

PURCHASE AND INSTALLATION SERVICES AGREEMENT

This Purchase and Installation Services Agreement (“Agreement”) is made and entered into as of _____ (“Effective Date”) by and between the City of North Las Vegas, a Nevada municipal corporation (“City”), and Honeywell International Inc., a Delaware corporation, through its Honeywell Building Technologies business unit, located at 3255 Pepper Lane, Suite 106, Las Vegas, Nevada, 89120 (“Provider”).

RECITALS

WHEREAS, the City desires to install new XL800 and XI10 CPO BACnet Controllers at City Hall located at 2250 Las Vegas Blvd. North, Suite 710, North Las Vegas, NV 89030 which necessary to ensure functionality of the overall Building Automation System (“Project”).

WHEREAS, the City desires to purchase from Provider the products necessary to complete the Project (“Products”), which are more particularly described in the Provider’s Quote dated August 05, 2024 (“Quote”), attached hereto as Exhibit A, and as outlined in this Agreement.

WHEREAS, Provider agrees to sell and deliver the Products to the City, and to install the Products (“Services”) upon the terms and conditions described in this Agreement.

WHEREAS, Provider represents that it has the experience, knowledge, labor, and skill to provide the Services in accordance with generally accepted industry standards, and is willing and able to provide the Services.

WHEREAS, this Agreement is exempt from all applicable competitive bidding requirements pursuant to NRS 332.115(1)(b) and NRS 332.115(1)(c).

NOW, THEREFORE, upon good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Provider agree to the following terms, conditions and covenants:

SECTION ONE RESPONSIBILITY OF PROVIDER

1.1. The Provider shall perform all of its obligations in the manner set forth in this Agreement including, without limitation, selling the Products to the City at the prices and quantities set forth in the Provider’s quote dated August 05, 2024 (“Quote”) attached hereto as Exhibit A, and all related additional or incidental tasks necessary to effectuate the intent of this Agreement.

1.2. The Products shall be new and must meet or exceed the technical specifications detailed in the Quote or as otherwise specified by the City.

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1.3. The Provider shall ship the Products to a shipping address specified by the City (the “Delivery Location”) F.O.B. Delivery Location as ordered by the City. Provider bears all risk of loss or damage to the Products until delivery of the Products to the City. Title to the Products passes to the City only after delivery and unloading of the Products at the Delivery Location is complete. Delivery of the Products is not complete until such Products have physically been received and accepted by the City.

1.4. The Provider shall furnish all user, instruction, or operator manuals for the Products as applicable.

1.5. The Provider shall furnish copies of all standard product warranties, extended warranties, and service and maintenance agreements for the Products from any manufacturer. To the extent possible, the Provider shall transfer or assign such warranties and agreements upon the request of the City.

1.6. The Provider shall promptly notify the City any time that the Provider fails to meet the requirements of this Agreement and shall, at its own expense, promptly take all actions to come back into compliance with this Agreement. If the Provider performs any additional task without obtaining the City’s prior written approval, the Provider does so at its own risk and expense.

1.7. The Provider shall at its own expense comply at all times with all municipal, county, state and federal laws, regulations, rules, codes, ordinances and other applicable legal requirements.

SECTION TWO PAYMENT AND TERM

2.1. The term of this Agreement shall commence on the Effective Date and continue until the Project is complete as determined by the City in its sole and complete discretion (“Term”). Depending on the City’s order quantities for the Project the City may pay the Provider for the Products up to an amount not to exceed One Million Five Hundred Thousand Dollars and 00/100 (\$1,500,000.00).

2.2. The prices in the Quote will remain in effect for the Term. No additional compensation shall be paid, and no increase in the price of performance shall be awarded to the Provider without the prior written authorization of the City to proceed with such changes.

2.3. Payment to the Provider shall be made within thirty (30) calendar days after the City receives each invoice from the Provider, provided that such invoice is complete, correct, and undisputed by the City. Upon reconciliation of all errors, corrections, credits, and disputes, payment to the Provider will be paid in full within 30 calendar days. Invoices received without a valid purchase order number will be returned unpaid. The Provider shall submit the original invoice to:

AccountsPayable@CityofNorthLasVegas.com

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SECTION THREE REPRESENTATIONS AND WARRANTIES

3.1. Provider represents and warrants for the benefit of City, in addition to any other representations and warranties made in this Agreement, with the knowledge and expectation of City's reliance thereon, as follows:

3.1.1. Provider is a duly formed and validly existing Delaware corporation and is in good standing pursuant to the laws of the State of Nevada and has the full power, authority and legal right to execute, deliver and perform under this Agreement.

3.1.2. The Products are now and shall be at the time of delivery free from any security interest, lien, or other encumbrance.

3.1.3. Provider is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to perform all of its obligations under this Agreement.

3.1.4. The person executing this Agreement on Provider's behalf has the right, power, and authority to enter into this Agreement and such execution is binding on the Provider.

3.1.5. All Services performed, including deliverables supplied, shall conform to the specifications, drawings, and other descriptions set forth in this Agreement, and shall be performed in a manner consistent with the level of care and skill ordinarily exercised by members of Provider's profession and in accordance with generally accepted industry standards prevailing at the time the Services are performed, and do not infringe the intellectual property of a third party. The foregoing representations and warranties are not intended as a limitation, but are in addition to all other terms set forth in this Agreement and such other warranties as are implied by law, custom, and usage of the trade.

3.2. The representations and warranties made by Provider survive the termination or expiration of the Agreement.

SECTION FOUR CONFIDENTIALITY AND AUTHORIZATIONS FOR ACCESS TO CONFIDENTIAL INFORMATION

4.1. Each party to this Agreement shall treat all information relating to the Services and all information supplied to a party by the other party as confidential and proprietary information of the disclosing party and shall not permit its release by the receiving party's employees, agents, or subcontractors to other parties or make any public announcement or release thereof without the disclosing party's prior written consent, except as permitted by law.

4.2. Provider hereby certifies that it has conducted, procured or reviewed a background check with respect to each employee, agent, or subcontractor of Provider having access to City

personnel, data, information, personal property, or real property and has deemed such employee, agent, or subcontractor suitable to receive such information and/or access, and to perform Provider's duties set forth in this Agreement. The City reserves the right to refuse to allow any of Provider's employees, agents or subcontractors access to the City's personnel, data, information, personal property, or real property where such individual does not meet the City's background and security requirements, as determined by the City in its sole discretion.

4.3. The Provider, its employees, agents, or subcontractors shall have no access whatsoever to the facilities nor files (digital or otherwise) of the City's Public Workers Department without the physical presence of an escort pre-approved in writing by management of the Public Works Department.

4.4. No right, title or interest in intellectual property ("IP") provided by Provider is transferred to the City under the Agreement, including IP existing prior to, or created independently of, the performance of the Agreement. All IP and results of services, including software, models, designs, drawings, documents, inventions, and know-how (collectively, "Inventions"), conceived or developed by Provider in connection with the Agreement, are the sole property of Provider, and the City assigns any rights it may have in such Inventions to Provider. The City has no right or license to IP or Inventions provided by Provider, except as granted in the Agreement.

SECTION FIVE INSURANCE

5.1. Provider shall procure and maintain at all times during the performance of the Services, at its own expense, the following insurances:

5.1.1. Workers' Compensation Insurance as required by the applicable legal requirements, covering all persons employed in connection with the matters contemplated hereunder and with respect to whom death or injury claims could be asserted against the City or Provider.

5.1.2. Workers' Compensation Insurance as required by the applicable legal requirements, covering all persons employed in connection with the matters contemplated hereunder and with respect to whom death or injury claims could be asserted against the City or Provider.

5.1.3. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 05 09 or 25 04 05 09) or the general aggregate limit shall be twice the required occurrence limit.

5.1.4. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Provider has no owned autos, covering hired, (Code 8) and non-owned autos (Code

9), with limit no less than \$1,000,000.00 per accident for bodily injury and property damage.

5.1.5. Property Installation Floater covering property damage to any equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

5.1.6. Requested Liability limits can be provided on a single policy or combination of primary and umbrella, so long as the single occurrence limit is met.

5.1.7. The insurance policies are to contain, or be endorsed to contain, the following provisions:

5.1.7.1. Additional Insured Status: The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Provider including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Provider's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

5.1.7.2. Primary Coverage: For any claims related to this contract, the Provider's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Provider's insurance and shall not contribute with it.

5.1.7.3. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

5.1.7.4. Waiver of Subrogation: Provider hereby grants to the City a waiver of any right to subrogation which any insurer of said Provider may acquire against the City by virtue of the payment of any loss under such insurance. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

5.1.7.5. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Provider, its employees, agents, and subcontractors.

5.1.7.6. Self-Insured Retentions: Self-insured retentions must be declared to and approved by the City. The City may require the Provider to purchase coverage with a lower retention or provide proof of ability to pay losses and related

investigations, claim administration, and defense expenses within the retention.

5.1.7.7. Reserved.

5.1.7.8. Claims Made Policies: If any of the required policies provide claims-made coverage:

5.1.7.8.1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

5.1.7.8.2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

5.1.7.8.3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Provider must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work.

5.1.8. Verification of Coverage: Provider shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Provider’s obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

5.1.9. Special Risks or Circumstances: The City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

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SECTION SIX TERMINATION

In the event either party to this Agreement fails to perform any provision of this Agreement, the other party may either (a) terminate this Agreement for cause with thirty (30) days prior written notice to other party; or (b) provide the other party with written notice of the breach and allow the other party an opportunity to cure in accordance with this section. Upon receiving a party's notice of breach pursuant to the foregoing, the party in breach shall have ten (10) business days to commence remedying its defective performance. If such party diligently cures its defective performance to the non-breaching party's satisfaction within a reasonable time as determined by such party, then this Agreement shall not terminate and shall remain in full force and effect. If the party in breach fails to cure the breach to the non-breaching party's satisfaction, then the non-breaching party may terminate this Agreement pursuant to subsection (a) above Provider, within thirty (30) days following the date of the City's termination notice, shall submit an invoice for such Products in a form reasonably acceptable to the City and such invoice shall be supplemented by such underlying source documentation as is reasonably requested by the City.

SECTION SEVEN INDEMNIFICATION

Notwithstanding any of the insurance requirements or limits of liability set forth herein, the Provider shall defend, protect, indemnify and hold harmless the City, and its officers, agents and employees, from any liabilities, claims, damages, losses, expenses, proceedings, suits, actions, decrees, judgments, reasonable attorneys' fees, and court costs which the City suffers, and/or its officers, agents or employees suffer, as a result of, or arising out of, the negligent or intentional acts or omissions of the Provider, its agents, and employees, or anyone employed by any of them, in fulfillment or performance of the terms, conditions or covenants of this Agreement including, without limitation, compliance with the terms of Exhibit A. This Section 6 shall survive the completion of the Project, if applicable, and the termination or expiration of this Agreement until such time as the applicable statutes of limitation expire. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, (I) IN NO EVENT WILL EITHER PARTY TO THIS AGREEMENT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, STATUTORY, OR INDIRECT DAMAGES, LOSS OF PROFITS, REVENUES, OR USE, OR THE LOSS OR CORRUPTION OF DATA OR UNAUTHORIZED ACCESS TO OR USE OR MISAPPROPRIATION OF DATA BY THIRD PARTIES, EVEN IF INFORMED OF THE POSSIBILITY OF ANY OF THE FOREGOING, AND (II) THE AGGREGATE LIABILITY OF A PARTY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THE AGREEMENT WILL IN NO CASE EXCEED THE CONTRACT PRICE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS WILL APPLY WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, INDEMNITY, WARRANTY, TORT, OPERATION OF LAW, OR OTHERWISE .

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**SECTION EIGHT
INDEPENDENT CONTRACTOR**

Provider, its employees, subcontractors, and agents are independent contractors and not employees of the City. No approval by City shall be construed as making the City responsible for the manner in which Provider performs the Services or for any negligence, errors, or omissions of Provider, its employees, subcontractors, or agents. All City approvals are intended only to provide the City the right to satisfy itself with the quality of the Services performed by Provider. The City acknowledges and agrees that Provider retains the right to contract with other persons in the course and operation of Provider's business and this Agreement does not restrict Provider's ability to so contract.

**SECTION NINE
NOTICES**

9.1. All notices, demands and other instruments required or permitted to be given pursuant to this Agreement shall be in writing and be deemed effective upon delivery in writing if served by personal delivery, by overnight courier service, by facsimile or by overnight express mail, or upon posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To City:	City of North Las Vegas Attention: Rosa Moreno/Buyer 2250 Las Vegas Blvd., North, Suite 837 North Las Vegas, NV 89030 Phone: 702-633-2444
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To Provider:	Honeywell International Inc. Attention: Sonya Napariu 3255 Pepper Lane, Suite 106 Las Vegas, Nevada, 89120 Phone: 602-615-9642 Email: sonya.napariu@honeywell.com
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9.2. The address to which any notice, demand or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

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SECTION TEN SAFETY

10.1. Obligation to Comply with Applicable Safety Rules and Standards. Provider shall ensure that it is familiar with all applicable safety and health standards promulgated by state and federal governmental authorities including, but not limited to, all applicable requirements of the Occupational Safety and Health Act of 1970, including all applicable standards published in 29 C.F.R. parts 1910, and 1926 and applicable occupational safety and health standards promulgated under the state of Nevada. Provider further recognizes that, while Provider is performing any work on behalf the City, under the terms of this Agreement, Provider agrees that it has the sole and exclusive responsibility to assure that its employees and the employees of its subcontractors comply at all times with all applicable safety and health standards as above-described and all applicable City safety and health rules.

10.2. Safety Equipment. Provider will supply all of its employees and subcontractors with the appropriate Safety equipment required for performing functions at the City facilities.

10.3. Hazardous Conditions. Provider is not responsible for the presence on the premises of any unsafe working conditions or materials or substances classified as toxic or harmful, including but not limited to mold, PCBs and asbestos (collectively, 'Hazardous Conditions'). Provider has not been retained to discover, inspect, investigate, identify, prevent, or mitigate Hazardous Conditions or remediate the effects of Hazardous Conditions, nor is Provider responsible for determining the appropriate temperature, humidity or other environmental settings suitable for the intended operations on the affected premises. If any Hazardous Conditions are discovered by Provider or others and create an unsafe condition for the performance of the Work, it shall constitute a cause beyond the Provider's reasonable control and Provider shall have the right to cease its Work until the area has been made safe at no expense or other liability to Provider.

SECTION ELEVEN MISCELLANEOUS

11.1. Nevada and City Law. The laws of the State of Nevada and the North Las Vegas Municipal Code shall govern the validity, construction, performance and effect of this Agreement, without regard to conflicts of law. The parties to this Agreement consent to the jurisdiction of any court of competent jurisdiction in Clark County, Nevada to adjudicate any dispute related to this Agreement or actions to enforce or interpret the terms of this Agreement.

11.2. Assignment. Any attempt to assign this Agreement by the Provider without the prior written consent of the City shall be void.

11.3. Non-Waiver. The failure to enforce or the delay in enforcement of any provision of this Agreement by a party shall in no way be construed to be a waiver of such provision or right unless such party expressly waives such provision or right in writing.

11.4. Partial Invalidity. If any term of this Agreement should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all provisions not held invalid, void or unenforceable, shall continue in full force and effect.

11.5. Controlling Agreement. To the extent any of the terms or provisions in the Quote conflict with this Agreement, the terms and provisions of this Agreement shall govern and control. Any additional, different or conflicting terms or provisions contained in Provider's Quote or any other written or oral communication from Provider shall not be binding in any way on the City whether or not such terms would materially alter this Agreement, and the City hereby objects thereto.

11.6. Attorneys' Fees. In the event any action is commenced by either party against the other in connection with this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, as determined by the court, including without limitation, fees for the services of the City Attorney's Office. This Section 9.6 shall survive the completion of this Agreement until the applicable statutes of limitation expire.

11.7. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior representations, agreements and understandings of the parties. No addition to or modification of this Agreement shall be binding unless executed in writing by the parties hereto.

11.8. Time of Essence. Time is of the essence in the performance of this Agreement.

11.9. Shipping. The Products are to be packaged in a manner that assures they are protected against deterioration and contamination. All shipments are to meet applicable D.O.T. Regulations. Serial numbers noted on the packing slip must match the serial number of the actual goods shipped. Incorrect or questionable documentation of serial numbers may result in shipment rejection. Shipments rejected due to Provider error will be returned solely at Provider's cost.

11.10. Inspection. An authorized representative of the City will inspect the Products at time of delivery. If deficiencies are detected, the Products may be rejected and the Provider will be required to make necessary repairs, corrections, or replacements. Payment and/or commencement of a discount period will not be made until the corrective action is made, the Products are re-inspected and accepted.

11.11. Further Assurances. The Provider shall execute and deliver all such documents and perform such acts as are reasonably requested by the City to complete its obligations under this Agreement.

11.12. Effect of Agreement Termination. In the event this Agreement is terminated, all rights and obligations of the parties hereunder shall cease, other than indemnity obligations and matters that by their terms survive the termination hereof.

11.13. Fiscal Funding Out. The City reasonably believes that sufficient funds can be obtained to make all payments during the term of this Agreement. Pursuant to NRS Chapter 354, if the City does not allocate funds to continue the function performed by the Provider under this Agreement, this Agreement will be terminated when appropriated funds expire.

11.14. Public Record. Pursuant to NRS 239.010 and other applicable legal authority, each and every document provided to the City may be a “Public Record” open to inspection and copying by any person, except for those documents otherwise declared by law to be confidential. The City shall not be liable in any way to the Provider for the disclosure of any public record, including but not limited to documents provided to the City by the Provider. In the event the City is required to defend an action with regard to a public records request for documents submitted by the Provider, the Provider agrees to indemnify, hold harmless, and defend the City from all damages, costs, and expenses, including court costs and reasonable attorney’s fees related to such public records request. This section 8.14 shall survive the expiration or early termination of the Agreement.

11.15. Electronic Signatures. For purposes of this Agreement, the use of facsimile, email or other electronic medium shall have the same force and effect as original signatures.

11.16. Federal Funding. Provider certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, in receipt of a notice of proposed debarment or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

11.17. Force Majeure. Provider shall not be liable for damages caused by delay or interruption in the Services due to fire, flood, corrosive substances in the air, strike, lockout, dispute with workmen, inability to obtain material or services, commotion, war, acts of God, the presence of Hazardous Substances or Mold, or any other cause beyond Provider’s reasonable control. In the event of any such delay, date of shipment or performance shall be extended by a period equal to the time lost by reason of such delay. Regardless of the source of the delay, Provider shall not owe to the City any liquidated damages or other penalties. Notwithstanding any other provision of this Agreement, in the event of an epidemic or pandemic, including without limitation the COVID-19 pandemic, the effects of which cannot be foreseen, the parties agree that Provider shall be entitled to an equitable extension of time to deliver or perform its Services, to the extent Subcontractor’s delivery or performance, or the delivery or performance of its suppliers and/or subcontractors, is in any way delayed, hindered, or otherwise affected by such epidemic or pandemic.

[The remainder of page is intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the City and the Provider have caused this Agreement to be executed as of the day and year first above written.

City of North Las Vegas,
a Nevada municipal corporation

Honeywell International Inc.,
a Delaware corporation, through its
Honeywell Building Technologies business
unit located at 3255 Pepper Lane, Suite 106,
Las Vegas, Nevada, 89120

By: _____
Pamela A. Goynes-Brown, Mayor

By: William Grogan
Name: William Grogan
Title: Service Manager

Attest:

By: _____
Jackie Rodgers, City Clerk

Approved as to Form:

By: _____
Andy Moore, Acting City Attorney

Exhibit A

Quote

Please see attached page(s).

Building Systems Agreement

Proposal Number: 1672531

Proposal Name: CNLV-City Hall DDC Upgrade

Date: 8/5/2024

Provider: ("Honeywell")

**Honeywell International Inc., through its
Honeywell Building Technologies business unit**
3255 Pepper Lane, Suite 106,
Las Vegas, NV 89120

Customer: City of North Las Vegas

2250 Las Vegas Blvd Ste 710,
North Las Vegas NV US 89030

Contact: Sonya Napariu
Sales Representative

Phone: 602-615-9642

Email: sonya.napariu@honeywell.com

Contact Person: Scott Kreuth

Email address:

kruethd@cityofnorthlasvegas.com

Work Site Location Name: City of North Las Vegas

Work Site Location Address: 2250 N. Las Vegas Blvd.,
North Las Vegas, NV, US 89030.

Thanks for the opportunity to bid on this work.

We have built our price based on Existing As-Built drawings. We will revise our price if any new as-built drawings, CARE files and specifications are released at later stage. If you have any questions or need any help in the design process, please do not hesitate to reach out to us.

Thanks,

Sonya Napariu
Cell: 602-615-9642
Honeywell International Inc.

sonya.napariu@honeywell.com

OVERVIEW SCOPE OF WORK

The following documents and drawings were referenced and are applicable to this scope of work:

Item	Document
1	As-Built Drawings
	City Hall DDC Dwgs 9-8-10 revised 9-27-10

Scope of Work: Honeywell shall provide the following equipment and services (the “Work”) in accordance with the General Terms and Conditions attached hereto and any work scope documents, or other exhibits or schedules attached hereto. “Agreement” means this proposal signed by Honeywell and Customer, the General Terms and Conditions attached hereto, and any work scope documents, or other exhibits or schedules attached hereto. This scope of work is the basis for the pricing attached and any changes in scope will be addressed and priced accordingly.

Honeywell International proposes to reuse existing EBI Building Automation System (“BAS”). The system to be provided herein shall consist of replacement of existing XL800 controllers with New Honeywell plant controllers with display; existing XL10 VAV controllers with New Honeywell VAV controllers and reuse of all associated field devices with ancillary components as identified below. All integration will be performed in and require BACnet compatible hardware, where provided by others. Honeywell International will provide engineering submittals (hardware, software, and graphics), for the below listed equipment as required to implement this scope of work. Work includes re-terminations of existing points, programming of new DDC controllers, graphics work and sequence testing and following pieces of equipment:

Base Scope:

Item	Existing Controller Tag	Existing Controller	New Controller	Qty
1	CPU-2	XL800	CPO Controller	1
2	CPU-3	XL800	CPO Controller	1
3	CPU-4	XL800	CPO Controller	1
4	CPU-5	XL800	CPO Controller	1
5	CPU-6	XL800	CPO Controller	1
6	CPU-7	XL800	CPO Controller	1
7	CPU-8	XL800	CPO Controller	1
8	CPU-9	XL800	CPO Controller	1
9	CPU-10	XL800	CPO Controller	1
10	CPU-11	XL800	CPO Controller	1
11	CPU-12	XL800	CPO Controller	1
12	CPU-13	XL800	CPO Controller	1
13	CPU-14	XL800	CPO Controller	1
14	CPU-15	XL800	CPO Controller	1
15	CPU-16	XL800	CPO Controller	1
16	CPU-17	XL800	CPO Controller	1
17	XL10	XL10 VAV	CPO VAV Controller	315

CLARIFICATIONS

General Qualifications:

1. The work to be performed and services to be provided by Honeywell under this proposal are subject to the federal Buy American Act or Trade Agreements Act or any other statutory or regulatory restrictions on the source of material or equipment applicable to the work. Upon request, Honeywell will provide all necessary documentation and assistance to facilitate approval of any waiver to deviate from any such sourcing requirements.
2. Honeywell reserves the right to perform engineering and other project development activities by employing all its global resources, some of which may be in countries outside of the United States.
3. Honeywell will not proceed with any work (engineering, material ordering, on-site rough in, etc.) without a fully executed contract.
4. Honeywell to provide installation schedule with electrical and mechanical functional requirements to physically start controls check out.
5. For each Division of work, Honeywell has included a single mobilization for testing and checkout upon notification that prerequisite work and equipment startup are complete. If additional mobilizations or out of sequence work are requested, Honeywell will provide a proposal for the additional effort.
6. Written direction will be required for any changes or variations from the existing system layout as it pertains to field device locations, etc.
7. Honeywell reserves the right, in its discretion, to increase the price(s) set forth in this proposal if tariffs (or similar governmental charges) imposed by the United States or other countries result in any increase in the costs that Honeywell used to determine such price(s).
8. Honeywell reserves the right to assess and collect damages and costs associated to extend schedules or delays caused by other trades which impacts Honeywell's ability to complete or perform our work.

General Inclusions:

1. **Front End System:** Existing server and operator workstation will be reused.
2. **Field Devices:** Assumes all existing field devices are in good working condition, thereby includes reusing of all existing electronic sensors, humidity sensors, CO2 sensors, pressure sensors, relays, current switches, temperature sensors, control valves & actuators, dampers & actuators, enclosures, XL800 I/O modules, power supplies, transformers and other field devices.
3. **Wiring:** Assumes all existing control wiring and conduits are in good working condition and will be reused.
4. **BACnet Cables:** Includes supply scope of new BACnet cables for Honeywell unitary controllers.
5. **CAT6e Cables:** Includes supply scope of new CAT cables for new plant controllers (Qty16) to nearest network switch.
6. **Display for Plant Controller:** Includes supply scope of display for new plant controllers (Qty16).
7. **Demolition Scope:** Includes removal of existing XL800 controllers & XL10 VAV controllers, C-Bus/e-Bus wirings.
8. **Working Hours:** 60% of work on afterhours and 40% of work on normal business hours. Any further overtime or night hour rates will be charged EXTRA.
9. Honeywell assumes all other existing equipment/devices are operational and functioning correctly. Diagnostics and repair of any existing defects will be at an additional charge.
10. Includes updating of master riser diagram.
11. Includes replacement of existing space thermostat & wiring with new for existing cooling only VAV boxes and existing fan powered terminal unit with hot water reheat.

General Exclusions:

1. **BMS Network:** Excludes supply & installation of firewall, fiber optic converters, etc. for new BACnet IP Honeywell DDC controllers. Network set up and configuration, IP/subnet assignment to be provided by others. Owner specific network/cyber-security/remote access requirements have not been provided now and may result in additional costs.
2. **Frontend Hardware:** Excludes supply scope of new server & workstation. Existing to be reused.
3. **Power Wiring:** Existing 120V AC power to Honeywell Direct Digital Control (DDC) panels, unitary controllers, and transformers. Existing will be reused.

4. **VFDs & Motor Controls:** Excludes furnishing, installation, and start-up of motor starters, disconnects and Variable Frequency Drives.
5. **Existing EBI:** Excludes any existing EBI upgrade.
6. **Buy American Requirement for Existing Equipments:** Excludes Buy American requirements for existing electronic sensors, humidity sensors, pressure sensors, dampers with actuators, valves with actuators, transducers, relays, current switches, thermostats, temperature sensors, enclosures, power supply, etc. since these will be reused.
7. Excludes supply and installation of any new field devices as stated elsewhere on this document.
8. Excludes any new wiring except as stated elsewhere on this document.
9. **Piping specialties:** Excludes providing and installation of new Valves, flow meters, immersion sensors, water flow switches, water pressure sensor, thermometers, gauges, PRVs, piping modification work, welding, and taping.
10. Excludes water & air balancing.
11. Excludes Hiring/co-ordination of the 3rd party commissioning agent.
12. Excludes co-ordination of Testing, Adjusting and Balancing work
13. Excludes supply scope of any 3rd party BACnet Interface cards.
14. Excludes furnishing & installation of non-automatic temperature control ("ATC") valves (i.e., balancing, shutoff, bypass, etc.).
15. Honeywell shall not be responsible to any start-up, commissioning and on-going support for non-Honeywell provided controller and/or devices. If called for this service shall be charged EXTRA.
16. Excludes cutting, patching, painting.
17. Any other controls scope except what are specifically mentioned in the Honeywell proposal above are excluded.
18. Any other field devices which are non-functional & need to be replaced then this service shall be charged EXTRA.
19. Excludes any cost for Permits, Fees and Code upgrades.
20. Excludes bid bond, performance & payment bond cost.
21. Excludes liquidated damages.

The Cost to perform the above-described work\$1,274,730.00 plus applicable taxes

Additionally: At the Customers request, Honeywell has included contingency amount, should any or all the amounts not be used, the unused amount will be returned to the Customer.

This amount is:\$225,270.00

Total Project inclusive on Contingency is:\$1,500,000.00

Payment: Upon Customer acceptance of this proposal or contract execution, whichever occurs first, the Customer shall pay Honeywell Twenty-Five percent (25%) of the Price. Such payment shall be used for engineering, drafting, and other mobilization costs reasonably incurred prior to on-site installation.

This proposal is valid for 90 days.

Proposal Submitted by Honeywell Building Technologies:

By: *Sonya Napariu*
(Signature)

Name: **Sonya Napariu**

Title: **Sales Representative**

Acceptance: This proposal and the pages attached shall become an agreement in accordance with Article 13 of

the General Terms and Conditions below only upon signature below by an authorized representative of Honeywell and Customer, subject to credit approval by Honeywell.

Accepted by:

HONEYWELL INTERNATIONAL INC.,
through its **Honeywell Building Technologies**
business unit

CUSTOMER: CITY OF NORTH LAS VEGAS

Signature: By: _____
Name: _____
Title: _____
Date: _____

Signature: By: _____
Name: _____
Title: _____
Date: _____

CORE CONTRACTING TERMS

1. WORKING HOURS

Unless otherwise stated, all labor and services under this Agreement will be performed during the hours of 8:00 a.m. - 4:30 p.m. local time Monday through Friday, excluding federal holidays. If for any reason Company requests Honeywell

to furnish any such labor or services outside of the hours of 8:00 a.m. - 4:30 p.m. local time Monday through Friday (or on federal holidays), any overtime or other additional expense occasioned thereby, such as repairs or material costs not included in this Agreement, shall be billed to and paid by Company.

2. TAXES

2.1 Company agrees to pay the amount of any new or increased taxes or governmental charges upon labor or the production, shipment, sale, installation, or use of equipment or software which become effective after the date of this Agreement. If Company claims any such taxes do not apply to transactions covered by this Agreement, Company shall provide Honeywell with a tax exemption certificate acceptable to the applicable taxing authorities.

2.2 **Tax-Related Cooperation.** Company agrees to execute any documents and to provide additional reasonable cooperation to Honeywell related to Honeywell tax filings under Internal Revenue Code Section 179D. Honeywell will be designated the sole Section 179D beneficiary.

3. PROPRIETARY INFORMATION

3.1 All proprietary information (as defined herein) obtained by Company from Honeywell in connection with this Agreement shall remain the property of Honeywell, and Company shall not divulge such information to any third party without prior written consent of Honeywell. As used herein, the term "proprietary information" shall mean written information (or oral information reduced to writing), or information in machine-readable form, including but not limited to software supplied to Company hereunder which Honeywell deems proprietary or confidential and characterizes as proprietary at the time of disclosure to Company by marking or labeling the same "Proprietary", "Confidential", or "Sensitive". The Company shall incur no obligations hereunder with respect to proprietary information which: (a) was in the Company's possession or was known to the Company prior to its receipt from Honeywell; (b) is independently developed by the Company without the utilization of such confidential information of Honeywell; (c) is or becomes public knowledge through no fault of the Company; (d) is or becomes available to the Company from a source other than Honeywell; (e) is or becomes available on an unrestricted basis to a third party from Honeywell or from someone acting under its control; (f) is received by Company after notification to Honeywell that the Company will not accept any further information.

3.2 Company agrees that Honeywell may use nonproprietary information pertaining to the Agreement, and the Work performed under the Agreement, for press releases, case studies, data analysis, promotional purposes, and other similar documents or statements to be publicly released. Honeywell may, during and after the Term of this Agreement, compile and use, and disseminate in anonymous and aggregated form, all data and information related to building optimization and energy usage obtained in connection with this Agreement. The rights and obligations in this Section 3 shall survive termination or expiration of this Agreement.

4. INSURANCE OBLIGATIONS

4.1 Honeywell shall, at its own expense, carry and maintain in force at all times from the effective date of the Agreement through final completion of the Work the following insurance. It is agreed, however, that Honeywell has the right to insure or self-insure any of the insurance coverages listed below.

(a) Commercial General Liability Insurance to include contractual liability, products/completed operations liability with a combined single limit of USD \$2,000,000 per occurrence. Such policy will be written on an occurrence form basis.

(b) If automobiles are used in the execution of the Agreement, Automobile Liability Insurance with a minimum combined single limit of USD \$2,000,000 per occurrence. Coverage will include all owned, leased, non-owned and hired vehicles.

(c) Where applicable, "All Risk" Property Insurance, including Builder's Risk insurance, for physical damage to property which is assumed in the Agreement.

(d) Workers' Compensation Insurance Coverage A - Statutory limits and Coverage B-Employer's Liability Insurance with limits of USD \$1,000,000 for bodily injury liability each accident or disease.

Honeywell will not issue coverage on a per project basis.

4.2 Prior to the commencement of the Agreement, Honeywell will furnish evidence of said insurance coverage in the form of a Memorandum of Insurance which is accessible at: <http://honeywell.com/sites/moi/>. All insurance required in this Section 4 will be written by companies with a rating of no less than "A-, XII" by A.M. Best or equivalent rating agency. Honeywell will endeavor to provide a thirty (30) day notice of cancellation or non-renewal to the Company. In the event that a self-insured program is implemented, Honeywell will provide adequate proof of financial responsibility.

5. HAZARDOUS SUBSTANCES, MOLD, AND UNSAFE WORKING CONDITIONS

5.1 Company has not observed or received notice from any source (formal or informal) of, nor is it aware of: (a) Hazardous Substances or Mold (each as defined below), either airborne or on or within the walls, floors, ceilings, heating, ventilation and air conditioning systems, plumbing systems, structure, and other components of the worksite location(s), or within furniture, fixtures, equipment, containers or pipelines in any of Worksite Location(s); or (b) conditions that might cause or promote accumulation, concentration, growth or dispersion of Hazardous Substances or Mold on or within such locations.

5.2 Honeywell is not responsible for determining whether any equipment or the temperature, humidity and ventilation settings used by Company, are appropriate for Company and the worksite location(s) except as specifically provided in this Agreement.

5.3 If any such materials, situations or conditions, whether disclosed or not, are discovered by Honeywell or others and provide an unsafe condition for the performance of the Work, the discovery of the condition shall constitute a cause beyond Honeywell's reasonable control and Honeywell shall have the right to cease the Work until the area has been made safe by Company or Company's representative, at Company's expense. Honeywell shall have the right to terminate this Agreement if Company has not fully remediated the unsafe condition within sixty (60) days of discovery.

5.4 Company represents that Company has not retained Honeywell to discover, inspect, investigate, identify, be responsible for, prevent or remediate Hazardous Substances or Mold or conditions caused by Hazardous Substances or Mold. Honeywell shall have no duty, obligation or liability, all of which Company expressly waives, for any damage or claim, whether known or unknown, including but not limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, adverse health effect or any special, consequential, punitive, exemplary or other damages, regardless of whether such damages may be caused by or otherwise associated with defects in the Work, in whole or in part due to or arising from any investigation, testing, analysis, monitoring, cleaning, removal, disposal, abatement, remediation, decontamination, repair, replacement, relocation, loss of use of building, or equipment and systems, or personal injury, death or disease in any way associated with Hazardous Substances or Mold.

6. WARRANTY

6.1 HONEYWELL WILL REPLACE OR REPAIR ANY PRODUCT HONEYWELL PROVIDES UNDER THIS AGREEMENT THAT FAILS WITHIN THE WARRANTY PERIOD OF ONE (1) YEAR BECAUSE OF DEFECTIVE WORKMANSHIP OR MATERIALS, EXCEPT TO THE EXTENT THE FAILURE RESULTS FROM COMPANY NEGLIGENCE, FIRE, LIGHTNING, WATER DAMAGE, OR ANY OTHER CAUSE BEYOND THE CONTROL OF HONEYWELL. THIS WARRANTY IS EFFECTIVE AS OF THE DATE OF COMPANY ACCEPTANCE OF THE PRODUCT OR THE DATE COMPANY BEGINS BENEFICIAL USE OF THE PRODUCT, WHICHEVER OCCURS FIRST, AND SHALL TERMINATE AND EXPIRE ONE (1) YEAR AFTER SUCH EFFECTIVE DATE. HONEYWELL'S SOLE OBLIGATION, AND COMPANY'S SOLE REMEDY, UNDER THIS WARRANTY IS REPAIR OR REPLACEMENT, AT HONEYWELL'S ELECTION, OF THE APPLICABLE DEFECTIVE PRODUCTS WITHIN THE ONE (1) YEAR WARRANTY PERIOD. ALL PRODUCTS REPAIRED OR REPLACED, IF ANY, ARE WARRANTED ONLY FOR THE REMAINING AND UNEXPIRED PORTION OF THE ORIGINAL ONE (1) YEAR WARRANTY PERIOD.

6.2 EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6.1, HONEYWELL MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND ANY AND ALL WARRANTIES REGARDING HAZARDOUS SUBSTANCES OR MOLD. NO EXTENSION OF THIS WARRANTY WILL BE BINDING UPON HONEYWELL UNLESS SET FORTH IN WRITING AND SIGNED BY HONEYWELL'S AUTHORIZED REPRESENTATIVE.

7. INDEMNITY

Company agrees to indemnify, defend and hold harmless Honeywell and its officers, directors, employees, affiliates and agents (each, an “indemnitee”) from and against any and all actions, lawsuits, losses, damages, liabilities, claims, costs and expenses (including, without limitation, reasonable attorneys’ fees) caused by, arising out of or relating to Company’s breach or alleged breach of this Agreement or the negligence or willful misconduct (or alleged negligence or willful misconduct) of Company or any other person under Company’s control or for whom Company is responsible. WITHOUT LIMITING THE FOREGOING, TO THE FULLEST EXTENT ALLOWED BY LAW, COMPANY SHALL INDEMNIFY AND HOLD HONEYWELL AND EACH OTHER INDEMNITEE HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND COSTS OF WHATEVER NATURE, INCLUDING BUT NOT LIMITED TO, CONSULTANTS’ AND ATTORNEYS’ FEES, DAMAGES FOR BODILY INJURY AND PROPERTY DAMAGE, FINES, PENALTIES, CLEANUP COSTS AND COSTS ASSOCIATED WITH DELAY OR WORK STOPPAGE, THAT IN ANY WAY RESULTS FROM OR ARISES UNDER THE BREACH OF THE REPRESENTATIONS AND WARRANTIES OF COMPANY IN SECTION 5, THE EXISTENCE OF MOLD OR A HAZARDOUS SUBSTANCE AT A SITE, OR THE OCCURRENCE OR EXISTENCE OF THE SITUATIONS OR CONDITIONS DESCRIBED IN SECTION 5, WHETHER OR NOT COMPANY PROVIDES HONEYWELL ADVANCE NOTICE OF THE EXISTENCE OR OCCURRENCE AND REGARDLESS OF WHEN THE HAZARDOUS SUBSTANCE OR OCCURRENCE IS DISCOVERED OR OCCURS. Company may not enter into any settlement or consent to any judgment without the prior written approval of each indemnitee. This Section 7 shall survive termination or expiration of this Agreement for any reason.

8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, (I) IN NO EVENT WILL HONEYWELL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, STATUTORY, OR INDIRECT DAMAGES, LOSS OF PROFITS, REVENUES, OR USE, OR THE LOSS OR CORRUPTION OF DATA OR UNAUTHORIZED ACCESS TO OR USE OR MISAPPROPRIATION OF DATA BY THIRD PARTIES, EVEN IF INFORMED OF THE POSSIBILITY OF ANY OF THE FOREGOING, AND (II) THE AGGREGATE LIABILITY OF HONEYWELL FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL IN NO CASE EXCEED THE PRICE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS WILL APPLY WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, INDEMNITY, WARRANTY, TORT, OPERATION OF LAW, OR OTHERWISE.

9. EXCUSABLE DELAYS

9.1 Honeywell shall not be liable for damages caused by delay or interruption in the Work due to fire, flood, corrosive substances in the air, strike, lockout, dispute with workmen, inability to obtain material or services, commotion, war, acts of God, the presence of Hazardous Substances or Mold, or any other cause beyond Honeywell’s reasonable control. Should any part of the system or any equipment in each case that are related to the Work be damaged by fire, water, lightning, acts of God, the presence of Hazardous Substances or Mold, third parties, or any other cause beyond the control of Honeywell, any repairs or replacement shall be paid for by Company. In the event of any such delay, date of shipment or performance shall be extended by a period equal to the time lost by reason of such delay, and Honeywell shall be entitled to recover from Company its reasonable costs, overhead, and profit arising from such delay.

9.2 COVID-19 Honeywell’s pricing is based on the current commodity prices, supply chain, and other market conditions and costs. Due to the COVID-19 pandemic and the volatility of the current market, Honeywell cannot hold pricing. Additionally, the availability of raw materials, semi-conductors and other materials and equipment needed for our proposed solutions are unknown. Moreover, while Honeywell will make commercially reasonable efforts to provide delivery of materials and services to meet the current schedule of the project, it is expected that there will be delays in shipments, shortages in raw materials and adverse labor impacts as a result of the ongoing pandemic and other market conditions. Honeywell shall be entitled to increase prices, extend the project schedule and other appropriate relief if it is adversely impacted after the date of this proposal by increases in its costs or other market conditions or future developments.

10. PATENT INDEMNITY

10.1 Honeywell shall, at its expense, defend or, at its option, settle any suit that may be instituted against Company for alleged infringement of any United States patents related to the hardware or software manufactured and provided by Honeywell under this Agreement (“the equipment”), provided that a) such alleged infringement consists only in the use of such equipment by itself and not as part of, or in combination with, any other devices, parts or software not provided by Honeywell hereunder, b) Company gives Honeywell immediate notice in writing of any such suit and permits

Honeywell, through counsel of its choice, to answer the charge of infringement and defend such suit, and c) Company gives Honeywell all needed information, assistance and authority, at Honeywell's expense, to enable Honeywell to defend such suit.

10.2 If such a suit has occurred, or in Honeywell's opinion is likely to occur, Honeywell may, at its election and expense: a) obtain for Company the right to continue using such equipment; b) replace, correct or modify it so that it is not infringing; or if neither a) or b) is feasible, then c) remove such equipment and grant Company a credit therefore, as depreciated.

10.3 In the case of a final award of damages in any such suit, Honeywell will pay such award. Honeywell shall not, however, be responsible for any settlement made without its written consent.

10.4 THIS SECTION 10 STATES HONEYWELL'S TOTAL LIABILITY AND COMPANY'S SOLE REMEDY FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT BY THE HARDWARE MANUFACTURED AND PROVIDED BY HONEYWELL HEREUNDER.

11. SOFTWARE LICENSE

All software made available in connection with this Agreement ("Software") shall be licensed and not sold and subject to all terms of the Software License Agreement (as defined below). All Software is made available subject to the express condition that the end user of the Software sign and deliver to Honeywell the then-current and applicable version of Honeywell's standard software license agreement or a software license agreement otherwise satisfactory to Honeywell in its sole discretion (in each case, the "Software License Agreement"). Notwithstanding any other provision of this Agreement or any other document or instrument, the terms of the Software License Agreement shall govern and supersede any inconsistent or conflicting terms to the extent relating to Software. Payment for any and all Software made available in connection with this Agreement shall be due and payable at the time the end user of the Software executes the Software License Agreement.

12. DISPUTE RESOLUTION

With the exception of any controversy or claim arising out of or related to the installation, monitoring, and/or maintenance of fire and/or security systems, the Parties agree that any controversy or claim between Honeywell and Company arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in a neutral venue, conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Any award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Any controversy or claim arising out of or related to the installation, monitoring, and/or maintenance of systems associated with security and/or the detection of, and/or reduction of risk of loss associated with fire shall be resolved in a court of competent jurisdiction.

13. ACCEPTANCE OF THE CONTRACT

The terms and conditions related to the Work are expressly limited to the provisions of this Agreement, notwithstanding receipt of, or acknowledgment by, Honeywell of any purchase order, specification, or other document issued by Company. Any additional or different terms set forth or referenced in Company's purchase order are hereby objected to by Honeywell and shall be deemed a material alteration of these terms and shall not be a part of any resulting order.

14. MISCELLANEOUS

14.1 None of the provisions of this Agreement shall be modified, altered, changed or voided by any subsequent purchase order or other document unilaterally issued by Company.

14.2 This Agreement shall be governed by the laws of the State where the Work is to be performed, without regard to conflicts of law principles.

14.3 Any provision or part of this Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Honeywell and Company, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

14.4 Company may not assign its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of Honeywell. Honeywell may assign this Agreement or any or all of its rights under this Agreement without Company's consent.

15. TERMS OF PAYMENT

15.1 Progress Payments - HONEYWELL will invoice at least monthly for all materials delivered to the job site or to an off-site storage facility and for all installation, labor, and services performed, both on and off the job site. COMPANY agrees to pay the full amounts invoiced, less retainage, upon receipt of the invoice at the address specified by the COMPANY. Invoices to be paid within thirty (30) calendar days of the invoice date.

15.2 Suspension of work - If HONEYWELL, having performed work per Agreement requirements, does not receive payment within thirty (30) calendar days after submission of a HONEYWELL invoice, HONEYWELL may suspend work until COMPANY provides remedy.

15.3 Payments must be in accordance with the "Remit To" field on each invoice. If Company makes any unapplied payment and fails to reply to Honeywell's request for instruction on allocation within seven (7) calendar days, Honeywell may set off such unapplied cash amount against any Company past-due invoice(s) at its sole discretion. An unapplied payment shall mean payment(s) received from Company without adequate remittance detail to determine what invoice the payment(s) shall be applied to.

15.4 Disputes as to invoices must be accompanied by detailed supporting information and are deemed waived 15 calendar days following the invoice date. Honeywell reserves the right to correct any inaccurate invoices. Any corrected invoice must be paid by the original invoice payment due date or the issuance date of the corrected invoice, whichever is later.

15.5 If Company is delinquent in payment to Honeywell, Honeywell may at its option:

- i. withhold performance until all delinquent amounts and late charges, if any, are paid;
- ii. repossess Products or software for which payment has not been made;
- iii. assess late charges on delinquent amounts at the lower of 1.5% per month or the maximum rate permitted by law, for each full or partial month;
- iv. recover all costs of collection, including but not limited to reasonable attorneys' fees;
- v. combine any of the above rights and remedies as may be permitted by applicable law.

These remedies are in addition to those available at law or in equity. Honeywell may re-evaluate Company's credit standing at any time and modify or withdraw credit. Company may not set off any invoiced amounts against sums that are due from Honeywell.

16. WORK BY OTHERS

16.1 UNLESS OTHERWISE INDICATED, THE FOLLOWING ITEMS ARE TO BE FURNISHED AND INSTALLED BY OTHERS: ELECTRIC WIRING AND ACCESSORIES, ALL IN-LINE DEVICES (INCLUDING BUT NOT LIMITED TO FLOW TUBES, HAND VALVES, ORIFICE PLATES, ORIFICE FLANGES, ETC.), PIPE AND PIPE PENETRATIONS INCLUDING FLANGES FOR MOUNTING PRESSURE AND LEVEL TRANSMITTERS, TEMPERATURE SENSORS, VACUUM BREAKERS, GAUGE GLASSES, WATER COLUMNS, EQUIPMENT FOUNDATIONS, RIGGINGS, STEAM TRACINGS, AND ALL OTHER ITEMS AND WORK OF LIKE NATURE. AUTOMATIC VALVE BODIES AND DAMPERS FURNISHED BY HONEYWELL ARE TO BE INSTALLED BY OTHERS.

16.2 HONEYWELL WILL PROVIDE UNDER THIS AGREEMENT SPECIFICALLY EXCLUDE PROFESSIONAL SERVICES WHICH CONSTITUTE THE PRACTICE OF ARCHITECTURE OR ENGINEERING UNLESS SPECIFICALLY SET FORTH IN THE SCOPE OF WORK. COMPANY WILL SPECIFY ALL PERFORMANCE AND DESIGN CRITERIA THAT HONEYWELL WILL FOLLOW IN PERFORMING WORK UNDER THIS AGREEMENT. IF PROFESSIONAL DESIGN SERVICES OR CERTIFICATIONS BY A DESIGN PROFESSIONAL RELATED TO SYSTEMS, MATERIALS, OR EQUIPMENT IS REQUIRED, SUCH SERVICES AND CERTIFICATIONS ARE THE RESPONSIBILITY OF OTHERS. TO THE FULLEST EXTENT PERMITTED BY LAW, COMPANY SHALL INDEMNIFY AND HOLD HARMLESS HONEYWELL AND ITS AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, THAT IN ANY WAY RESULT FROM OR ARISE UNDER BREACH OF THE COVENANTS OF COMPANY IN THIS SECTION 16. THIS INDEMNIFICATION SHALL SURVIVE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON. NOTHING IN THIS SECTION 16 SHALL BE CONSTRUED TO REQUIRE THAT COMPANY INDEMNIFY AND HOLD HARMLESS HONEYWELL FROM CLAIMS AND COSTS RESULTING FROM HONEYWELL'S NEGLIGENT ACTIONS OR WILLFUL MISCONDUCT.

17. DELIVERY

Delivery of equipment not agreed on the face hereof to be installed by or with the assistance of Honeywell shall be F.O.B. at Honeywell's factory, warehouse, or office selected by Honeywell. Delivery of equipment agreed on the face hereof to be installed by or with the assistance of Honeywell shall be C.I.F. at site of installation.

18. DAMAGE OR LOSS

Honeywell shall not be liable for damage to or loss of equipment and software after delivery to destination determined by this Agreement or any applicable prime contract. If thereafter, and prior to payment in full to Honeywell by Company, any such equipment or software is damaged or destroyed by any cause whatsoever, other than by the fault of Honeywell, the Company agrees promptly to pay or reimburse Honeywell for such loss.

19. TERMINATION

19.1 By Company. Company may terminate this Agreement for cause if Honeywell defaults in the performance of any material term of this Agreement, after giving Honeywell written notice of its intent to terminate. If Honeywell has not, within thirty (30) days after receipt of such notice, acted to remedy and make good such deficiencies, Company may terminate this Agreement and take possession of the site together with all materials thereon, and move to complete the Work itself expeditiously. Upon request of Honeywell, Company will furnish to Honeywell a detailed accounting of the costs incurred by Company in finishing the Work. If the unpaid balance of the contract price exceeds the expense of finishing the Work, the excess shall be paid to Honeywell, but if the expense exceeds the unpaid balance, Honeywell shall pay the difference to Company.

19.2 By Honeywell. Honeywell may terminate this Agreement for cause (including, but not limited to, Company's failure to make payments as agreed herein) after giving Company written notice of its intent to terminate. If, within seven (7) days following receipt of such notice, Company fails to make the payments then due, or otherwise fails to cure or perform its obligations, Honeywell may, by written notice to Company, terminate this Agreement and recover from Company payment for Work executed and for losses sustained for materials, tools, construction equipment and machinery, including but not limited to, reasonable overhead, profit and applicable damages.

20. CHANGES IN THE WORK

20.1 A Change Order is a written order signed by Company and Honeywell authorizing a change in the Work or adjustment in the Price or a change to the schedule.

20.2 Company may request Honeywell to submit proposals for changes in the Work, subject to acceptance by Honeywell. If Company chooses to proceed, such changes in the Work will be authorized by a Change Order. Unless otherwise specifically agreed to in writing by both Parties, if Honeywell submits a proposal pursuant to such request but Company chooses not to proceed, Company shall issue a Change Order to reimburse Honeywell for any and all costs incurred in preparing the proposal.

20.3 Honeywell may make a written request to Company to modify this Agreement based on the receipt of, or the discovery of, information that that Honeywell believes will cause a change to the Work, Price, schedule, level of performance, or other facet of the Agreement. Honeywell will submit its request to Company within a reasonable time after receipt of, or the discovery of, information that Honeywell believes will cause a change to the Work, Price, schedule, level of performance, or other facet of the Agreement. This request shall be submitted by Honeywell before proceeding to execute the change, except in an emergency endangering life or property, in which case Honeywell shall have the authority to act, in its discretion, to prevent threatened damage, injury or loss. Honeywell's request will include information necessary to substantiate the effect of the change and any impacts to the Work, including any change in schedule or Price. If Honeywell's request is acceptable to Company, Company will issue a Change Order consistent therewith. If Company and Honeywell cannot agree on the amount of the adjustment in the Price, or the schedule, it shall be determined pursuant to the Dispute Resolution provisions of this Agreement. Any change in the Price or the schedule resulting from such claim shall be authorized by Change Order.

21. ACCEPTANCE OF THE WORK

Upon receipt of notice by Honeywell that the Work is ready for final inspection and acceptance, Company will make such final inspection and issue acceptance within three (3) business days. Acceptance will be in a form provided by Honeywell, stating that to the best of Company's knowledge, information, and belief, and on the basis of Company's on-site visits and inspections, the Work has been fully completed in accordance with the terms and conditions of this Agreement. If Company finds the Work unacceptable due to non-compliance with a material element of this Agreement, which non-compliance is due solely to the fault of Honeywell, Company will notify Honeywell in writing within the three

(3) business days setting forth the specific reasons for non-acceptance. Company agrees that failure to inspect and/or failure to issue proper notice of non-acceptance within three (3) business days shall constitute final acceptance of the Work under this Agreement. Company further agrees that partial or beneficial use of the Work by Company or Owner prior to final inspection and acceptance will constitute acceptance of the Work under this Agreement. To the fullest extent permitted by law, Company shall indemnify and hold harmless Honeywell and its agents and employees from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, that in any way result from or arise from Company's breach of this Section 21. This indemnification shall survive termination of this Agreement for whatever reason. Nothing in this Section 21 shall be construed to require that Company indemnify and hold harmless Honeywell from claims and costs resulting from Honeywell's negligent actions or willful misconduct.

22. DEFINITIONS

22.1 "Hazardous substance" includes all of the following, and any by-product of or from any of the following, whether naturally occurring or manufactured, in quantities, conditions or concentrations that have, are alleged to have, or are believed to have an adverse effect on human health, habitability of a site, or the environment: (a) any dangerous, hazardous or toxic pollutant, contaminant, chemical, material or substance defined as hazardous or toxic or as a pollutant or contaminant under state or federal law, (b) any petroleum product, nuclear fuel or material, carcinogen, asbestos, urea formaldehyde, foamed-in-place insulation, polychlorinated biphenyl (PCBs), and (c) any other chemical or biological material or organism, that has, is alleged to have, or is believed to have an adverse effect on human health, habitability of a site, or the environment.

22.2 "Mold" means any type or form of fungus or biological material or agent, including mold, mildew, moisture, yeast and mushrooms, and any mycotoxins, spores, scents, or by-products produced or released by any of the foregoing. This includes any related or any such conditions caused by third parties.

23. SANCTIONS

Company represents, warrants, and agrees that:

Company is not a "Sanctioned Person," meaning any individual or entity: (1) named on a governmental denied party or restricted list, including but not limited to: the Office of Foreign Assets Control ("OFAC") list of Specially Designated Nationals and Blocked Persons ("SDN List"), the OFAC Sectoral Sanctions Identifications List ("SSI List"), and the sanctions lists under any other Sanctions Laws; (2) organized under the laws of, ordinarily resident in, or physically located in a jurisdiction subject to comprehensive sanctions administered by OFAC (currently Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine/Russia) ("Sanctioned Jurisdictions"); and/or (3) owned or controlled, directly or indirectly, 50% or more in the aggregate by one or more of any of the foregoing.

Relating to this transaction and/or Agreement, Company is in compliance with and will continue to comply with all economic Sanctions Laws administered by OFAC, other U.S. regulatory agencies, the European Union and its Member States, the United Kingdom, and the United Nations ("Sanctions Laws"). Company will not involve any Sanctioned Persons in any capacity, directly or indirectly, in any part of this transaction and performance under this transaction. Company will not take any action that would cause Honeywell to be in violation of Sanctions Laws.

Company will not sell, export, re-export, divert, use, or otherwise transfer any Honeywell products, technology, software, or proprietary information: (i) to or for any Sanctioned Persons or to or involving Sanctioned Jurisdictions; or (ii) for purposes prohibited by any Sanctions Laws. Company will not source any components, technology, software, or data for utilization in Honeywell products or services: (i) from any Sanctioned Persons or Sanctioned Jurisdictions or (ii) in contravention of any Sanctions Laws.

Company's failure to comply with this provision will be deemed a material breach of the Agreement, and Company will notify Honeywell immediately if it violates, or reasonably believes that it will violate, any terms of this provision. Company agrees that Honeywell may take any and all actions required to ensure full compliance with all Sanctions Laws without Honeywell incurring any liability.

24. ECONOMIC SURCHARGES

Honeywell may, from time to time and in its sole discretion, issue surcharges against this Agreement in order to mitigate and/or recover increased operating costs arising from or related to, without limitation: (a) foreign currency exchange variation; (b) increased cost of third-party content, labor and materials; (c) impact of duties, tariffs, and other government actions; and (d) any other circumstances that increase Honeywell's costs, including, without limitation, increases in freight, labor, material or component costs, and increased costs due to inflation (collectively, "Economic Surcharges").

Honeywell will invoice Customer, through a revised or separate invoice, and Company agrees to pay for the Economic Surcharges pursuant to the standard payment terms in this Agreement. If a dispute arises with respect to Economic Surcharges, and that dispute remains open for more than fifteen (15) days, Honeywell may, in its sole discretion, withhold performance and future shipments or combine any other rights and remedies as may be provided under this Agreement or permitted by law until the dispute is resolved.

The terms of this section shall prevail in the event of inconsistency with any other terms in this Agreement. Any Economic Surcharges, as well as the timing, effectiveness, and method of determination thereof, will be separate from and in addition to any changes to pricing that are affected by any other provisions in this Agreement.

End of Proposal