

Resolution offered by Mayor Tenke and seconded by _____

WHEREAS, the City of Glen Cove has an agreement with RXR concerning a subsidy for use and operation of the Glen Cove Ferry; and

WHEREAS, the City of Glen Cove would like to draw on the subsidy in order to promote the use of the ferry; and

WHEREAS, the City has hired a consultant to promote and assist the City in obtaining a ferry operator; and

NOW, THEREFORE BE IT RESOLVED, by the Glen Cove City Council as follows:

1. The City is hereby authorized to accept the sum of \$125,000.00 and other sums which may be necessary from RXR for the use and payment of a consultant to assist in obtaining a ferry operator;
2. The controller shall maintain a special account for all funds received from RXR in accordance with this resolution.

Funding: Revenue line is H1210-42776-P1901 Entitled Consultant Reimbursement

Expense line is H1210-52776-P1901 Consultant Expenses

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes the Mayor to enter into an agreement with Eastern Star Cruises (Licensee) and the Glen Cove Industrial Development Agency, granting Licensee a license to use and to permit their respective employees, contractors, subcontractors, agents and representatives and Clients to use and occupy the ferry terminal building, parking lot and landings for docking of ferries for a term of one year, with licensee having (3) one year options to renew the agreement for a specified amount.

Resolution 6C

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes the Mayor to enter into an agreement with Northwell Health, Center for Learning & Innovation, Emergency Medical Institute, to provide access and training to the Learning Management System for 100% online continuing medical education re-certification for emergency medical technician critical care and emergency medical technician paramedic, with Northwell Health seeking reimbursement through the NYS DOH BEMS.

Resolution 6D

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes the Mayor to enter into an agreement with Nsure, Inc. to provide software that uses incomplete patient demographics to search in a clearing house to obtain corrected patient demographics and locate insurance that was not collected on, with a monthly subscription fee of \$599.

Funding: A4540-55438

Resolution 6E

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council authorizes the Mayor to enter into a service/maintenance agreement with Johnson Controls (formerly Simplex Grinnell) to provide fire alarm panel and peripheral component replacement for fire alarm systems, annual inspection of fire and CO2 alarms for Police Station, effective May 2019 through April 2024, at an annual amount of \$2,000.

Funding: 55438

Resolution 6F

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council authorizes the Mayor to accept the proposal of and enter into an agreement with American Paving to resurface the pickleball court at Stanco Park, in the amount of \$11,000, with reimbursement from the Community Development Block Grant (CDBG) 44th grant funding year (2018-19), in the amount of \$10,000.

Funding: A1210-55438

Resolution 6G

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes the Mayor to enter into an agreement with AlansFair, Inc. Nassau County Craft Shows, to plan and organize a Glen Cove Festival, to be held on May 25, 2019.

Resolution 6H

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council approve Budget Transfers and Amendments as submitted and reviewed by the City Controller.

(See Attached)

Resolution 6I

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes the City Attorney to settle the following claims in full and final settlement:

<u>Name</u>	<u>Claim Number</u>	<u>Amount</u>
State Farm Inc. a/s/o DeMarco Brothers	19-2651	\$19,218.65

<u>Name</u>	<u>Claim Number</u>	<u>Amount</u>
Kirschenheiter, M.C.	19-2656	\$3,345.82

<u>Name</u>	<u>Claim Number</u>	<u>Amount</u>
Guagenti, Anthony & Catherine	18-2644	\$1,998

Resolution 6J

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes the City to erect lawn signs May 15, 2019 through May 25, 2019, to advertise “Old Time Baseball Game and Downtown Street Fair”, sponsored by Glen Cove 350th Anniversary Committee.

Resolution 6K

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes City to erect lawn signs May 20, 2019 through June 3, 2019, to advertise annual “Kids Day Event”.

(Proposed by Mayor Tenke)

Resolution 6L

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes the Glen Cove Senior Center to erect lawn signs August 26, 2019 through September 9, 2019, to advertise annual “Senior Recognition Day”.

Resolution 6M

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes Michael Brodnansky, Charles Gambino, Selena Nasary, Peter Levinson and Connor Lynch to attend First Responder Education Day 7 (FRED 7), May 19, 2019, at NYU Winthrop Academic & Research Center, Mineola, New York, at no cost to City.

Funding: A4540-55438

Resolution 6N

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby authorizes Carlos Fernandez and Darren Pittman to attend Gang Resistance Education and Training (G.R.E.A.T.), June 10 – 14, 2019, at Nassau County Public Safety Center, Westbury, New York, at \$450 per person, with a total sum of \$900.

Funding: A3120-55442

Resolution 7A

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby appoint Guri Lortkipandze as part-time Clerk, with the Finance Department, at \$10.50 per hour, effective May 20, 2019 through August 16, 2019.

Budget Line: A1310-51120

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby appoint the following persons to Parks and Recreation as indicated:

<u>Name</u>	<u>Position</u>	<u>Salary</u>	<u>Effective Date</u>
David Dlugon	Seasonal Laborer	\$10.50 per hour	5/9/19 – 11/30/19
Justin Muzante	Park Attendants	\$11.00 per hour	5/25/19 – 9/2/19
Steven Tripp	Park Attendants	\$11.00 per hour	5/25/19 – 9/2/19
Vincent Bertin	Park Attendants	\$9.75 per hour	5/25/19 – 9/2/19
Emily Moore	Park Attendants	\$10.00 per hour	5/25/19 – 9/2/19
Joseph Villaran	Park Attendants	\$10.00 per hour	5/25/19 – 9/2/19
Logan Pascucci	Park Attendants	\$8.50 per hour	5/25/19 – 9/2/19
Peter Afanasewicz	Park Attendants	\$12.50 per hour	5/25/19 – 9/2/19
Shelbie Farnan	Park Attendants	\$8.00 per hour	5/25/19 – 9/2/19
Julia Langone	Park Attendants	\$8.00 per hour	5/25/19 – 9/2/19
Spyridon Markoulis	Park Attendants	\$8.00 per hour	5/25/19 – 9/2/19
Larry Zimmer	Park Attendants	\$8.00 per hour	5/25/19 – 9/2/19
Devin O'Donnell	Lifeguard	\$21.50 per hour	5/25/19 – 9/2/19
Stuart Plosky	Lifeguard	\$20.00 per hour	5/25/19 – 9/2/19
Anne Lamorte	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Addison Huvane	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Richard Blount	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Kevin Larkin	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Isabella DeMayo	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Danielle DeStefanis	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Enaiya Awan	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Alessia Rodriguez	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Kaitlyn Maleady	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Sienna Nicolich	Lifeguard	\$15.50 per hour	5/25/19 – 9/2/19
Nicholas Milanese	Lifeguard	\$15.50 per hour	5/25/19 – 9/2/19
Ryan Carmody	Lifeguard	\$17.00 per hour	5/25/19 – 9/2/19
Ruban Santana	Lifeguard	\$16.00 per hour	5/25/19 – 9/2/19
Leah Dwyer	Lifeguard	\$16.00 per hour	5/25/19 – 9/2/19
Joseph Suozzi	Lifeguard	\$15.50 per hour	5/25/19 – 9/2/19
Michael Suozzi	Lifeguard	\$15.00 per hour	5/25/19 – 9/2/19
Joseph C. Kiaer	Lifeguard	\$16.50 per hour	5/25/19 – 9/2/19
Michael J. Burrell	Lifeguard	\$18.00 per hour	5/25/19 – 9/2/19

Maryssa Berka	Lifeguard	\$18.00 per hour	5/25/19 – 9/2/19
Jessica Dawes	Lifeguard	\$18.00 per hour	5/25/19 – 9/2/19
Livia Muzante	Lifeguard	\$16.00 per hour	5/25/19 – 9/2/19
Magdalene Muzante	Lifeguard	\$16.50 per hour	5/25/19 – 9/2/19
Ryan Porteus	Lifeguard	\$16.00 per hour	5/25/19 – 9/2/19
Kathleen Lennon	Lifeguard	\$19.00 per hour	5/25/19 – 9/2/19
Nicole Szafranski	Water Safety Instructor	\$19.00 per hour	5/25/19 – 9/2/19
Michael Manzione	Seasonal Laborer	\$11.50 per hour	5/15/19 – 11/30/19
William Landry	Seasonal Laborer	\$10.50 per hour	5/15/19 – 11/30/19

Budget Line: CR7140-51120

Resolution 9A

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby amend the following persons hourly rates as indicated, effective May 29, 2019:

Name	Hourly Rate
Abby Weiser	\$8.50
Francisco Canales	\$8.50
Mackenzie Messineo	\$8.50
Micheal Ferguson	\$8.50
Mike Messineo	\$8.50
Mykaela Pajuelo	\$12.00
Riddhi Mangal	\$8.50
Steven Bailey	\$9.50

Resolution 9B

Resolution offered by Mayor Tenke and seconded by _____

BE IT RESOLVED, that the City Council hereby amend the hourly salary of Joan C. Mini from \$15.00 to \$18.00 per hour, effective May 15, 2019.

**CME BASED EMS RECERTIFICATION
NORTHWELL HEALTH SYSTEM AGREEMENT**

THIS AGREEMENT is made and entered into on the 24th day of April, 2019, by and between

Northwell Health, Center for Learning & Innovation, Emergency Medical Institute (“NORTHWELL HEALTH”)

And

Glen Cove Volunteer EMS Corps (City of) Agency Code 2957
8 Glen Cove Avenue
Glen Cove, New York 11542
516-676-0331

RECITALS:

- A. The Glen Cove Volunteer EMS Corps (City of) desires to ensure the provision of all core educational curriculums required by the New York State Department of Health (NYS DOH) Bureau of EMS (BEMS) Continuing Medical Education (CME) Based Recertification Program to any of its providers interested and eligible to participate. **NORTHWELL HEALTH** desires to provide such services to the EMS Agency and possesses the necessary equipment, training, expertise, professional certifications and licenses.

NOW, THEREFORE, in consideration of the foregoing recitals, mutual covenants and promises, and provisions set forth herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. NORTHWELL HEALTH Responsibilities

NORTHWELL HEALTH will deliver core educational curriculum, as the Course Sponsor to meet the “refresher” training segment (“Core Sessions”) of the NYS DOH CME Based Recertification Program (“CME Recertification Program”). The training will be conducted to the respective provider level; EMT, Advanced EMT, EMT-Critical Care or EMT-Paramedic. Portions of some Core Sessions may include Skills Assessment and “other” CME required toward the recertification process however is not guaranteed in the scope of this agreement. All course rosters, Core Session records, skill assessments or other CME, obtained through attendance at any Core Session, will be maintained on site at **NORTHWELL HEALTH** in accordance with the guidelines set forth by the NYS DOH BEMS 3-year CME based EMS Recertification Program.

NORTHWELL HEALTH agrees to provide the EMS Agency with a monthly participant summary. Upon a participant’s completion of all Core Refresher training, specific to the provider's level of certification, **NORTHWELL HEALTH** will forward the participants CME Based Recertification Application to the providers, as well as the EMS Officer of their respective EMS Agency, outlining completion dates of each core-training segment as well as any skill assessments or other CME obtained as a result of attendance at a core-training session. Appendix “A” of this agreement

defines the Core Training Sessions available to the EMS Agency and providers. Appendix "B" defines the Core Training Sessions necessary for each provider, specific to certification level, to meet the standards outlined in the NYS DOH CME Based Recertification Program. NORTHWELL HEALTH makes no guarantee for the successful completion of the CME Based Recertification Program by any participant.

NORTHWELL HEALTH agrees to provide, where requested, access to a 100% online Core Content CME platform to meet the requirements of the 3-year CME-based EMS Recertification Program, in accordance with 3 Year CME Recertification Program Manual, specifically the section on Online Internet Learning and Learning Management Systems (LMS). **NORTHWELL HEALTH** agrees to maintain the electronic records of member participation in the 100% online platform for a period of seven (7) years past the student's certification period.

2. Glen Cove Volunteer EMS Corps (City of] Responsibilities

It will be the Glen Cove Volunteer EMS Corps (City of's responsibility to complete and submit to the NYS DOH an "Agency Registration Form" (DOH-4227). In addition the Glen Cove Volunteer EMS Corps (City of is responsible to complete and submit to the DOH a "Participant Registration Form" (DOH-4226) for each Agency member enrolled with the Agency's Pilot Recertification program. The Glen Cove Volunteer EMS Corps (City of] will provide **NORTHWELL HEALTH**, in writing, a bi-yearly summary of all members enrolled in the Agency's CME Recertification program. The Glen Cove Volunteer EMS Corps (City of further agrees to notify **NORTHWELL HEALTH**, of any participants' departure from the Agency's CME Recert program.

The Glen Cove Volunteer EMS Corps (City of agrees that **NORTHWELL HEALTH** will not be a sole provider of the Agency's CME Recertification program and all members of the Agency who recertify through the **NORTHWELL HEALTH** CME Recertification process will do so through the NORTHWELL HEALTH program.

As a registered EMS Agency in the CME Based Recertification program the Glen Cove Volunteer EMS Corps (City of is responsible to track and maintain all records of Continuing Medical Education and Skill Evaluations necessary for the completion of the Participants CME Based Recertification Application, as well as the timely submission of the participants' application to the New York State Department of Health Bureau of EMS. The Glen Cove Volunteer EMS Corps (City of and its representative are responsible for knowledge of and compliance with the standards set forth in the most current revision of the NYS DOH BEMS 3 year CME Based EMS Recertification Program. The NYS DOH BEMS 3-Year CME Based Recertification Program Administrative Manual is available from the NYS DOH web site, <http://www.health.state.ny.us/nysdoh/ems/main.htm>

The Glen Cove Volunteer EMS Corps (City of) agrees that, where so desired, that it will comply with 3 Year CME Recertification Program Manual, specifically the section on Online Internet Learning and Learning Management Systems (LMS), when permitting its members to participate in a 100% online learning platform to meet its core CME requirements. The Glen Cove Volunteer EMS Corps (City of) shall comply with the following:

1. Detail the program administration in the agency program plan.
2. Provide information on online program vendor.
3. Online security, denoting who has access to records and who does not. NYS BEMS 3 Year CME Recertification Manual Page 24.

4. How a participant gains access to utilize the program
5. Describe tracking of online CME activities, and offline activities including skills.
6. If training records are maintained online, how and where is the LMS backed up

3. Other Training Requirements

Participation in the CME Recert Program requires the provider to maintain current CPR certification for all levels. Any provider or EMS Agency enrolled in the NORTHWELL HEALTH CME Recertification Program will be eligible to receive notification and attend associated NORTHWELL HEALTH sponsored CPR and other non-core training programs at an additional cost.

4. Term

The term of this Agreement shall commence on the Effective Date and remain in effect for a period of three (3) years with an option to renew for additional one (1) year periods upon agreement of the parties. This agreement may be cancelled in writing, by either party with or without cause by providing the other party thirty (30) days advanced notice.

5. Billing and Pricing

As a NYS DOH BEMS Course sponsor, NORTHWELL HEALTH is able to seek reimbursement for CME Based Recertification training of qualifying participants through the NYS DOH BEMS. Upon a participant's completion of all required core refresher-training sessions, **NORTHWELL HEALTH** will submit a New York State Standard Voucher for the reimbursement of the costs associated for providing the Core Refresher training. As long as **NORTHWELL HEALTH** is a Course Sponsor and NYS funding is available at the current NYS reimbursement rate, the same shall be accepted as payment in full.

When applicable, NORTHWELL HEALTH will invoice at the rate of ten dollars (\$10.00) per credit hour completed for individuals who fail to complete the entire program, and require evidence of Core Content CME completion.

6. Payment Terms.

Payment will be required for all invoices in which the EMS Agency is responsible within thirty days (30) of the receipt of the billing statement.

7. Independent Contractor.

It is understood and agreed that the personnel of **NORTHWELL HEALTH** and the **[EMS AGENCY NAME]** shall not be considered agents or employees of the other and shall not be under the supervision, management, direction or control of the other in the performance of their duties, except as may be required by New York State Department of Health Services rules and regulations. The employees of each party are not entitled to any of the benefits that the other party provides for its employees.

8. Governing Law.

This Agreement shall be subject to and governed according to the laws of the State of New York without regards to conflicts of law.

9. Binding Effect.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors, assigns or other legal representatives.

10. Severability.

If any portion or portions of this Agreement shall be for any reason invalid or unenforceable, the remaining portion(s) shall be valid and enforceable and carried into effect unless to do so would clearly violate the present legal and valid intention of the parties hereto.

11. Notices.

Any notice required or permitted to be given pursuant to any provisions of this Agreement shall be given in writing, and either delivered in person, by electronic transmission, deposited in the United States mail, postage pre-paid, registered or certified mail, return receipt requested, properly addressed, or by a nationally recognized overnight courier service.

The following are the current mailing addresses:

Northwell Health Emergency Medical Institute

Edward Waldron	Sponsor Administrator
Anthony Conrardy	Affiliate Certified Instructor Coordinator
Dr. Michael Cassara	Affiliate Medical Director

Glen Cove Volunteer EMS Corps (City of) and contact information:

Title	Name	Cell #	Email Address
Operations Director	Andrew Carpenter	516-289-7841	acarpenter@cityofglencoveny.org
CME Coordinator	Christopher DeMetropolis	516-369-4569	cdemetropolis@cityofglencoveny.org
CME Medical Director	John Colletta MD	516-631-697-2900	jcolletta@northwell.edu

Either party providing the other party written notice may change the notification addresses listed above.

12. Indemnification.

Glen Cove Volunteer EMS Corps (City of) shall indemnify, defend, and hold harmless **NORTHWELL HEALTH** and its respective officers, agents and employees from and against any

and all liability, expense, including defense costs and legal fees and claims for damages of any nature whatsoever, except claims for damage caused by the negligence of **NORTHWELL HEALTH**, including, but not limited to, loss of use, and/or services, bodily injury, death, personal injury, or property damage arising from or connected in any way with Glen Cove Volunteer EMS Corps (City of) operations, its subcontractors (or any tier), suppliers or agents operations or their services there under whether such claims are from Glen Cove Volunteer EMS Corps (City of) employees, customers or others.

13. Insurance.

A. Insurance. Glen Cove Volunteer EMS Corps (City of) shall, at its sole cost and expense, insure its activities (for itself and its employees) in connection with this Agreement and obtain, keep in force and maintain insurance as follows:

1. Commercial General Liability (including contractual liability and product liability):

1. not less than \$1,000,000 combined single limit per occurrence, and,
2. not less than \$5,000,000 aggregate limit.

2. Workers' Compensation - Statutory Limits

3. Employer's Liability - \$500,000

4. Professional Liability - \$1,000,000 per occurrence/\$3,000,000 annual aggregate

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement or appropriate tail coverage will be purchased for a reporting period of at least three (3) years.

Glen Cove Volunteer EMS Corps (City of) shall furnish to **NORTHWELL HEALTH** a certificate of insurance evidencing such coverage and naming **NORTHWELL HEALTH** as additional insured on the comprehensive general liability and product liability insurance policies.

B. Disclosure of Protected Health Information (PHI). If this transaction involves any disclosure of PHI by **NORTHWELL HEALTH** to Glen Cove Volunteer EMS Corps (City of), or by Glen Cove Volunteer EMS Corps (City of) to **NORTHWELL HEALTH**, and either Party is determined to be a Business Associate (as that term is defined in the Health Insurance Portability and Accountability Act of 1996 and its related regulations, 45 CFR Part 160 and 164), the Parties will execute **NORTHWELL HEALTH's** Business Associate Agreement.

C. Conflicts of Interest (Privately Owned). Except as may be disclosed in writing by Glen Cove Volunteer EMS Corps (City of), Glen Cove Volunteer EMS Corps (City of) represents that no employee, director or officer of **NORTHWELL HEALTH** or any member hospital of the **Northwell Health** (the "Health System") is a partner, member or shareholder of, or, has a financial interest in Glen Cove Volunteer EMS Corps (City of). For purposes of this Section, the term "financial interest" shall include, but not be limited to, the following transactions or relationships between

an employee, director or officer of **NORTHWELL HEALTH** or the Health System or any member Hospital of Health System: a) consulting fees, honoraria, gifts or other emoluments, or "in kind" compensation; (b) equity interests, including stock options, of any amount (or entitlement to the same); (c) royalty income (or other income) or the right to receive future royalties (or other income); (d) any non-royalty payments or entitlements to payments; or (e) service as an officer, director, or in any other role, whether or not remuneration is received for such service. A breach of any representation under this Section shall be grounds for immediate termination of this Agreement.

- D. Publicity. Both Glen Cove Volunteer EMS Corps (City of) and **NORTHWELL HEALTH** agree that it will not, without prior written consent of the other Party hereto, use in advertising, publicity, certificates given to physicians for credentialing purposes, or otherwise the name of Glen Cove Volunteer EMS Corps (City of) or any affiliate of Glen Cove Volunteer EMS Corps (City of) or **NORTHWELL HEALTH** or Health System, or any affiliate of **NORTHWELL HEALTH** or Health System, or refer to the existence of this Agreement in press releases, advertising or materials distributed to prospective customers.
- E. Photography. Each Party understands and agrees that photography (including video) is strictly prohibited during the Services unless approved by both parties.

14. Other Terms and Conditions

- A. Entire Agreement. This written Agreement represents the entire Agreement between **NORTHWELL HEALTH** and Glen Cove Volunteer EMS Corps (City of) with respect to the subject matter of this Agreement and may only be amended by the mutual written consent of the Parties.
- B. Relationship of the Parties. **NORTHWELL HEALTH** and Glen Cove Volunteer EMS Corps (City of) are independent contractors and this Agreement creates no employment relationship between Hospital and the employees of Glen Cove Volunteer EMS Corps (City of)] or between Glen Cove Volunteer EMS Corps (City of) and the employees of Glen Cove Volunteer EMS Corps (City of). Glen Cove Volunteer EMS Corps (City of)] and **NORTHWELL HEALTH** shall each be responsible for its own employees and shall provide and maintain Workers' Compensation Insurance to statutory limits for all of its employees who perform functions related to this Agreement.
- C. Waiver. The failure of either **NORTHWELL HEALTH** or Glen Cove Volunteer EMS Corps (City of) to enforce or exercise any right under this Agreement shall in no way be construed to be a waiver of the right to insist upon strict compliance with the obligations or the terms herein.
- D. Assignment. Neither **NORTHWELL HEALTH** nor Glen Cove Volunteer EMS Corps (City of) may assign this Agreement or any right or obligation hereunder without the prior written consent of the other Party.

- E. Severability. The terms of this Agreement are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, the remainder of the provisions shall continue to be valid and enforceable.

- F. Debarment. Glen Cove Volunteer EMS Corps (City of) represents and warrants that Glen Cove Volunteer EMS Corps (City of) and Glen Cove Volunteer EMS Corps (City of)'s employees are not debarred pursuant to sections 306(a) and (b) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 335(a) and (b) or pursuant to any other sections of the Food, Drug and Cosmetic Act. Glen Cove Volunteer EMS Corps (City of) also represents and warrants that Glen Cove Volunteer EMS Corps (City of) and Glen Cove Volunteer EMS Corps (City of) 's employees are not identified as excluded individuals or entities on the Office of Inspector General (OIG) List of Excluded individuals and Entities.

- G. Personal Inducements. Glen Cove Volunteer EMS Corps (City of) represents and warrants that no cash, equity interest, merchandise, equipment, services or other forms of remuneration have been offered, shall be offered or will be paid or distributed by or on behalf of **NORTHWELL HEALTH** or Health System and/or the employees, officers, or directors of Health System or its member Hospitals, or, to any other person, party or entity affiliated with Health System or its member Hospitals, as an inducement to purchase or to influence the purchase of products or services by Health System from Glen Cove Volunteer EMS Corps (City of).

- H. Endorsements. Glen Cove Volunteer EMS Corps (City of) does not and will not, at any time, endorse any product or service promoted by Glen Cove Volunteer EMS Corps (City of) during or at any time after any training.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized representatives on the day and year first above written.

NORTHWELL HEALTH Signature,

Glen Cove Volunteer EMS Corps (City of) Signature,

By: _____
Edward Waldron

By: _____

Print: Christopher DeMetropolis

Date: _____



AGREEMENT AND TERMS OF USE

This Agreement and Terms of Use (Agreement), is entered into by and between Nsure, Inc. (“Licensor”), with its principal place of business at 548 Market Street in San Francisco, CA 94104 and City of Glen Cove EMS (“Licensee”), with its principal place of business located at 8 Glen Cove Ave. Glen Cove, NY 11542. This Agreement is effective as of _____, May 1, 2019 (“Effective Date”).

RECITALS

- A. WHEREFORE, Licensor warrants that it is the owner and that it has the right to license the Software, Data, Documentation, and Services (as those terms are defined below); and
- B. WHEREFORE, Licensee desires to license, and Licensor is willing to grant a personal nonexclusive license to Licensee of, the Software, Data, Documentation, and Services, subject to the terms, conditions, limitations, and restrictions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the parties agree as follows:

1. **Definitions.** The following capitalized terms have the meanings set forth below when used in this Agreement:

- a. “Authorized Users” means the directors, officers, and employees of Licensee that Licensee authorizes to use the Software, Data, Documentation, and Services.
- b. “Data,” except as otherwise provided herein, means any of Licensor’s or any third-party data vendor’s digital data sets.
- c. “Demographic Verification” means Licensor’s software product that locates and/or corrects information regarding a patient’s name, social security number, date of birth, address and/or telephone number for patients.
- d. “Documentation” means all of the printed and digital materials including, but not limited to, help files, user reference documentation, training documentation, or technical information and briefings.
- e. “Insurance Discovery” means Licensor’s software product that identifies potential 271 payer responses for the Licensee, including available payer information such as insurance eligibility, plan start date, co-payments, deductibles, coverage type and plan description details for patients.
- f. “Insurance Verification” means Licensor’s software product that identifies 271 payer responses for the Licensee, including available payer information such as insurance eligibility, plan start date, co-payments, deductibles, coverage type and plan description details for patients.



g. “Self-Pay Analyzer” means Licensor’s software product that identifies patient propensity to pay, available credit, monthly household income, federal poverty level percentage, healthcare recovery score, collection accounts, trade accounts and employment records.

h. “Licensee Data” means data Licensee provides Licensor, including, without limitation, data for patients whom the Licensee has provided care, or, if the Licensee provides billing services or collection services on behalf of a healthcare provider, for patients to whom the healthcare provider has provided care

i. “Software” means the actual copy of all or any portion of Licensor’s proprietary software technology, computer software code, components, web portal, dynamic link libraries (DLLs), underlying organization, object model, and programs delivered on any media, including any release provided in source, object, or executable code format(s), inclusive of backups, updates, service packs, patches, hot fixes, sample code, sample application, sample extension, or merged copies permitted hereunder.

j. “Services” means software services or third-party data components that perform Demographic Verification, Insurance Discovery, Insurance Eligibility or Self-Pay Analyzer functions, tasks, or data services and are accessed over the internet.

k. “Transaction” means each unique trip number entered into Licensor software. Transactions must be unique based on the date of service patient was provided care by Licensee.

2. Intellectual Property Rights and Reservation of Ownership. The Software, Data, Services, and Documentation are licensed and not sold under this Agreement. Licensor and its licensors own the Software, Data, Services, and Documentation, which are protected by United States laws and applicable international laws, treaties, and conventions regarding intellectual property or proprietary rights, inclusive of trade secrets. From the date of receipt, Licensee agrees to use reasonable means to protect the Software, Data, Services, and Documentation from unauthorized use, reproduction, distribution, or publication. Licensor and its licensors reserve all rights not specifically granted in this Agreement. Licensor and its third-party data licensors reserve the right to improve or make changes in its offerings of the Services and its associated Software, datasets, or information at any time.

3. Grant of License. Subject to the terms of this Agreement, Licensor grants to Licensee a personal, nonexclusive, nontransferable license to use the Software, Data, Documentation, and Services for which the appropriate license fees have been paid to Licensor.

4. User Accounts. Licensee will receive a sufficient number of accounts to serve its Authorized Users. Licensee agrees to provide Licensor with the names and email addresses of all Authorized Users, upon Licensor’s request. Licensee acknowledges that Licensor may monitor Licensee’s use of the Software and Services to ensure that it remains in compliance with this Agreement for the duration of the term. All persons using the Software or Services (with or without Licensee’s authorization) will be bound by this Agreement and Licensee shall be responsible for all actions taken on its accounts.

5. Usage Restrictions. Users may only access the Software, Data and Services in connection with patients whom the Licensee has provided care, or, if the Licensee provides billing services or collection services on behalf of a healthcare provider, for patients to whom the



LIABILITIES ARISING THEREFROM OR RELATED THERETO. As to conflict with terms of warranty, the BAA shall prevail.

11. Confidentiality. Licensee acknowledges that the Software, Data, Documentation, and Services constitute property with intellectual property rights of substantial value to Licensor. Licensee agrees to take such security measures to prevent the unauthorized duplication, distribution, or use of Software, Data, Services or Documentation equal to that which Licensee uses to protect its own proprietary information, and in no event will such measures be less than commercially reasonable. Licensor acknowledges that Licensee data constitutes property with intellectual property rights of substantial value to Licensee. Licensee agrees to take such security measures to prevent the unauthorized duplication, distribution, or use of Licensor data and its elements to which Licensor has access equal to that which Licensor uses to protect its own proprietary information, and in no event will such measures be less than commercially reasonable. A party may disclose the other party's confidential information if required by any judicial or government request, requirement, or order, provided, however, that such party will promptly notify the other party of any such request, requirement, or order prior to disclosure, and will cooperate with the other party should the party contest any such request, requirement, or order.

12. Use and Retention of Licensee Data. Except as otherwise expressly provided in, or otherwise inconsistent with, this Agreement, the *Business Associate Agreement* entered into by the parties contemporaneous herewith is hereby incorporated in this Agreement by reference with the same force and effect as if set forth herein. If Licensee seeks to use Licensor's Software, Data, Documentation, or Services to access and analyze Licensee Data, Licensee: (i) represents that it has the right to provide such data to Licensor and will provide such data to Licensor in compliance with applicable legal requirements; (ii) appoints Licensor its agent and authorizes it to use, copy, store, modify and display Licensee Data through Licensor's Software, Data, Documentation, or Services for Licensee's benefit; and (iii) authorizes Licensor to access Licensee Data to provide quality assurance, perform software maintenance, and deliver Licensee Data, Services, and technical support. During the term of the Agreement and for thirty (30) calendar days after termination, Licensor will preserve and maintain Licensee Data and, upon written request, provide Licensee with a data file containing the Licensee Data for a commercially reasonable fee. Thereafter, Licensor will have no obligation to preserve or return any Licensee Data, but may preserve Licensee Data pursuant to its document retention policies.

13. Indemnification by Licensor. Licensor will defend, indemnify, and hold harmless Licensee against all claims and expenses, except as specifically excluded herein, arising from any third-party claim alleging that Licensor's Software, Data, Documentation, or Services infringe upon the United States copyright, trademark, or service mark rights of any third-party (an "Indemnified Claim"), if Licensee: (a) has used Licensor's Software, Data, Documentation, or Services, as the case may be, in full compliance with this Agreement; (b) promptly notifies Licensor of the claim; (c) allows Licensor to have sole control of the defense and settlement of an Indemnified Claim (though Licensee may participate in its own defense at its own expense); and (d) provides Licensor with the authority, information and assistance that Licensor deems reasonably necessary for the defense and settlement of the Indemnified Claim. Licensee shall not consent to any judgment or decree or do any other act in compromise of any such Indemnified Claim without first obtaining Licensor's written consent. If an Indemnified Claim is brought or credibly threatened, Licensor shall have the option, at its sole expense, to obtain for Licensee the right to continue using Licensor's Software, Data, Documentation, or Services, or to modify Licensor's Software, Data, Documentation, or Services so that they become non-



infringing. If neither of the foregoing remedies are commercially feasible, Licensee may terminate the Agreement for the infringing Software, Data, Documentation, or Services. The indemnity set forth in this Section shall be Licensee's sole and exclusive remedy for any intellectual property infringement claim arising out of Licensee's use of Licensor's Software, Data, Documentation, or Services. In case of Data breach by Licensor, any and all fines or costs of mitigation shall be borne by Nsure, Inc. as BAS and not by Licensee.

14. Indemnification by Licensee. Licensee will defend, indemnify, and hold harmless Licensor against all claims and expenses, except as specifically provided herein, arising from any third-party claim relating to the provision of Licensee Data in violation of this Agreement or any other agreement by which Client is bound, if Licensor: (a) has used such Licensee Data in full compliance with this Agreement; (b) promptly notifies Licensee of the claim; (c) allows Licensee to have sole control of the defense and settlement of such claim (though Licensor may participate in its own defense at its own expense); and (d) provides Licensee with the authority, information and assistance that Licensor deems reasonably necessary for the defense and settlement of the claim. Licensor shall not consent to any judgment or decree or do any other act in compromise of any such claim without first obtaining Licensee's written consent.

15. Limitation of Liability. EXCEPT FOR LIABILITY ARISING UNDER SECTIONS 5, 12, 13 AND 14, IN NO EVENT WILL THE LIABILITY OF EITHER PARTY FOR DIRECT DAMAGES EXCEED THE TOTAL SUBSCRIPTION AND TRANSACTION FEES PAID BY LICENSEE FOR THE AGREEMENT TERM TO WHICH THE CLAIM RELATES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR LIABILITY ARISING UNDER SECTIONS 5, 12, 13 AND 14, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY IN CONTRACT, TORT, OR OTHERWISE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFITS, REVENUE OR DATA), EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF ANY PROVISION OF THIS AGREEMENT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL LICENSOR HAVE ANY LIABILITY FOR CLAIMS RELATING TO BUSINESS DECISIONS MADE BY LICENSEE IN RELIANCE UPON THE SOFTWARE, DATA, DOCUMENTATION, OR SERVICES PROVIDED. As to conflict of Limits of Liability, the BAA shall prevail.

16. Miscellaneous.

a. Successor and Assigns. Neither party will assign the Agreement without the other's written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, (i) Licensor may assign this Agreement without Licensee's consent to an affiliate of Licensor, or to a successor to all or substantially all of its business, assets, and obligations; and (ii) upon written notice to Licensor, Licensee may assign this Agreement to a successor to all or substantially all of its business, assets, and obligations, provided (x) such entity is not deemed by Licensor to be a competitor of Licensor, and (y) such entity agrees in writing that it will be bound by the terms and conditions of this Agreement.

b. Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. No amendment, modification, extension, or cancellation of this Agreement shall be binding on the parties unless mutually agreed to and executed in writing by each of the parties.



c. *Force Majeure.* If the performance of Licensor under this Agreement is prevented, hindered, or otherwise made impractical by reason of flood, strike, war, acts of government, or any other casualty or cause beyond its control, then Licensor shall be excused from its performance to the extent and so long as it is prevented, hindered, or delayed by such event(s).

d. *Governing Law.* This Agreement shall be governed and construed under the laws of the State of California without regard to its conflict of laws provisions. Neither party will contest transfer to the suit to Federal jurisdiction.

e. *Severability.* If any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

f. *Notices.* All required notices will be delivered by reputable overnight delivery service to the principal place of business for each party as set forth herein.

g. *Survival of Terms.* The terms set forth in Sections 11, 12, 13, 14, 15 and 16 shall survive the expiration or termination of this Agreement.

h. *Counterparts.* This Agreement may be executed in counterparts, all of which, taken together, shall be deemed one (1) original.

NSURE, INC.

CITY OF GLEN COVE EMS

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement, dated May 1, _____, 2019, between **City of Glen Cove EMS** (“the Licensee”) and **Nsure, Inc.** (“the Licensor”) is executed for the purpose of ensuring that Licensor carries out its obligations to the Licensee in compliance with the privacy and security regulations pursuant to the Health Insurance Portability and Accountability Act of 1996, Subtitle F — Administrative Simplification, Sections 261, et seq., as amended (“HIPAA”)(Pub. L. 104-191), including all pertinent regulations (45 CFR Parts 160 and 164 “Security and Privacy Regulations”) issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information and Technology for Economic and Clinical Health Act (the “HITECH ACT”), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

This Agreement encompasses Licensor's assurance to protect the confidentiality, integrity, and security of any personally identifiable protected health information (“PHI”) that is collected, processed or learned as a result of the services provided to the Licensee by Licensor, including any such information stored and transmitted electronically, referred to as electronic protected health information (“e-PHI”).

Licensor agrees that it shall:

1. Not use or further disclose PHI except as permitted under this Agreement or required by law;
2. Use appropriate and commercially reasonable safeguards to prevent use or disclosure of PHI except as permitted by this Agreement and all applicable laws;
3. Work to mitigate, to the extent practicable, any harmful effect that is known to Licensor of a use or disclosure of PHI by Licensor in violation of this Agreement.
4. Report to the Licensee any unauthorized use or disclosure of PHI not provided for by this Agreement of which Licensor becomes aware;
5. Require that any agents or subcontractors to whom Licensor provides PHI, or who have access to PHI, agree to the same restrictions and conditions that apply to Licensor with respect to such PHI;
6. Provide an accounting of all unauthorized uses or disclosures of PHI made by Licensor as required under the HIPAA privacy rule or any breach of unsecured PHI as required by the Security and Privacy Regulations within 60 days;
7. Make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services for purposes



of determining Licensor's and the Licensee's compliance with HIPAA and the Security and Privacy Regulations;

The specific uses and disclosures of PHI that may be made by Licensor on behalf of the Licensee include:

1. Receipt and storage of e-PHI related to billing claims resulting from services provided by customers of the Licensee;
2. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by customers of the Licensee;
3. Transfer of e-PHI with claims data sent to carriers and insurers via electronic means including via use of a medical billing Clearinghouse.

Licensor shall assume the following obligations regarding electronic Protected Health Information (e-PHI):

1. Licensor shall implement commercially reasonable administrative, physical and technical safeguards designed to protect the confidentiality, integrity and availability of the e-PHI that it creates, receives, maintains or transmits on behalf of the Licensee.
2. Licensor shall require that any agent, including a subcontractor, to whom it provides e-PHI that was created, received, maintained or transmitted on behalf of the Licensee, agrees to implement commercially reasonable administrative, physical and technical safeguards designed to protect the confidentiality, integrity and availability of such e-PHI.
3. Licensor agrees to alert the Licensee of any security incident (as defined by the HIPAA Security Rule) or breach (as defined by the Security and Privacy Regulations) of which it becomes aware, and the steps it has taken to mitigate any potential security compromise that may have occurred, and provide a report to the Licensee of any loss of data or other information system compromise as a result of the incident.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their duly authorized agents.

NSURE, INC.

CITY OF GLEN COVE EMSEMS

Agent: _____

Agent: _____

Title: _____

Title: _____

Sign: _____

Sign: _____

Date: _____

Date: _____



ACH AUTHORIZATION FORM

Company Information

Company Name: _____

Company Address: _____

Company City: _____ State: _____ Zip Code: _____

AP Contact: _____ Phone _____

AP Email Address: _____

Banking Information

Bank Name: _____

ABA Routing #: _____

Account #: _____

Account Type: Checking Savings
(Check One)

Company Authorization

Please sign below to confirm that you are authorizing to begin transferring payments for your invoices to/from the account mentioned above.

Signature

Printed Name

Title

Date





SERVICE SOLUTION

Customer:
 City of Glen Cove Police Depart
 Date: 18-APR-19
 Proposal #:698163
 Term:01-MAY-19 to 30-APR-24

Billing Customer:
 City of Glen Cove Police Depart
 1 Bridge Street
 Police Station
 GLEN COVE, NY 11542-2514

Service Location:
 City of Glen Cove Police Depart
 1 Bridge Street
 Police Station
 GLEN COVE, NY 11542-2514

Johnson Controls Fire Protection LP
Sales Representative:
 MATHEW ALEXANDER HALL
 35 Arkay Dr
 HAUPPAUGE, NY 11788-0000
 mathew.alexander.hall@jci.com

INVESTMENT SUMMARY

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

SERVICE/PRODUCT DESCRIPTION	QUANTITY	FREQUENCY	INVESTMENT
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Recurring Annual Investment

FIRE ALARM COMPREHENSIVE SERVICE OFFER

SIMPLEX 4100/4020 FIRE ALARM SYSTEM

Main Fire Alarm Panel	1	Annual
Annunciator	2	Annual
Smoke Sensor Addressable	54	Annual
Heat Detector Restorable	3	Annual
Pull Station	8	Annual
Audio-Visual Unit Addressable	22	Annual

FIRE ALARM COMPREHENSIVE SERVICE OFFER Total: \$2,000.00

Total Recurring Annual Investment:

\$2,000.00



SERVICE SOLUTION

SUMMARY OF SERVICES

FIRE ALARM COMPREHENSIVE SERVICE OFFER - SIMPLEX PROGRAMMABLE FIRE ALARM SYSTEM

FIRE ALARM PANEL AND PERIPHERAL COMPONENT REPLACEMENT FOR FIRE ALARM SYSTEMS:

The Comprehensive Plan covers component replacement on the central processing unit, including reprogramming of system due to failure, replacement of circuit boards, and all components in the control panels, annunciator panels, transponders, printers, keyboards monitors, and peripheral devices (smoke detectors, pull stations, audible/visible units, door contacts, etc.) associated with system. Replacement of the entire fire alarm panel, faulty wiring and/or ground faults are not covered.

Unless otherwise specified herein, panel batteries and batteries installed within wireless initiating and notification peripheral devices are not covered under this agreement. Replacement of such batteries will be at an additional cost.

TEST AND INSPECTION OVERVIEW:

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

DOCUMENTATION:

Accessible components and devices logged for:

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

Test results and applicable voltage readings

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

Customer Portal (Basic)

Basic Customer Portal functionality will be provided.

Panel Battery Replacement and Disposal

Batteries will be removed, replaced and disposed of in an environmentally friendly manner

Electronic Inspection Reporting

Inspection results performed by our technicians can be captured electronically with or without bar codes and inspection reports are provided to the customer via Email and archived for 24x7 viewing on a customer portal. In addition, dynamic queries can be performed by the customer leveraging the inspection documentation database.

TrueInsight Remote Service

We will provide, TrueInsight® ("Remote Services") an internet based remote diagnostic capability available for Simplex Model 4100U, 4100ES or 4010ES fire alarm control panels

Emergency Service (Normal Working Hours)

Emergency Service (Provided during normal working hours, Monday-Friday excluding our holidays). This service includes labor, travel, and mileage charges for repairs associated with normal wear and tear. Standard service will



SERVICE SOLUTION

be provided within 24 hours of notification Monday through Friday, excluding our holidays, unless outlined in the agreement.



SERVICE SOLUTION

SPECIAL PROVISIONS

Customer Portal (Basic)

Electronic Inspection Reporting

Panel Battery Replacement and Disposal

TrueInsight Remote Service



SERVICE SOLUTION

This Service Solution (the "Agreement") sets forth the Terms and Conditions for the provision of equipment and services to be provided by Johnson Controls Fire Protection LP ("Company") to City of Glen Cove Police Depart and is effective 01-MAY-19 to 30-APR-24 (the "Initial Term").

PAYMENT TERM: *Annual In Advance*

PAYMENT AMOUNT:

\$2,000.00

- Proposal # : 698163

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

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

City of Glen Cove Police Depart

Johnson Controls Fire Protection LP

Signature: _____

MATHEW ALEXANDER HALL

Print Name: _____

Phone #: _____

Title: _____

Fax #: _____

Phone#: _____

License #:
(if Applicable) _____

Fax #: _____

Authorized
Signature: _____

Email: _____

Print Name: _____

PO#: _____

Title: _____

Date: _____

Date: _____

TERMS AND CONDITIONS

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

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

3. **Pricing.** The pricing set forth in this Agreement is based on the number of devices and services to be performed as set forth in this Agreement. If the actual number of devices installed or services to be performed is greater than that set forth in this Agreement, the price will be increased accordingly. Company may increase prices upon notice to Customer or annually to reflect increases in material and labor costs. Customer agrees to pay all taxes, permits, and other charges, including but not limited to state and local sales and excise taxes, installation or alarm permits, false alarm assessments, or any charges imposed by any government body, however designated, levied or based on the service charges pursuant to this Agreement. Customer's failure to make payment when due is a material breach of this Agreement. Prices in any quotation or proposal from Company are subject to change upon notice sent to Customer at any time before the quotation or proposal has been accepted. Prices for products covered may be adjusted by Company, upon notice to Customer at any time prior to shipment, to reflect any increase in Company's cost of raw materials (e.g., steel, aluminum) incurred by Company after issuance of Company's applicable proposal or quotation.

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

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

6. **Reciprocal Waiver of Claims (SAFETY Act).** Certain of Company's systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT") under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§ 441-444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5 (e), to the maximum

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

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

8. **General Provisions.** Customer has selected the service level desired after considering and balancing various levels of protection afforded and their related costs. All work to be performed by Company will be performed during normal working hours of normal working days (8:00 a.m. - 5:00 p.m., Monday through Friday, excluding Company holidays), as defined by Company, unless additional times are specifically described in this Agreement. All work performed unscheduled unless otherwise specified in this Agreement. Appointments scheduled for four-hour window. Additional charges may apply for special scheduling requests (e.g. working around equipment shutdowns, after hours work). Company will perform the services described in the Service Solution ("Services") for one or more system(s) or equipment as described in the Service Solution or the listed attachments ("Covered System(s)"). **UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, ANY INSPECTION (AND, IF SPECIFIED, TESTING) PROVIDED UNDER THIS AGREEMENT DOES NOT INCLUDE ANY MAINTENANCE, REPAIRS, ALTERATIONS, REPLACEMENT OF PARTS, OR ANY FIELD ADJUSTMENTS WHATSOEVER, NOR DOES IT INCLUDE THE CORRECTION OF ANY DEFICIENCIES IDENTIFIED BY COMPANY TO CUSTOMER. COMPANY SHALL NOT BE RESPONSIBLE FOR EQUIPMENT FAILURE OCCURRING WHILE COMPANY IS IN THE PROCESS OF FOLLOWING ITS INSPECTION TECHNIQUES, WHERE THE FAILURE ALSO RESULTS FROM THE AGE OR OBSOLESCENCE OF THE ITEM OR DUE TO NORMAL WEAR AND TEAR. THIS AGREEMENT DOES NOT COVER SYSTEMS, EQUIPMENT, COMPONENTS OR PARTS THAT ARE BELOW GRADE, BEHIND WALLS OR OTHER OBSTRUCTIONS OR EXTERIOR TO THE BUILDING, ELECTRICAL WIRING, AND PIPING.**

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

Customer further agrees to:

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

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

10. **Repair Services.** Where Customer expressly includes repair, replacement, and emergency response services in the Service Solution section of this Agreement, such Services apply only to the components or equipment of the Covered System(s). Customer agrees to promptly request repair services in the event the System becomes inoperable or otherwise requires repair. The Agreement price does not include repairs to the Covered System(s) recommended by Company as a result of an inspection, for which Company will submit independent pricing to Customer and as to which Company will not proceed until Customer authorizes such work and approves the pricing. Repair or replacement of non-maintainable parts of the Covered System(s) including, but not limited to, unit cabinets, insulating material, electrical wiring, structural supports, and all other non-moving parts, is not included under this Agreement.

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

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

13. Availability and Cost of Steel, Plastics & Other Commodities. Company shall not be responsible for failure to provide services, deliver products, or otherwise perform work required by this Agreement due to lack of available steel products or products made from plastics or other commodities. In the event Company is unable, after reasonable commercial efforts, to acquire and provide steel products, or products made from plastics or other commodities, if required to perform work required by this Agreement, Customer hereby agrees that Company may terminate the Agreement, or the relevant portion of the Agreement, at no additional cost and without penalty. Customer agrees to pay Company in full for all work performed up to the time of any such termination.

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

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

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

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

16. Remote Service. If Customer selects Remote Service, Customer understands and agrees that, while Remote Service provides for communication regarding Customer's fire alarm system to Company via the Internet, Remote Service does not constitute monitoring of the system, and Customer understands that Remote Service does not provide for Company to contact the fire department or other authorities in the event of a fire alarm. Customer understands that if it wishes to receive monitoring of its fire alarm system and notification of the fire department or other authorities in the event of a fire alarm, it must select monitoring services as a separate Service under this Agreement. CUSTOMER FURTHER UNDERSTANDS AND AGREES THAT THE TERMS OF SECTION 17.F OF THIS AGREEMENT APPLY TO REMOTE SERVICE.

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

A. Alarm Monitoring Service. Customer agrees and acknowledges that Company's sole and only obligation under this Agreement shall be to provide alarm monitoring, notification, and/or Runner Services as set forth in this Agreement and to endeavor to notify the party(ies) identified by Customer on the Contact/Call List ("Contacts") and/or Local Emergency Dispatch Numbers for responding authorities. Upon receipt of an alarm signal, Company may, at our sole discretion, attempt to notify the Contacts to verify the signal is not

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

B. Limitation of Liability; Limitations of Remedy. Customer understands that Company offers several levels of Monitoring Services and that the level described has been chosen by Customer after considering and balancing various levels of protection afforded and their related costs. It is understood and agreed by Customer that Company is not an insurer and that insurance coverage shall be obtained by Customer and that amounts payable to Company hereunder are based upon the value of the Monitoring Services and the scope of liability set forth in this Agreement and are unrelated to the value of Customer's property and the property of others located on the premises. Customer agrees to look exclusively to Customer's insurer to recover for injuries or damage in the event of any loss or injury and that Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or Services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or Service was designed to detect or avert. It is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from failure on the part of Company to perform any of its monitoring obligations under this Agreement. Accordingly, Customer agrees that Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or Service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or Service in any respect, Company's liability with respect to Monitoring Services shall be the lesser of the annual fee for Monitoring Services allocable to the site where the incident occurred or two thousand five hundred (\$2,500) dollars. Such sum shall be complete and exclusive. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S), AS HEREINAFTER DEFINED, OR ANY OF ITS COMPONENT PARTS BY CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM(S) TO PERFORM. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, Company's employees, agents, officers and directors.

C. Indemnify, Insurance. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third-party claims for personal injury, death, property damage or economic loss, arising in any way from any act or omission of Customer or Company relating in any way to the Monitoring Services provided under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any

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

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

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

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

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

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

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

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

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

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

F. Communication Facilities.

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

ii. Digital Communicator. Customer understands that a digital communicator (DACT), if installed under this Agreement, uses traditional telephone lines for sending signals which eliminate the need for a dedicated telephone line and the costs associated with such dedicated lines.

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

iv. CUSTOMER UNDERSTANDS THAT COMPANY WILL NOT RECEIVE ALARM SIGNALS WHEN THE TELEPHONE LINE OR OTHER TRANSMISSION MODE IS NOT OPERATING OR HAS BEEN CUT, INTERFERED WITH OR IS OTHERWISE DAMAGED OR IF THE ALARM SYSTEM IS UNABLE TO ACQUIRE, TRANSMIT OR MAINTAIN AN ALARM SIGNAL OVER CUSTOMER'S TELEPHONE SERVICE FOR ANY REASON INCLUDING NETWORK OUTAGE OR OTHER NETWORK PROBLEMS

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

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

H. Personal Emergency Response Service. If Customer has selected Personal Emergency Response Services, Customer agrees that the very nature of Personal Emergency Response Services, irrespective of any delays, involves uncertainty, risk and possible serious injury, disability or death, for which Company should not under any circumstances be held responsible or liable; that the equipment furnished for Personal Emergency Response Services is not foolproof and may experience signal transmission failures or delays for any number of reasons, whether or not our fault or under Company's control; that the actual time required for medical emergency providers to arrive at the premises and/or to transport any person requiring medical attention is unpredictable and that many contributing factors, including but not limited to such things as telephone network operation, distance, weather, road and traffic conditions, alarm equipment function and human factors, both with responding authorities and with Company, may affect response

18. Limited Warranty. COMPANY WARRANTS THAT ITS WORKMANSHIP AND MATERIAL, EXCLUDING MONITORING SERVICES, FURNISHED UNDER THIS AGREEMENT WILL BE FREE FROM DEFECTS FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE OF FURNISHING. Where Company provides product or equipment of others, Company will warrant the product or equipment only to the extent warranted by such third party. EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR

EQUIPMENT, IF ANY, SUPPORTED HEREUNDER.

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

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

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

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

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

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

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

26. No Option to Solicit. Customer shall not, directly or indirectly, on its own behalf or on behalf of any other person, business, corporation or entity, solicit or employ any Company employee, or induce any Company employee to leave his or her employment with Company, for a period of two years after the termination of this Agreement.

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

28. One-Year Limitation on Actions; Choice of Law. It is agreed that no suit, or cause of action or other proceeding shall be brought against either party more than one (1) year after the accrual of the cause of action or one (1) year

after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, Agreement, or any other legal theory. The laws of Massachusetts shall govern the validity, enforceability, and interpretation of this Agreement.

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

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

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

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

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

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

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

STATE OF NEW YORK,
COUNTY OF NASSAU
CITY OF GLEN COVE

For the PICKLEBALL COURT RESURFACING AT STANCO PARK LOCATED IN THE
CITY OF GLEN COVE, L.I., NEW YORK

AGREEMENT dated as of the _____ day of _____ 2019, between the City of Glen Cove, a Municipal Corporation with its office located at City Hall, 9 Glen Street, Glen Cove, New York 11542 (hereinafter referred to as "City"), and American Paving & Masonry with offices located at 8 Forest Avenue, Glen Cove, NY 11542 (hereinafter referred to as "Contractor"), for improvements to the Pickle Ball court located at Stanco Park, Glen Cove, NY 11542 (together, the "Parties").

WITNESSETH

WHEREAS, the City participates in a cooperative agreement with the Nassau County Office of Community Development (hereinafter referred to as "OCD") and receives funding for public facilities improvement projects funded by Community Development Block Grant (hereinafter referred to as "CDBG") monies from the U.S. Department of Housing and Urban Development; and

WHEREAS, OCD funds a Public Facilities Improvement Program for the City to improve public amenities available to low/moderate income residents in the City; and

NOW THEREFORE, it is agreed between the above parties as follows:

I. Scope of Work

The designated project to be funded by the City is set forth in the Contractor's response to the Request for Quotes dated 1/14/19 annexed hereto and marked Exhibit A.

II. Term

The term of this agreement shall end upon completion of scope of work

A. Payment

It is expressly agreed and understood that the total amount to be reimbursed by the City under this contract is \$11,000.00 toward the approved scope of work project as per Exhibit A. Payment will be made upon completion of the project as approved by the City.

Contractor shall submit an invoice setting forth the amount of work completed accompanied by certified payroll in accordance with the attached prevailing wage schedule. City shall pay Contractor upon presentment of said invoice and approval by the City's designated project supervisor.

B. Notices

Whenever notice is required to be given under the terms of this Agreement to either party, it shall be by certified mail, return receipt requested, postage prepaid to the addresses set forth below or to such other or

further address as either party may specify to the other, all by notice in accordance with the provisions hereunder. Said notices shall be effective three (3) business days after being so mailed.

City of Glen Cove
City Hall – 9 Glen Street
Glen Cove, NY 11542
Timothy Tenke, Mayor

For the Contractor:
American Paving and Masonry
8 Forest Avenue
Glen Cove, NY 11542
Angelo Stanco, President

Day to day correspondence, notices and reports may be sent by first class mail or telefax (516) 759-6791, or email with proof of delivery/read receipt to Yelena Quiles, Purchasing Agent for the City, at YQuiles@cityofglencoveny.org

III. Special Conditions

A. Compliance with HUD Regulations

The Contractor agrees to comply with the requirements of Title 24 Code of Federal Regulations, Part 570 of the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG) and all federal regulations and policies issued pursuant to these regulations outlined in appendix EE attachments. Contractor will be required to submit a certified payroll form for all workers on the job as per the wage determination general decision NY20170012 (form and wage determination also attached).

B. Before and After Pictures

Contractor must take before and after pictures (same view) of the subject premises that will demonstrate the pre and post construction work performed. These photos must be given to the City and will become the property of the City.

C. Historic Preservation

The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historical Preservation Act of 1966 as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are included on a Federal, State, or local historic property list.

D. Lead-Based Paint

The Grantee agrees that any construction or rehabilitation of commercial structures that include residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations. This may include the requirement to test and abate lead paint.

E. Compliance with Federal, State and Local Laws

The Contractor agrees to comply with all Federal, State and Local laws and regulations.

The Contractor further agrees to comply with all local building code regulations and directives. It is the responsibility of the Contractor to apply for all required building permits and approvals. Building Department fees are the responsibility of the Contractor.

The Contractor is solely responsible for any and all sales tax on materials and labor.

F. Project Approval

The Contractor must obtain approval from the City Council and/or designated personnel authorized by the City. All improvements must meet the design approval of the designated personnel. Any changes to the work plan or design must be pre-approved by the designated personnel. All material and workmanship must be completed as approved. The City reserves the right to deny payment for any and all improvements that do not meet the design as approved by the City as well as the quality of materials as approved or that fails to meet quality workmanship.

G. Project Completion

The Contractor commits to complete the project as approved. The City shall not release payment until approved by the designated personnel at the completion of the job.

IV. General Conditions

A. General Compliance

The Contractor agrees to comply with all applicable federal, state and local regulations governing the funds provided under this contract and attached hereto.

B. Independent Contractor

It is the express understanding of the parties that this agreement does not constitute an employer-employee arrangement. Contractor is an independent contractor and covenants that he will conduct him/herself consistent with said status. Contractor will neither hold himself out as or claim to be an employee of the City by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an employee of the City, including, but not limited to, worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement or pension membership or credit.

C. Hold Harmless

The Contractor, by executing this agreement shall be deemed to have released, waived, and discharged the City, its agents and/or employees from all liability to the Contractor or to others who may act on behalf of or through the Contractor for all loss or damage, and any claim or damage therefor, on account of injury to the person or property, or resulting in the death of any individual acting on behalf of or through the Contractor's project. The Contractor assumes full and unconditional responsibility for and the risk of bodily injury, death or property damage to the Contractor, its agents, servants and/or employees, which may be due to the negligence of the Contractor in connection with the project.

The Contractor further agrees to indemnify and hold the City free and harmless from and against any loss, expense, liability, claims or damages of whatsoever kind or character, including any and all costs, expenses and attorneys' fees which may be incurred or suffered by the City by reason of any claims, demands, actions or lawsuits which may be filed or claimed to exist by any person, firm or entity which may arise out of, or result from, the negligence, acts or omissions of the Contractor, its agents, servants or employees, for the project.

D. Workers' Compensation

The Contractor shall provide proof that contractor holds Workers' Compensation Insurance coverage for all employees involved in the performance of this contract.

E. Insurance & Bonding

The Contractor shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage.

The Contractor shall provide Grantee with Certificate of Liability Insurance naming the City of Glen Cove, Glen Cove Community Development City and County of Nassau as additional insured. Said policy shall provide for general aggregate coverage in the amount of \$2,000,000 aggregate and each occurrence coverage in the amount of \$1,000,000. If said proof is not delivered, this grant agreement is null and void.

F. Amendments

City or Contractor may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a **duly authorized representative** of both organizations, and approved by the City's governing body. Such **amendments** shall not invalidate this Agreement nor relieve or release City or Contractor from its obligations under this Agreement.

G. Suspension or Termination

City may also suspend or terminate this Agreement, in whole or in part, if Contractor materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein, and the City may declare the Contractor ineligible for any further participation in City contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Contractor is in noncompliance with any applicable rules or regulations, the City may withhold all of said contract funds until such time as the Contractor is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

V. Assignment

This agreement is non-assignable by Contractor, except that he/she may assign same to a corporation in which he is the sole officer, director and shareholder.

VI. Subcontracts:

A. Approvals

The Contractor shall not enter into any Subcontracts with any City or individual or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement. If subcontracting is approved, subcontractor must provide insurance as outlined above.

B. Monitoring

The Contractor will monitor all contracted services on a regular basis to ensure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

C. Contract

The Contractor shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this agreement.

VII. Entire Agreement

The parties hereto acknowledge that this Contract embodies the entire understanding of the parties and that any modification hereto will have no effect unless in writing, and fully executed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

BY: _____

CITY OF GLEN COVE
9 Glen Street
Glen Cove, NY 11542
Timothy Tenke, Mayor

AMERICAN PAVING & MASONRY
8 Forest Avenue
Glen Cove, NY 11542
Angelo Stanco, President

STATE OF NEW YORK)

: ss.:

COUNTY OF NASSAU)

On the _____ day of _____, 2019, before me personally came _____ to me known, who being by me duly sworn, did depose and say that she is the Director of the Glen Cove Parks and Recreation Department, City Hall, 9 Glen Street, Glen Cove, New York 11542, the municipality overseeing the project.

Notary Public

STATE OF NEW YORK)

: ss.:

COUNTY OF NASSAU)

On the _____ day of _____, 2019, before me personally came _____, of American Paving & Masonry, to me known, who being by me duly sworn, did depose and say that he/she is the contractor for the project described herein and the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same.

Notary Public

AlansFair, Inc

Nassau County Craft & Street Fairs

750-6A Lido Boulevard, Lido Beach, NY 11561
516-442-6000

alan@nassaucountycraftshows.com
www.longislandstreetfairs.com

April 11, 2019

Agreement between

City of Glen Cove (CGC)

&

AlansFair, Inc. Doing Business as Nassau County Craft Shows (NCCS)

NCCS will be the exclusive Producer for the May 25, 2019 Glen Cove Festival.

CGC will secure written approval for the location to be closed to parking and vehicular traffic from 7am-7pm on said date(s), and will secure appropriate public safety personnel and barricades to redirect said traffic.

CGC will provide adequate litter canisters and dumpsters on said date, and will consult with NCCS for the placement of same.

CGC will inform its members and all members of the Glen Cove community about the Festival via signs and flyers and any other means of communication deemed necessary to create awareness of the event.

Portable toilet(s) will be ordered at no cost to CGC.

If CGC determines that a dumpster is needed, it shall order same at their own expense.

NCCS may rent space to all Artists, Crafters, Gift Vendors, Food and Beverage Vendors, Inflatable Rides, and Service Companies.

CGC will publish on its website that NCCS is the Producer of the event and shall direct all vendor inquiries to NCCS.

The event will be advertised to be held rain or shine with no rain date(s). If necessary, the entire Street Fair will be held in the Pulaski Street Municipal Garage located directly next door to the Street Fair.

NCCS agrees to pay CGC:

(A) 30% of the gross rental income received if vendors and shoppers are in attendance for at least two consecutive hours;

OR

(B) 15% of the gross rental income received if vendors and shoppers are not in attendance for at least two consecutive hours.

The above provisions address weather and other conditions that might affect the ability of the Fair to operate as intended by NCCS and CGC.

NCCS agrees to offer a free 10' x10' space to any essential service groups and as requested by CGC.

Payment in full from NCCS to CGC is due and payable no later than 7 days after the event, and will be accompanied by a worksheet providing the names of all vendors and the amount of rent each paid.

CGC agrees to involve NCCS in coordinating activities with essential services as related to the operation of the Fair.

CGC agrees to support NCCS's efforts to have all Vendors comply with the VENDOR REQUIREMENTS as given on www.nassaucountycraftshows.com

NCCS agrees to widely advertise and promote the event including regionally advertising as follows: Newsday, social media, internet, and whatever signage opportunities afforded by CGC.

NCCS will provide CGC with thirty 18"x24" signs and frames at no cost to CGC.

Said signs shall be delivered to CGC and CGC shall be responsible for placing them in high traffic areas throughout the area.

NCCS is responsible for providing personnel to provide adequate security and cleanup throughout and at the completion of the event, limited to a reasonable removal of debris and litter that can be picked up easily by hand.

CGC will deliver the location in a broom swept condition and CGC will be responsible for removal of excessive debris as well as the removal of canisters and dumpster(s).

Under the direction of CGC, NCCS is responsible for soliciting, placing, and managing all vendors and all other participants as agreed upon by CGC and NCCS.

The use of said location shall be done in compliance with all applicable local, regional, state and national policies, rules and regulations.

NCCS shall provide CGC with a certificate of insurance and will include whomever CGC requires listed as additional insured, and NCCS shall indemnify and hold harmless CGC from any claim arising out of the production, promotion, holding, conducting, operation of, maintenance of, contractual arrangements and any other matters pertaining to the within Fair.

No later than one month before the Street Fair, NCCS shall furnish CGC with such insurance certificates complying with the above provisions.

CGC will do it best to provide Show Mobile with a stage a sound system at no cost to NCCS.

NCCS and CGC agree that they will renew this Agreement for three to five years after the 2019 Fair if both parties agree to same.

This agreement may be executed in counterparts. Facsimiles of the contract herein, including all signatures shall be treated and considered as if they were original signatures herein as it is contemplated that the contracts may be exchanged electronically via e-mail in electronic format via PDF files and the like.

Agreed to:

Alan Finchley NCCS _____

City of Glen Cove

Signed By _____

Print Name



City of Glen Cove
9 Glen Street
Glen Cove, NY 11542

BUDGET TRANSFER FORM

DEPARTMENT: Mayor

BUDGET YEAR 2019

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	INCREASE BUDGET	DECREASE BUDGET
A1990-55940	Contingency		\$6,431.31
A1490-55438	Contractual Services	\$6,431.31	

Reason for Transfer:

Transfer of funds to fund the invoiced payment for LIRO engineers. The invoice is for the engineering design at the Golf Course Bridge.

Department Head Signature: *Timothy Tenke* Date: 04/24/19

City Controller Approval: Sandra Clarson Digitally Signed by Sandra Clarson
DN: cn=Sandra Clarson, o=City of Glen Cove, ou=finance
Dept, email=sclarson@cityofglen Cove.org, c=US
Date: 20180426 11:01:37 -0400 Date: 04/24/2019

City Council Approval – Resolution Number: _____ Date: _____

AGREEMENT

This Agreement (this "Agreement") made as of the ___ day of May, 2019, is by and between the EASTERN STAR CRUISES, INC. (the "Licensee"), a New York corporation, having an office at 23 Oakledge Drive, East Northport, New York 11731, and the City of Glen Cove (the "City"), a municipal corporation of the State of New York having its principal offices at City Hall, 9 Glen Street, Glen Cove, New York 11542 and the Glen Cove Industrial Development Agency (the "GCIDA"), a New York State public benefit corporation, having its principal offices at 9 Glen Street, Glen Cove, New York 11542, (the City and the GCIDA are hereinafter referred to collectively as "Licensor") (Licensee and Licensor are hereinafter referred to individually as, a "Party" and collectively as, the "Parties").

WHEREAS, Licensee would like to provide recreational pleasure cruises to the residents of Glen Cove and neighboring communities from the Glen Cove Ferry terminal;

WHEREAS, Licensor would like to provide Licensee with one(1) slip at the most western end of the Glen Cove Ferry terminal to provide recreational pleasure cruises to the residents of Glen Cove and neighboring communities;

WHEREAS, Licensor is the owner of the following facilities in Glen Cove, New York: a ferry terminal building, containing approximately 2,700 square feet of ground floor space (the "Terminal"), two ferry landings designed to accommodate two up to 110 foot long ferries, and stern loading (collectively, the "Landings") and an adjacent parking lot with approximately 100 parking spaces (the "Parking Lot" and together with the Terminal and Landings, collectively, the "Glen Cove Ferry Facilities"), located at 73 Garvies Point Road, Glen Cove, New York 11542, more particularly described on Schedule A attached hereto and made a part hereof (the "Property") and Licensee has requested permission to use and occupy the Glen Cove Ferry Facilities, constituting the "Licensed Premises" as more particularly set forth in Paragraph 1 below for recreational pleasure cruises to and around the New York Metropolitan Area; and

WHEREAS, at this time no other ferry service is operating at the Licensed Premises and the use and occupancy of the Licensed Premises by Licensee, on the terms and conditions set forth herein and agreed to by Licensee, are temporary and will not (and shall not) materially interfere with the future proposed ferry service or use of the Glen Cove Ferry Facilities by the public or by the agents, servants and/or employees of Licensor, and accordingly, Licensor is willing to make the Licensed Premises available to Licensee on a non-exclusive basis which shall be subject to the terms and conditions hereinafter set forth;

NOW THEREFORE, for and in consideration of the promises and mutual covenants herein contained, the Parties agree as follows:

1. Grant of Permit/License. Subject to all of the terms and conditions of this Agreement, Licensor hereby grants to Licensee a revocable license (the "License") for Licensee, and its affiliates and subsidiaries to use and to permit their respective employees, contractors, subcontractors, agents and

representatives, and customers, to use and occupy the following premises (collectively, the "Licensed Premises"):

- a. the Parking Lot shown on the site map attached hereto as Schedule A, providing for approximately 100 parking spaces, on a non-exclusive basis on weekdays and weekends during the Term (as defined below);
 - b. the Terminal together with any access paths and/or walkways between the Parking Lot and the Terminal, for access by Licensee's customers to and from the Landings, and on and across the Landings to board and disembark from one or more cruises (which may be provided by private ferry service providers with whom Licensee on a non-exclusive basis, in common with Licensor, its residents, employees, agents, contractors and members of the public);
 - c. the westernmost of the Landings as shown on Schedule B (provided however that use of the Landings for the docking of vessels in connection with the contemplated recreational services by Licensee will not interfere with the proposed future ferry service in any way); and
 - d. The Licensed Premises does not include any public walkways or other public use areas.
2. Term. The term of this Agreement (the "Term") and the license granted herein shall be one (1) year and shall commence on May __, 2019 at 12:01 AM and shall terminate on May __, 2020 and is subject to being terminated earlier as provided herein. The Licensee shall have three (3) one year options to renew this Agreement by written notice to the Licensor, said notice to be delivered to the Licensor by the Licensee at least 60 days prior to expiration of the Term.
3. Permitted Use; Purpose. The Licensed Premises shall be used by Licensee and its employees, contractors, subcontractors, agents and representatives, and customers for the following purposes only: (i) with respect to the Parking Lot, a vehicle parking lot for the general customers or clients and for Licensee, its agents, contractors (or their subcontractors), and their respective employees and agents, involved in providing the services subject to this Agreement and disembarking of passengers, (ii) with respect to the Terminal, as a waiting area and shelter for customers, and (iii) with respect to the Landings, as landing space of one (1) recreational pleasure cruise vessel.
4. License Fees. Licensee shall pay to Licensor as full consideration for the License granted herein for the entire Term, the following license fees for each season which shall include winter birthing:

Season 1: the greater of \$15,000.00 or \$205.89 per lf

Season 2: the greater of \$20,000 or \$235.3 per ft (if extension option #1 is exercised

Season 3: the greater of \$22,500 or \$264.71 per ft (if extension option #2 is exercised)

Season 4: the greater of \$25,000 or \$294.12 per ft (if extension option #3 is exercised)

The Season 1 payment shall be due on the date hereof and subsequent Season payments, if applicable, shall be due on the respective anniversary date hereof.

The Parties further agree that for Season #1 only the cost of the electricity shall be included in the payment made by the licensee. The Parties further agree that during the Terms in the event the Licensor determines that the cost of electricity exceeds normal or current consumption at the Glen Cove Ferry facilities, then the Licensor shall have the right to proportional invoice Licensee for said additional electric consumption therein.

5. Indemnification.

- a. Licensee agrees to, and hereby does, indemnify and hold harmless Licensor, its officials, officers, employees, and agents (the "Indemnified Parties") from and against any and all liabilities, losses, costs, expenses (including, without limitation, reasonable attorney's fees and disbursements) and damages, including, but not limited to, claims for personal injury and/or death, or damages (including damages to Licensor's property) ("Losses"), including Losses in connection with any threatened investigation, litigation or other proceeding or preparing a defense to or prosecuting the same, directly or indirectly resulting from, and/or arising in whole or in part out of, the negligence or willful misconduct of Licensee in connection with the use of the Licensed Premises; provided, however that such indemnification shall not extend to any Losses arising out of, relating to, or in connection with the negligence or willful misconduct of Licensor or Licensor's ordinary upkeep and maintenance of the Property and its grounds and facilities.
- b. Licensee, at Licensor's demand (with counsel selected by the Indemnified Parties), in cooperation with Licensor, will promptly and diligently defend, at its own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against one or more Indemnified Parties for which Licensee is responsible under Paragraph 5(a) and, further to Licensee's indemnification obligations, Licensee shall pay and satisfy any judgment, decree, loss or settlement in connection therewith. Notwithstanding the foregoing, Licensee shall not settle such claim or related action in a manner which imposes any obligation on Licensor without the prior written consent of Licensor, which consent shall not be unreasonably withheld, conditioned or delayed.

6. Insurance.

- a. Licensee shall obtain and maintain throughout the Term, at its own expense: (i) one or more policies for commercial General Liability and Product Liability Insurance, which policy(ies) shall name "The City of Glen Cove" and "The Glen Cove Industrial Development Agency" as an additional insureds and have a minimum single combined limit of liability of not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) aggregate coverage, and (iii) workers compensation insurance. The foregoing insurance coverages may be provided by a combination of primary, excess, and umbrella policies.
- b. Prior to, or contemporaneously with, the execution of this Agreement, copies of current certificates of insurance evidencing the insurance coverage required by this Agreement.

7. Terms and Condition of use of the Licensed Premises:

- a. The Licensed Premises are being licensed to Licensee and Licensee is accepting the same in its "AS IS" condition as of the date of this Agreement, with no representations or warranties of any kind.
- b. Licensee shall be permitted to dock only one vessel overnight at the Landings.
- c. VESSEL DOCUMENTATION AND LICENSURE: Licensee agrees to maintain all registration and documentation for the Vessel as required by the laws of the State of Florida. Licensee shall provide a copy of the current registration for the vessel and any applicable trailers or vehicles at the request of the Licensor. Licensee agrees to maintain all licenses, permits and registrations necessary for the operation of the commercial enterprise as required by New York law. Licensee shall provide a copy of any current licenses, permits or registrations at the request of the Licensor.
- d. CONDITION OF VESSEL: Licensee warrants that the vessel will be maintained in a clean, seaworthy, sanitary and fully operational condition at all times, and that its vessel will be regularly repaired and maintained. The vessel shall be able to get underway under her own power with her crew, and shall not create a fire hazard, eyesore or sinking hazard. Licensee shall keep the Vessel properly moored and dry within at all times.
- e. CONDITION OF LANDINGS: Licensee accepts the condition of the Landings "as is" and Licensee acknowledges that the Licensor makes no express or implied warranties as to the condition of the Slip, the water, the depth of the water, the common areas or any utilities, fences, locks or other aspect of the Licensed Premises.

- f. **HAZARDOUS MATERIALS:** Licensee covenants and agrees to comply with all applicable environmental and all other federal, state and local government statutes, ordinances, rules and regulations relating to the presence of hazardous substances, hazardous wastes, pollutants or contaminants. Licensee agrees and does hereby fully indemnify and shall hold Licensor harmless from any loss, damage or expense, including reasonable attorneys' fees and costs of any legal actions which Licensor may incur or suffer by reason of any claim or liability arising from Licensee's noncompliance with applicable environmental laws and the terms of this paragraph. Licensee specifically covenants and agrees that no hazardous substances, hazardous wastes or waste byproducts, pollutants or contaminants, shall be dumped in any trash receptacle or otherwise, in, on or about the Licensed Premises, and that all such substances shall be stored or disposed of in specially marked containers/areas. These covenants and indemnities shall survive the expiration or termination of this Agreement.
- g. **SEVERE WEATHER AND OTHER EMERGENCIES:** Licensor expects Licensee to have made suitable arrangements for safe sheltered anchorage during severe weather including but not limited to tropical storms or hurricanes and Licensee warrants such arrangements have or will be made. Licensee may not assume that Licensor's premises will be safe, sheltered anchorage during such period. In the event of impending severe weather or an emergency, Licensor, in its sole discretion, reserves the right to move or evacuate the Vessel or take such other actions as Licensor deems appropriate at Licensee's sole risk and expense. **UNDERTAKING TO MOVE OR EVACUATE THE VESSEL SHALL NOT BE DEEMED AN ASSUMPTION OF RESPONSIBILITY FOR THE SAFETY, SECURITY, AND CARE OF THE VESSEL BY LICENSOR. LICENSOR SHALL NOT BE DEEMED A BAILEE OF THE VESSEL.** Licensee agrees to reimburse Licensor for any and all costs it incurs on Licensee's behalf in emergency situations.
- h. Licensee shall, at Licensee's expense and subject to Licensor's reasonable approval, be permitted to erect and maintain directional or instructional signage on the Licensed Premises during the Term; including by way of example signs advising Licensee's customers of the location and destination of pleasure cruises, subject to applicable law.
- i. No construction, reconstruction or other alterations or improvements shall be performed by Licensee with respect to the Licensed Premises without the prior written consent of Licensor; provided that the foregoing shall not restrict, and Licensor's consent shall not be required for, the temporary installation by Licensee of fixtures and other equipment, including tents, barricades and movable signage on stanchions or otherwise.

- j. Licensee will surrender and give up the Licensed Premises to Licensor at the expiration of the Term in a condition equal to that at the beginning of its use under this Agreement, ordinary wear and tear excepted.
 - k. Licensee shall be permitted to use the Terminal and shall leave same in a clean and sanitary manner on a daily basis.
 - l. Licensee acknowledges and agrees that neither the use of the Terminal nor the use of, the dockage space for winter storage constitutes either a landlord-tenant relationship or the bailment of any vessel or other property and as such the Licensor shall have no responsibility or liability to Licensee or any other person on such basis.
 - m. Licensee agrees that there shall be no refueling on site at Licensed Premises. All re-fueling and repair work must take place off site of the Licensed Premises;
 - n. Licensee acknowledges that the Licensor makes no representations regarding the adequacy of water/depth for ingress/egress. The Licensee agrees not to hold the Licensor responsible for any damage resulting from low water levels.
 - o. Licensee agrees there shall be no discharge of human (or other) waste, including the pumping of heads and holding tanks into the water at or near the Licensed Premises. Licensee agrees to obtain the services of a pumpout service at the dock or via the DEP pumpout boat.
 - p. Licensee agrees that due to environmental regulations, in-water bottom cleaning is not permitted at the dockage space or at the Terminal.
 - q. The Licensee shall be subject to all rules, regulations and ordinance of the City of Glen Cove which are in effect or may be promulgated hereafter;
8. Compliance with Legal Requirements. Licensee shall comply with all applicable federal, state and local laws, ordinances, rules and regulations applicable to the use of the Licensed Premises by Licensee during the Term, including but not limited to 33 CFR 105.205, subchapter H (Maritime Security), and the Licensee shall be responsible for preparing a "Facility Security Plan" and implementing said plan, shall be at its own expense.
9. Entire Agreement. This Agreement sets forth the entire understanding of the Parties and supersedes all prior and contemporaneous oral or written agreements and understandings with respect to the subject matter. This Agreement may not be amended or modified except by a writing signed by the Parties.
10. Notices. Except as otherwise expressly provided, all notices, demands, requests, submissions or other communications which are required to be served under this Agreement shall be in writing and shall be deemed to have been properly served

when mailed by first class mail, postage prepaid, facsimile, overnight hand delivery or other courier service addressed: (i) in the case of Licensee, to Licensee c/o _____ and (ii) in the case of Licensor, to City Hall, 9 Glen Street, City of Glen Cove, New York 11542, Attn: Charles McQuair, Esq., with a copy to Phillips Lytle LLP, 1205 Franklin Avenue, Garden City, New York 11530, Attn: Milan K. Tyler, Esq.

11. Headings. All headings and titles in this Agreement are for purposes of identification and convenience only and shall not affect any construction or interpretation of this Agreement.
12. Governing Law. This Agreement and any issues arising hereunder will be governed by the substantive laws of the State of New York, without regard to conflict of law principles.
13. Jurisdiction. For the purposes of any suit, action or proceeding involving this Agreement, the Parties hereto expressly submit to the jurisdiction of all state courts sitting in Nassau County, State of New York, and consent that any order, process, notice of motion or other application to or by any such court or a judge thereof may be served without such court's jurisdiction by registered mail or by personal service, provided that a reasonable time for appearance is allowed, and the Parties hereto agree that such courts shall have the exclusive jurisdiction over any such suit, action or proceeding commenced by any of the Parties. In furtherance of such agreement, each Party hereto agrees upon the request of any other party to discontinue (or agree to the discontinuance of) any such suit, action or proceeding brought in any other jurisdiction.
14. Venue. Each of the Parties irrevocably agrees that any suit, action or proceeding under this Agreement shall be brought in Nassau County Supreme Court, State of New York and waives any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement brought in any state court sitting in Nassau County, State of New York and hereby waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum .
15. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.
16. Early Termination Right for Licensee or Licensor. Licensee and Licensor shall each have the right upon not less than 60 days' prior written notice to the other Party to terminate this Agreement and the Term hereof effective on the date set forth in such notice. If Licensee elects to exercise such early termination right, it shall be entitled to receive an equitable refund on a prorated basis of any license fees paid hereunder for the period following such termination.
17. Access to and from the Licensed Premises. Notwithstanding anything to the contrary contained in this Agreement, the rights granted by Licensor to Licensee

hereunder shall include a license to use pathways, roadways, drive isles, driveways, walkways, sidewalks or other means of passing over, across and through the remaining portions of the Licensed Property to the extent reasonably necessary for purposes of ingress and egress to and from public streets to the Licensed Premises. Furthermore, Licensor shall retain the right of ingress, egress and access to the Licensed Property, provided same does not unreasonably interfere with Licensee's operations.

Agreed to:

"EASTERN STAR CRUISES, INC.":

Licensee

By: _____

Name:

Title:

Date: _____

"Licensor":

The City of Glen Cove

By: _____
Name:
Title:
Date: _____

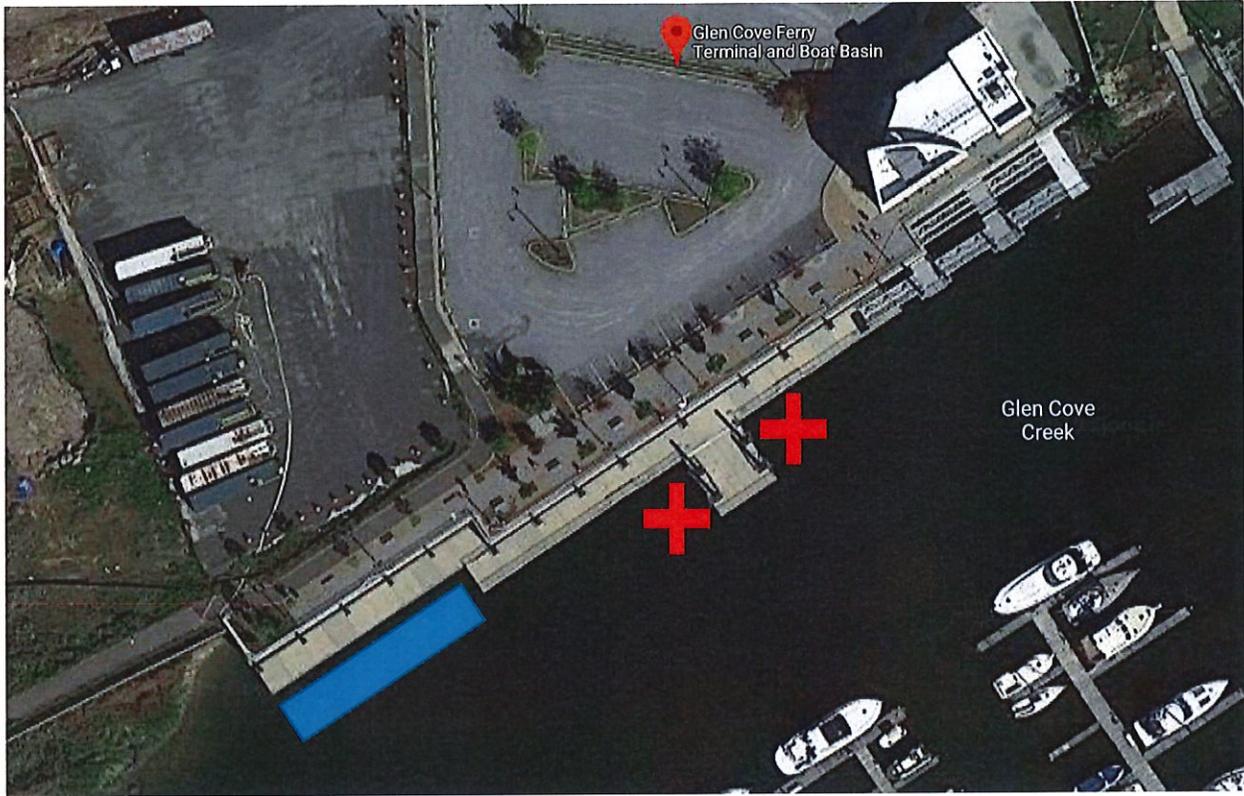
Glen Cove Industrial Development Agency

By: _____
Name:
Title:
Date: _____

EXHIBIT 1

SCHEDULE A

(Glen Cove Ferry Terminal with 100 Parking Spaces)



Eastern Star
Overnight berthing, Loading, Unloading



Restricted Access to remain clear
for commuter ferry operations