

Planned Service

CUSTOMER CITY OF RACINE CITY HALL
LOCAL JOHNSON CONTROLS OFFICE N22W22922 NANCYS CT WAUKESHA , WI 53186-1198
AGREEMENT START DATE: 1/1/2015
PROPOSAL DATE: 11/20/2014
ESTIMATE NO: 1-69JGBPC



Partnering with you to deliver value-driven solutions

A Planned Service Agreement with Johnson Controls provides you with a customized service strategy designed around the needs of your facility. Our approach features a combination of scheduled, predictive and preventative maintenance services that focus on your goals.

As your building technology services partner, Johnson Controls delivers an unmatched service experience delivered by factory-trained, highly skilled technicians who optimize operations of the buildings we work with, creating productive and safe environments for the people within.

By integrating our service expertise with innovative processes and technologies, our value-driven planned service solutions deliver sustainable results, minimize equipment downtime and maximize occupant comfort.

JOHNSON CONTROLS PLANNED SERVICE PROPOSAL
PREPARED FOR CITY OF RACINE CITY HALL

Executive Summary

PLANNED SERVICE PROPOSAL FOR CITY OF RACINE CITY HALL

Dear Thomas Eeg,

We value and appreciate your interest in Johnson Controls as a service provider for your building systems and are pleased to provide a value-driven maintenance solution for your facility. The enclosed proposal outlines the Planned Service Agreement we have developed on your facility.

Details are included in the Planned Service Agreement summary (Schedule A), but highlights are as follows:

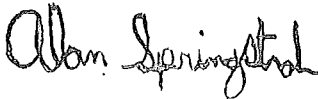
- In this proposal we are offering a service agreement for 5 Years - starting 1/1/2015 and ending 12/31/2019.
- The agreement price for first year is \$101,422.00; see Schedule A, Supplemental Price and Payment Terms, for pricing in subsequent years.
- The equipment options and number of visits being provided for each piece of equipment are described in Schedule A, Equipment list.

As a manufacturer of both mechanical and controls systems, Johnson Controls has the expertise and resources to provide proper maintenance and repair services for your facility.

Again, thank you for your interest in Johnson Controls and we look forward to becoming your building technology services partner.

Please contact me if you have any questions.

Sincerely,



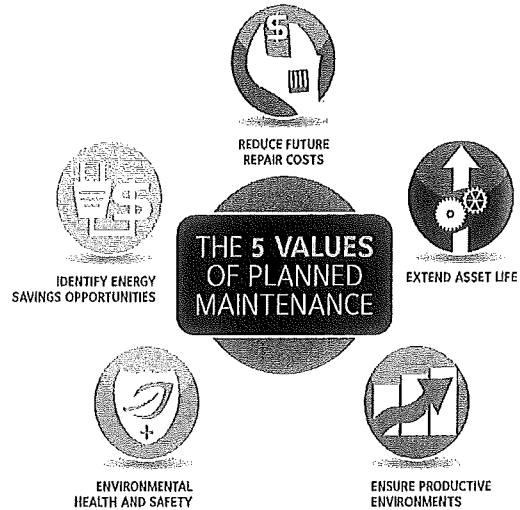
Alan Springstroh
Service Manager
(262) 970- 5886

Benefits of Planned Service

A Planned Service Agreement with Johnson Controls will allow you to optimize your building's facility performance, providing dependability, sustainability and energy efficiency. You'll get a value-driven solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

With this Planned Service Agreement, Johnson Controls can help you achieve the following five objectives:

- 1. Identify Energy Savings Opportunities**
Since HVAC equipment accounts for a major portion of a building's energy usage, keeping your system performing at optimum levels may lead to a significant reduction in energy costs.
- 2. Reduce Future Repair Costs**
Routine maintenance may maximize the life of your equipment and may reduce equipment breakdowns.
- 3. Extend Asset Life**
Through proactive, factory-recommended maintenance, the life of your HVAC assets may be extended, maximizing the return on your investment.
- 4. Ensure Productive Environments**
Whether creating a comfortable place where employees can be productive or controlling a space to meet specialized needs, maintenance can help you achieve an optimal environment for the work that is being accomplished
- 5. Promote Environmental Health and Safety**
When proper indoor conditions and plant requirements are maintained, business outcomes may be improved by minimizing sick leave, reducing accidents, minimizing greenhouse gas emissions and managing refrigerant requirements.



All of the services we perform on your equipment are aligned with "The 5 Values of Planned Maintenance" and our technicians understand how the work they perform can help you accomplish your business objectives.

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Personalized Account Management

A Planned Service Agreement also provides you with the support of an entire team that knows your site and can closely work with you on budget planning and asset management. Your local Johnson Controls account management team can help guide planned replacement, energy retrofits and other building improvement projects. You'll have peace of mind that an entire team of skilled professionals will be looking out for what is best for your facility and budget.

A Culture of Safety

Johnson Controls technicians take safety seriously and personally, and integrate it into everything they do. All of our technicians participate in regular and thorough safety training. Because of their personal commitment, we are a leader in the HVAC service industry for workplace safety performance. This means that you do not have to worry about us when we are on your site.



Commitment to Customer Satisfaction

Throughout the term of your Planned Service Agreement, we will periodically survey you and use your feedback to continue to make improvements to our service processes and products. Our goal is to deliver the most consistent and complete service experience possible. To meet this goal, we've developed and implemented standards and procedures to ensure you receive the ultimate service experience – every time.

Energy & Sustainability

A more sustainable world one building at a time – Johnson Controls is a company that started more than 125 years ago with a product that reduced energy use in buildings. We've been saving energy for customers ever since. Today, Johnson Controls is a global leader in creating smart environments where people live, work and play, helping to create a more comfortable, safe and sustainable world.

The Value of Integrity

Johnson Controls has a long, proud history of integrity. We do what we say we will do and stand behind our commitments. Our good reputation builds trust and loyalty. In recognition for our commitment to ethics across our global operations, we are honored to be named one of the World's Most Ethical Companies by Ethisphere Institute, a leading think tank dedicated to business ethics and corporate social responsibility. In addition, *Corporate Responsibility Magazine* recognizes Johnson Controls as one of the top companies in its annual "100 Best Corporate Citizens" list.



Service Plan Methodology

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As part of the delivery of this Planned Service Agreement, Johnson Controls will dedicate a local customer service agent responsible for having a clear understanding of the agreement scope, and your facility procedures and protocols.

A high-level overview around our service delivery process is outlined below including scheduling, emergency service, on-site paperwork, communication and performing repairs outside of the agreement scope.

Scheduling

Preventative maintenance service will be scheduled using our automated service management system. In advance of the scheduled service visit, our technician is sent a notice of service to a smartphone. Once the technician acknowledges the request, your customer service agent will call or e-mail your on-site contact to let you know the start date and type of service scheduled.

The technician checks in, wears personal protective equipment, performs the task(s) as assigned, checks out with you and asks for a screen capture signature on the smartphone device. A work order is then e-mailed, faxed or printed for your records.

Emergency Services

Emergency service can be provided 7 days a week, 24 hours a day, 365 days a year. During normal business hours, emergency service will be coordinated by the customer service agent. After hours, weekends and holidays, the emergency service number transfers to the Johnson Controls after-hours call center and on-call technicians are dispatched as needed.

Johnson Controls is committed to dispatching a technician within hours of receiving your call through the service line. A work order is e-mailed, faxed or printed for your records. Depending on the terms of your agreement, you may incur charges for after hour services.

Communication

A detailed communication plan will be provided to you so you know how often we will provide information to you regarding your Planned Service Agreement. The communication plan will also provide you with your main contacts at Johnson Controls.

Approval Process for Non-Covered Items

Johnson Controls will adhere to your procurement process. No work will be performed outside of the agreement scope without prior approval. Johnson Controls will work with you closely to ensure your procurement process is followed before any non-covered item work is started.

Summary of Services and Options

Comprehensive and Operational Inspections

During comprehensive and operational inspections, Johnson Controls will perform routine checks of the equipment for common issues caused by normal wear and tear on the equipment. Additional tests can be run to confirm the equipment's performance.

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Routine maintenance, such as lubrication, cleaning and tightening connections, can be performed depending on the type of equipment being serviced. Routine maintenance is one of the keys to the five values of maintenance – it can help identify energy saving opportunities, reduce future repair costs, extend asset life, ensure productive environments, and promote health and safety.

Summary

Thank you for considering Johnson Controls as your building technology services partner. The following agreement document includes all the details surrounding your Planned Service Agreement.

With planned service from Johnson Controls, you'll get a value-driven solution that can help optimize your building controls and equipment performance, providing dependability, sustainability and energy efficiency. You'll get a solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

We'll be your building technology services partner

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**JOHNSON CONTROLS PLANNED SERVICE PROPOSAL
PREPARED FOR CITY OF RACINE CITY HALL**

Planned Service Agreement

Customer Name: CITY OF RACINE CITY HALL
Address: 730 WASHINGTON AVE RACINE WI 53403-1146
Proposal Date: 11/20/2014
Estimate #: 1-69JGBPC

Scope of Service

Johnson Controls, Inc. ("JCI") and the Customer (collectively the "Parties") agree Preventative Maintenance Services, as defined in Schedule A ("Services"), will be provided by JCI at the Customer's facility. This Planned Service Agreement, the Equipment List, Supplemental Price and Payment Terms, Terms and Conditions, and Schedules attached hereto and incorporated by this reference as if set forth fully herein (collectively the "Agreement"), cover the rights and obligations of both the Customer and JCI.

Extended Service Options for Premium Coverage

If Premium Coverage is selected, on-site repair services to the equipment will be provided as specified in this Agreement for the equipment listed in the attached Equipment List.

Equipment List

Only the equipment listed in the Equipment List will be covered as part of this Agreement. Any changes to the Equipment List must be agreed upon in writing by both Parties.

Term / Automatic Renewal

This Agreement takes effect on 1/1/2015 and will continue until 12/31/2019 ("Original Term"). The Agreement will automatically renew on a year-to-year basis after the Original Term ends unless the Customer or JCI gives the other written notice it does not want to renew. The notice must be delivered at least forty-five (45) days prior to the end of the Original Term or of any renewal period. The Original Term and any renewal periods are sometimes collectively referred to in this Agreement as the "Term". Renewal price adjustments are discussed in the Terms and Conditions.

Refrigerant Charges

Refrigerant is not included under this Agreement and will be billed separately to the Customer by JCI.

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Price and Payment Terms

The total Contract Price for JCI's Services during the 1st year of the Original Term is \$101,422.00. This amount will be paid to JCI in Annual installments. Pricing for each subsequent year of a multiyear original term is set forth in the Supplemental Price and Payment Terms. All payments will be due and payable within 30 days of the invoice date and such timely payment by Customer shall be a condition precedent to JCI's obligation to perform its Services. A penalty of one and a half percent (1.5%) of the amount due per month shall accrue for payments received after the payment due date. Renewal price adjustments are set forth in the Terms and Conditions.

Invoices will be sent to the following location:

City Of Racine
Attn Bill Miller
730 Washington Ave
Racine WI 53403

This proposal is valid for thirty days from the proposal date.

JOHNSON CONTROLS Inc.

By: John Dickert

By: Alan Springstroh

Signature:

Signature:



Title: Mayor

Date:

Title: Service Manager

Date: 12/15/14

By: Janice Johnson-Martin

Signature:

Signature:

Title:

Date:

Title: City Clerk

Date:

JCI Branch: Milwaukee Service - 0933

Address: N22W22922 NANCYS CT

WAUKESHA WI 53186-1198

Branch Phone: (866) 825-8865

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Schedule A

Equipment List (Selected Equipment to be serviced)

Site			Address				
CITY OF RACINE CITY HALL			730 WASHINGTON AVE RACINE WI 53403-1146				
Qty	Equipment	Services Provided	# Per Year	Coverage Type	Extended Coverage	Year To Be Activated	Year To Be Deactivated
1	Controls Consultative	8 hour visits		Basic	NA		
		Preventive Maintenance	26				
1	Pneumatic Consultative	8 hour visits		Basic	NA		
		Preventive Maintenance	36				
1	Chiller, Air Cooled, Screw, 251-400 Tons			Basic	NA		
		Operational	1				
		Comprehensive	1				
		Seasonal Shut-down	1				
		Seasonal Start-up	1				
		Oil Analysis (2 Circuits)	1				

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		Vibration Analysis	1				
Site		Address					
CITY OF RACINE MEMORIAL HALL		72 7TH ST RACINE WI 53403-1202					
Qty	Equipment	Services Provided	# Per Year	Coverage Type	Extended Coverage	Year To Be Activated	Year To Be Deactivated
2	Chiller, WC, Recip, >75T			Basic	NA		
		Chiller Shutdown (Water Cooled)	1				
		Chiller Startup (Water Cooled)	1				
		Comprehensive	1				
		Oil Analysis	1				
		Operational	1				
		Chiller Tube Brushing	1				
Site		Address					
CITY OF RACINE PUBLIC LIBRARY		75 7TH ST RACINE WI 53403-1201					
Qty	Equipment	Services Provided	# Per Year	Coverage Type	Extended Coverage	Year To Be Activated	Year To Be Deactivated

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1	Chiller, WC, Screw, >200T			Basic	NA		
		Chiller Shutdown (Water Cooled)	1				
		Chiller Startup (Water Cooled)	1				
		Comprehensive	1				
		Oil Analysis	1				
		Operational	1				
		Vibration Analysis-Chiller	1				
		Chiller Tube Brushing	1				
Site			Address				
CITY OF RACINE SAFETY BUILDING			730 CENTER ST RACINE WI 53403-1134				
Qty	Equipment	Services Provided	# Per Year	Coverage Type	Extended Coverage	Year To Be Activated	Year To Be Deactivated
2	Chiller, Air Cooled, Scroll, >75T			Basic	NA		
		Chiller Shutdown (Air Cooled)	1				
		Chiller Startup	1				

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		(Air Cooled)					
		Comprehensive	1				
		Oil Analysis	1				
		Operational	1				
		Vibration Analysis-Chiller	1				
		Chiller Condenser Coil Cleaning	1				

Supplemental Price & Payment Terms (Applies to Multi-Year Contracts Only)

Year	Total Price	Payment Frequency
Year1	\$101,422.00	Annual
Year2	\$102,943.00	Annual
Year3	\$104,487.00	Annual
Year4	\$106,054.00	Annual
Year5	\$107,646.00	Annual

Special Additions & Exceptions

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TERMS AND CONDITIONS

DEFINITIONS

CONNECTED SERVICES – Provided that Customer's Covered Equipment is capable of supporting Internet connected services, Customer may be eligible for additional services equipment which allows JCI to access, monitor and trend equipment data remotely.

COVERED EQUIPMENT is the equipment as set forth in the attached Equipment List for which Services are to be provided under this Agreement.

EQUIPMENT FAILURE means the failure under normal and expected working conditions and operation of moving parts or electronic components that are part of the Covered Equipment.

SCHEDULED SERVICE VISITS are the on-site labor visits required to perform JCI recommended inspections and preventive maintenance on Covered Equipment.

SCHEDULED SERVICE MATERIALS are the materials required to perform Scheduled Service Visits on Covered Equipment, such as grease, lubricants and sprays, depending on the Covered Equipment.

REPAIR LABOR is the labor necessary to restore Covered Equipment to working condition following an Equipment Failure, but does not include services relating to total equipment replacement due to obsolescence or unavailability of parts.

REPAIR MATERIALS are the parts necessary to restore Covered Equipment to working condition following an Equipment Failure, but excludes total equipment replacement due to obsolescence or unavailability of parts. At JCI's option, Repair Materials may be new, used, or reconditioned.

SERVICES are the agreed upon work, materials, labor, service visits, repairs and the Scheduled Service Visits, Scheduled Service Materials, Repair Labor, and/or Repair Materials, as applicable, to be provided by JCI pursuant to and expressly defined the Agreement between parties.

SERVICE COVERAGE OPTIONS

BASIC COVERAGE means Scheduled Service Visits, plus Scheduled Service Materials if elsewhere noted in this Agreement, for Covered Equipment. No parts, equipment, Repair Labor or Repair Materials are provided for under BASIC COVERAGE.

PREMIUM COVERAGE means BASIC COVERAGE as well as Repair Labor, plus Repair Material if elsewhere noted in the Agreement for Covered Equipment.

EXTENDED SERVICE means service for repairs performed outside JCI's normal business hours (available either 24/5 or 24/7) and is available only if Customer has PREMIUM COVERAGE, as more fully described in Schedule A. The price for Extended Service, if chosen by Customer, is part of the total Contract Price.

If services are performed or materials, parts or equipment provided beyond the scope or time period covered by the Service Coverage option selected by Customer or the agreed upon Services, Customer agrees to pay JCI's standard fee and/or hourly rates for all additional services, materials, parts and/or equipment.

A. INITIAL EQUIPMENT INSPECTION NECESSARY FOR PREMIUM COVERAGE

If Customer has ordered PREMIUM COVERAGE, JCI will by agreement inspect the Covered Equipment within 45 days of the date of this Agreement or as seasonal or operational conditions permit. JCI will then advise Customer if JCI finds any Covered Equipment not in working order or in need of repair. With the Customer's approval, JCI will perform the work necessary to put the Covered Equipment in proper working condition. This work will be done at JCI's standard fee and/or hourly rates for parts and labor in effect at that time. If the Customer does not want JCI to do the work identified by JCI, any such impacted equipment will be removed from the list of Covered Equipment and the price of this Agreement will be adjusted accordingly. Should Customer not make recommended repairs or proceed with the modified PREMIUM COVERAGE, JCI reserves the right to invoice Customer for the cost of the inspection depending upon the time and expense involved.

B. STANDARD OF CARE AND WARRANTIES

JCI warrants its Services will be provided in a good and workmanlike manner. Any Services not performed in a good and workmanlike manner will be re-performed by JCI provided Customer notifies JCI no later than one (1) calendar year from the date the Services were performed. If a part or equipment is installed as part of JCI's Services, JCI warrants that the installed part or equipment will be free from defects in workmanship and material until the end of the contract term or for one (1) year from the date on which JCI installs the part or equipment, whichever is earlier. Customer acknowledges that re-performance (repair or replace), as provided herein, shall be its exclusive and only remedy with regards to any warranty claim under this Agreement. In order to assert a warranty claim, Customer must provide written notice to JCI of its claim during the applicable warranty period. Any lawsuit based upon the warranty must be brought no later than one (1) year after the expiration of the applicable warranty period. This limitation is in lieu of any other applicable statute of limitations. Customer understands JCI is a provider of services under this Agreement and shall not be considered a merchant or a vendor of goods. **CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT THESE WARRANTIES ARE THE SOLE WARRANTIES AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

C. EXCLUSIONS

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JCI's Services and Warranty obligations do not include failures beyond JCI's reasonable control, including: (i) Acts of God, (ii) abuse or misuse of covered Equipment, (iii) alterations, adjustments, attachments, combinations, modifications, or repairs to Equipment not performed or provided by JCI, (iv) Items caused by or related to equipment not covered by this Agreement, (v) operator error, (vi) use of the Covered Equipment in a manner or environment, or for any purpose, for which it was not designed by the manufacturer (including use with improper water treatment or contaminated water), and site-related problems, including power failures and fluctuations in electrical current (or "power surges") or failure to keep the site clean and free of dust, sand and other particles or debris, unless such conditions are previously expressly acknowledged by JCI in writing, (vii) the repair or replacement of ductwork, casings, cabinets, structural supports, tower fill/slots/basin, hydronic and pneumatic piping, and vessels, gaskets, and piping not normally replaced or maintained on a scheduled basis, and removal of oil from pneumatic piping, (viii) service calls resulting from the effects of erosion, corrosion, acid cleaning, or damage from unexpected or especially severe freezing weather, (ix) service calls required because JCI had previously been denied access to the covered Equipment, (x) disposal of hazardous wastes, (xi) replacement of obsolete parts.

D. CUSTOMER COMMITMENTS TO JCI

- 1) The Customer warrants it has given JCI all information concerning the condition of the Covered Equipment.
- 2) The Customer agrees and warrants that, during the Term of this Agreement, the Customer will:
 - (a) operate the Covered Equipment according to the manufacturer's and JCI's recommendations;
 - (b) keep accurate and current work logs and information on the Covered Equipment as recommended by the manufacturer and JCI;
 - (c) provide an adequate environment for Covered Equipment as recommended by the manufacturer and JCI, including, but not limited to adequate space, electrical power, water supply, air conditioning, and humidity control;
 - (d) notify JCI immediately of any equipment malfunction, breakdown, or other condition affecting the operation of the Covered Equipment;
 - (e) allow JCI to start and stop, periodically turn off, or otherwise change or temporarily suspend equipment operations so that JCI can perform the Services required under this Agreement; and
 - (f) as applicable, provide proper condenser and boiler water treatment, as necessary, for the proper functioning of Covered Equipment.

E. INDEMNITY

JCI and the Customer each agree to indemnify the other Party and their officers, agents, directors, and employees, from third party claims, demands or suits for bodily injury, including death, or tangible property damage resulting from the intentional misconduct or any negligent acts by their employees or agents. Customer expressly agrees JCI shall be responsible only for such injury or damage caused by the intentional misconduct or the negligent acts of JCI's employees or agents and JCI shall not be responsible for any injury or damage caused, or contributed to, in any manner by Customer or any third-party. The obligations of JCI and of the Customer under this paragraph are further subject to Paragraphs F and K below.

F. LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS OR THE LIKE) UNDER THIS AGREEMENT. JCI'S TOTAL LIABILITY TO CUSTOMER FOR DAMAGES, FOR ANY CAUSES WHATSOEVER, SHALL BE LIMITED TO \$250,000.

G. FORCE MAJEURE

JCI shall not be responsible to the Customer for damage, loss, injury, or delay caused by conditions beyond JCI's reasonable control including: (a) acts of God, (b) acts of Government agencies, (c) strikes, (d) labor disputes, (e) fire, (f) explosions or other casualties, (g) thefts, (h) vandalism, (i) terrorism, riots or war, or (j) unavailability of parts, materials or supplies.

H. PAYMENT OBLIGATION

Customer shall pay all invoices when due in accordance with the payment terms provided for in the Agreement, and such payment is a condition precedent to Johnson Controls' obligation to provide products or perform services under the Agreement. In issuing any purchase order related to or arising out of this proposal and notwithstanding any language to the contrary therein, Customer acknowledges and agrees that any and all Johnson Controls invoices for an amount greater than \$25,000 shall be paid via wire transfer, check or money order, and that Customer shall not make, nor will Johnson Controls accept, payment in excess of \$25,000 in the form of a credit card, debit card, or other similar payment device.

I. RESOLUTION OF DISPUTES

If a dispute, claim, or other matter in question ("Dispute") related in any manner to this Agreement arises, the Parties shall

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promptly attempt in good faith to resolve such Dispute by negotiation. In the event the Dispute is unable to be resolved, either party shall have the right to initiate arbitration by filing with the American Arbitration Association provided no other legal action has been previously filed. Upon filing of the arbitration, the AAA shall have the exclusive jurisdiction over the Dispute. Thus, either party may decide to file an action in a court of competent jurisdiction and if that court filing is the first legal proceeding filed, that court shall have jurisdiction over the Dispute to the exclusion of any arbitration. Arbitration shall be conducted in accordance with the then current arbitration rules of the American Arbitration Association or other arbitration service mutually agreed to by the Parties. Arbitration must be completed within sixty (60) days after the Dispute is submitted to arbitration unless the Parties mutually agree otherwise. The award rendered by the arbitrator shall be final, and judgment issued by the Arbitrator may be entered in accordance with applicable law in any court having competent jurisdiction. The Party prevailing in the arbitration or court proceeding shall be entitled to an award of its reasonable costs, including reasonable attorney's fees, incurred as a result of the Dispute.

J. TERMINATION

JCI and the Customer agree in the event either Party fails to perform its obligations under this Agreement, the affected Party must provide the other with written notice containing a detailed description of the alleged deficiency or breach. Should the Party alleged to be in breach of this Agreement fail to respond in writing to, or take action to cure the alleged deficiency or breach within ten (10) days of the written notice of same, the notifying Party may terminate this Agreement for cause. In the event the Agreement is terminated for cause, Customer shall make payment to JCI for all costs incurred by JCI through the effective date of termination. If Customer has ordered multi-year BASIC COVERAGE, Customer and JCI shall each have the right to terminate this Agreement on its annual anniversary date upon prior written notice which shall be received by the non-terminating Party at least thirty (30) days before the annual anniversary date. If Customer has ordered PREMIUM COVERAGE, JCI shall have the right to terminate this Agreement as set forth above in this Paragraph J, and Customer shall have the right to terminate this Agreement only upon JCI's prior written approval, which shall not be unreasonably withheld, delayed or conditioned.

K. ASBESTOS, MOLD AND HAZARDOUS MATERIALS

Customer shall supply JCI information in its possession relating to the presence of asbestos-containing materials ("ACM") in areas where work or services will be performed. If Customer or JCI suspects that any ACM may be disturbed by JCI's services, it shall immediately stop performing the services in the affected area. Customer shall be responsible at its sole expense for addressing the presence of ACM and must provide a certificate of abatement before JCI will be obligated to perform or continue its Services; unless JCI had actual knowledge that ACM was present and acted with intentional disregard of that knowledge. JCI is responsible for disposing of any hazardous materials that it uses in providing the work and services. Customer shall supply JCI with any information in its possession relating to the presence of hazardous materials if their presence may affect JCI's work or services. If either Customer or JCI becomes aware of or suspects the presence of Non-JCI hazardous materials that may interfere with work or services, JCI shall immediately stop the work or services in the affected area and notify the other's contacts. "Hazardous Materials" specifically includes mold. JCI shall have no obligations relating to the identification, abatement, cleanup, control, removal or disposal of mold. Customer shall be responsible at its sole expense for removing and disposing of Non-JCI Hazardous Materials and the remediation of any areas impacted by the release of the Non-JCI Hazardous Materials, unless JCI had actual knowledge that Non-JCI Hazardous Materials were present and acted with intentional disregard of that knowledge. Hazardous Materials remain the property and the responsibility of the Customer even when removed from equipment or replaced by JCI as provided by the terms of this Agreement. The Customer shall be responsible for the proper storage and disposal of Hazardous Materials. This includes, but is not limited to, used oil, contaminated or uncontaminated refrigerant, and PCBs.

L. CHOICE OF LAW

This Agreement shall be subject to and governed by the laws of the State where the project is located or services are performed.

M. JCI'S INTELLECTUAL PROPERTY

JCI shall retain all right, title and interest in any (a) work provided to Customer, including without limitation, all software source and object code, documentation, technical information or data, specifications and designs and any changes, improvements or modifications thereto ("Deliverables"), and (b) Know-How (defined below) employed by JCI in the creation of the Deliverables or performance of the Services, whether known to JCI prior to, or developed or discovered or acquired in connection with, the performance of its obligations under this agreement. Ownership of all Deliverables and Know-How shall vest solely in JCI and no Deliverables shall be deemed "works made for hire." Without limiting the generality of the foregoing, ownership of all source files used in the course of performing the Services shall remain the exclusive property of JCI. For purposes of this Agreement, "Know-How" means any know-how, processes, techniques, concepts, methodologies, tools, analytical approaches, database models and designs, discoveries, and ideas furnished, produced by, developed, employed or used by JCI in the creation or provision of the Deliverables or in the performance of the Services, and any changes, improvements or modifications thereto or derivatives thereof.

N. MISCELLANEOUS PROVISIONS

- 1) Any notice that is required to be given under this Agreement must be in writing.
- 2) This Agreement is the entire contract between JCI and the Customer and supersedes any prior oral understandings, written

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agreements, proposals, or other communications between JCI and the Customer.

- 3) The Customer acknowledges and agrees that any purchase order issued by Customer in connection with this Agreement or JCI's proposal at any time is intended only to establish payment authority for the Customer's internal accounting purposes. No customer purchase order shall be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included or referenced in the Customer's purchase order will have any force or effect and these terms and conditions shall control.
- 4) Should any changes to relevant regulations, laws, or codes substantially affect JCI's Services or obligations, the Customer agrees to negotiate in good faith with appropriate and equitable changes to the scope or price of the Agreement or both.
- O. **CONNECTED SERVICES** – In the event Customer is receiving Connected Services on any Covered Equipment as more fully described in Schedule A, Customer may be required to allow JCI to install hardware and/or software to enable communication with Customer's Equipment ("Gateway Device"). To deliver Connected Services on the Equipment the Customer shall provide a secure Internet connection to allow remote access to the Gateway Device to remotely access, transmit, store, and trend data for the purposes of providing Services. JCI will not use Connected Services to remotely operate or make changes to the Customer's Equipment. Customer understands that the Gateway Device shall remain JCI's property and JCI may upon reasonable notice remove it at any time. JCI will not disclose any individual customer equipment data acquired through Connected Services without customer consent. Customer hereby grants JCI a perpetual, worldwide, royalty free license to use, modify, manipulate, sublicense and create derivative works from such Data. JCI shall retain all rights to any intellectual property, data, materials and/or products created as a result of or relating to Connected Services. JCI makes no warranty or guarantee relating to the Connected Services.
- P. **Customer Portal** – Customer shall have the right to participate in JCI's Customer Portal pursuant to the then applicable Customer Portal Terms of Use Agreement.

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