finally determined to be payable to SBT.

5.4 Except to the extent expressly agreed in this Agreement, SBT's fees do not include any taxes, excises, fees, duties, permits or other government charges related to the Services. Customer shall pay such amounts or reimburse SBT for any amounts it pays. If Customer claims a tax exemption or direct payment permit, it shall provide SBT with a valid exemption certificate or permit and indemnify, defend and hold SBT harmless from any taxes, costs and penalties arising out of same.

5.5 Unless agreed otherwise, the pricing for each year after the Initial Term of the Agreement and each year of each renewal of the Agreement shall be determined as the immediate prior year price plus a price escalator based upon the U.S. Department of Labor, Bureau of Labor Statistics Urban Consumer Price Index-All Urban Consumers U.S. All items, 1982-1984=100 ("CPI-U"). In addition, each renewal term pricing shall be adjusted for any additions or deletions to Services selected for the renewal term. The price escalator shall be the latest semi-annual CPI-U identified above published prior to each annual anniversary. This escalator shall be applicable to each annual term, whether a renewal term or an annual term after the first year of the Initial Term.

Article 6: Changes; Delays; Excused Performance

6.1 As the Services are performed, conditions may change or circumstances outside SBT's reasonable control (such as changes of law) may develop which require SBT to expend additional costs, effort or time to complete the Services, in which case SBT shall notify Customer and an equitable adjustment made to the compensation and time for performance. In the event conditions or circumstances require Services to be suspended or terminated, SBT shall be compensated for Services performed and for costs reasonable incurred in connection with the suspension or termination.

6.2 SBT shall not be responsible for loss, delay, injury, damage or failure of performance that may be caused by circumstances beyond its control, including but not limited to acts or omissions by Customer or its employees, agents or contractors, Acts of God, war, civil commotion, acts or omissions of government authorities, fire, theft, corrosion, flood, water damage, lightning, freeze-ups, strikes, lockouts, differences with workmen, riots, explosions, quarantine restrictions, delays in transportation, or shortage of vehicles, fuel, labor or materials. In the event of any such circumstances, SBT shall be excused from performance of the Services and the time for performance shall be extended by a period equal to the time lost plus a reasonable recovery period and the compensation equitably adjusted to compensate for additional costs SBT incurs due to such circumstances.

Article 7: Warranty; Allocation of Risk

7.1 Labor for all Services under this Agreement is warranted for 90 days after the work is performed.

7.2 EXCEPT SUCH OBLIGATIONS EXPRESSLY STATED IN THIS AGREEMENT, SBT EXPRESSLY EXCLUDES AND DISCLAIMS ALL OTHER WARRANTIES, STATUTORY, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SBT MAKES NO WARRANTY, EXPRESS OR IMPLIED, THAT ANY SERVICES PROVIDED HEREUNDER WILL PREVENT ANY LOSS, OR WILL IN ALL CASES PROVIDE THE PROTECTION FOR WHICH IT IS PERFORMED OR INTENDED. THE EXPRESS WARRANTIES AND REPRESENTATIONS SET FORTH IN THIS AGREEMENT MAY ONLY BE MODIFIED OR SUPPLEMENTED IN A WRITING SIGNED BY AN OFFICER OF SBT.

7.3 Customer hereby, for it and any parties claiming under it, releases and discharges SBT from any liability arising out of all hazards covered by Customer's insurance, and all claims against SBT arising out of such hazards, including any right of subrogation by Customer's insurance carrier, are hereby waived by Customer.

7.4 Anything herein notwithstanding, in no event shall either party be responsible under this Agreement for incidental, consequential, punitive, exemplary or special damages, including without limitation lost profits, loss of use and/or lost business opportunities, whether arising in warranty, late or non-delivery of any Services, tort, contract or strict liability, and regardless of whether either party has been advised of the possibility of such damages and, in any event, SBT's aggregate liability for any and all claims, losses or expenses (including attorneys fees) arising out of this Agreement, or out of any Services

furnished under this Agreement, whether based in contract, negligence, strict liability, agency, warranty, trespass, indemnity or any other theory of liability, shall be limited, as liquidated damages, to the greater of \$1,000 or 10% of the total compensation received by SBT from Customer under this Agreement. SBT reserves the right to control the defense and settlement of any claim for which SBT has an obligation to indemnify hereunder. The parties acknowledge that the price which SBT has agreed to perform its Services and obligations under this Agreement is calculated based upon the foregoing limitations of liability, and that SBT has expressly relied on, and would not have entered into this Agreement but for such limitations of liability.

7.5 It is understood and agreed by and between the parties that SBT is not an insurer and this Agreement is not intended to be an insurance policy or a substitute for an insurance policy. Insurance, if any, shall be obtained by Customer. Fees are based solely upon the value of the Services, and are unrelated to the value of Customer's property or the property of others on Customer's premises.

Article 8: Limitations of Maintenance or Service Obligations

8.1 SBT will not be responsible for the maintenance, repair or replacement of, or Services necessitated by reason of: (a) non-maintainable, non-replaceable or obsolete parts of the Equipment, including but not limited to ductwork, shell and tubes, heat exchangers, coils, unit cabinets, casings, refractory material, electrical wiring, water and pneumatic piping, structural supports, cooling tower fill, sials and basins, etc. unless otherwise specifically stated herein; or (b) negligence, abuse, misuse, improper or inadequate repairs or modifications, improper operation, lack of operator maintenance or skill, failure to comply with manufacturer's operating and environmental requirements, Acts of God, or other reasons beyond its control. SBT assumes no responsibility for any service performed on any Equipment other than by SBT or its agents.

8.2 SBT shall not be responsible for loss, delay, injury or damage that may be caused by circumstances beyond its control, including but not restricted to acts or omissions by Customer or its employees or agents, Acts of God, war, civil commotion, acts of government, fire, theft, corrosion, flood, water damage, lightning, freeze-ups, computer viruses, program or system hackers, strikes, lockouts, differences with workmen, riots, explosions, quarantine restrictions, delays in transportation, or shortage of vehicles, fuel, labor or materials.

8.3 SBT is not responsible for repairs, replacements or services to Equipment due to corrosion, erosion, improper or inadequate water treatment by others, electrolytic or chemical action, or reasons beyond its reasonable control.

8.4 SBT shall not be responsible for the removal or reinstallation of replacement valves, dampers, waterflow and tamper switches, airflow stations, and any other permanently mounted integral pipe or air duct component. Additionally, SBT shall not be responsible for any venting or draining of systems.

Article 9: Hazardous Materials Provisions

9.1 The Services does not include directly or indirectly performing or arranging for the detection, monitoring, handling, storage, removal, transportation, disposal or treatment of Oil or Hazardous Materials. Except as disclosed pursuant to this Article, Customer represents that, to its best knowledge, there is no asbestos or any other hazardous or toxic materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the regulations promulgated thereunder, and other applicable federal, state or local law ("Hazardous Materials"), present at Customer's Sites where the Services are performed. SBT will notify Customer immediately if it discovers or suspects the presence of any Hazardous Material. All Services have been priced and agreed to by SBT in reliance on Customer's representations as set forth in this Article. The presence of Hazardous Materials constitutes a change in this Agreement whose terms must be agreed upon by SBT before its obligations hereunder shall continue.

9.2 Customer is solely responsible for testing, abating, encapsulating, removing, remediating or neutralizing such Hazardous Materials, and for the costs thereof. Customer is responsible for the proper disposal of all Hazardous Materials and Oil that at any time are present at the Services site in accordance with all applicable federal, state, and local laws, regulations, and ordinances. Even if change order has been entered into pursuant to this Article, SBT shall have the right to stop the Services until the site is free from Hazardous Materials. In such event, SBT shall receive an equitable extension of time to complete the Services, and compensation for delays caused by Hazardous Materials remediation. In no event shall SBT be required or construed to take title, ownership or responsibility for such Oil or Hazardous Materials. Customer shall sign any required waste manifests in conformance with all government regulations, listing Customer as the generator of the waste.

9.3 Customer warrants that, prior to the execution of this Agreement, it shall notify SBT in writing of any and all Hazardous Materials which to Customer's best knowledge are present, potentially present or likely to become present at the Services site and shall provide a copy of any site safety policies, including but not limited to lock-out and tag procedures, chemical hygiene plan, MSDSs or other items required to be disclosed or maintained by federal, state, or local laws, regulations or ordinances.

9.4 Customer shall indemnify, defend and hold SBT harmless from and against any damages, losses, costs, liabilities or expenses (including attorneys'

fees) arising out of any Oil or Hazardous Materials or from Customer's breach of, or failure to perform its obligations under this Article.

Article 10: Import / Export Indemnity

10.1 Customer acknowledges that SBT is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the *Covered Equipment or Services* provided under the Contract, including any export license requirements. Customer agrees that such *Covered Equipment or Services* shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by SBT of its obligations hereunder that compliance with such export laws and regulations be maintained at all times. CUSTOMER AGREES TO INDEMNIFY AND HOLD SBT HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.

Article 11: Small Business Concern

11.1 SBT shall adhere to FAR 52.219-8 regarding the "Utilization of Small Business Concerns", as part of its Commercial Small Business Subcontracting Agreement with the federal government. SBT's policy is to offer small business concerns, including small disadvantaged businesses, women owned small-businesses, HUBZone small businesses, veteran owned small businesses and service disabled veteran owned small businesses, the "maximum practical opportunity" to participate in performing contracts let by any commercial entity, local government or federal agency, including subcontracts for subsystems, assemblies, components, and related services for major systems.

Discounted Labor & Material Pricing

As a Technical Support Program customer with an active agreement, you will receive the benefit of a discount from our standard labor rates and material prices for any work quoted work outside of this service agreement. Standard rates and preferred customer rates are documented below.

Please note: Rates shown are effective for the period identified. Rates are subject to change and are adjusted annually.

Effective from	May 1, 2007	through	April 31, 2008
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Service Unit	TSP Hourly Labor Rate	Overtime TSP Hourly Labor Rate	Non-TSP Hourly Labor Rate	Overtime Non-TSP Hourly Labor Rate
Automation & Engineering Service	\$ 124.00	\$ 162.00	\$ 162.00	\$ 210.00
On-Line Modum & Phone Consultation	\$ 124.00	\$ 162.00	\$ 162.00	\$ 210.00
Mechanical Service	\$ 120.00	\$ 156.00	\$ 156.00	\$ 200.00
Fire Service	\$ 124.00	\$ 162.00	\$ 162.00	\$ 210.00
Security Service	\$ 115.00	\$ 150.00	\$ 150.00	\$ 195.00

Service	TSP Customer Standard Time	TSP Customer Overtime	Non-TSP Customer Standard Time	Non-TSP Customer Overtime
On-line Modem Support	1 Hour Minimum	1 Hour Minimum	2 Hour Minimum	2 Hour Minimum
Phone Consultation Support	1 Hour Minimum	1 Hour Minimum	2 Hour Minimum	2 Hour Minimum
On-Site Service Call	2 Hour Minimum	2 Hour Minimum	2 Hour Minimum	2 Hour Minimum
On Site Service Trip Fee	\$49.50/Trip to Site	\$49.50/Trip to Site	\$49.50/Trip to Site	\$49.50/Trip to Site

On-site consumable charge @ \$15.00 per day (Automation & Mechanical)

On-site welding charge @ \$20.00 per day (Mechanical if applicable)

On-site evacuation charge @ \$20.00 per each (Mechanical if applicable)

EPA Disposal charge (refrigeration and oil) @ \$20.00 per each (Mechanical if applicable)

EPA Disposal charge (batteries, computers, etc.) @ add 2.5% to total material cost

15