

## **PURCHASE AGREEMENT**

This Purchase Agreement (“Agreement”) is made and entered into as of \_\_\_\_\_ (“Effective Date”) by and between the City of North Las Vegas, a Nevada municipal corporation (“City”) and Honeywell Building Solutions SES Corporation, a Delaware corporation (“Provider”).

### **RECITALS**

WHEREAS, the City desires to upgrade the building automation system thermostat controller at the City’s Justice Building located at 2232 North Las Vegas Boulevard, North Las Vegas, NV 89030 (“Products”) by upgrading an existing Excel Plus controller with a Comfort Point Open controller (“Project”).

WHEREAS, the City desires to purchase from Provider the products necessary to complete the Project (“Products”), which are more particularly described in the Provider’s Quote dated November 20, 2019 (“Quote”), attached hereto as Exhibit A, and as outlined in this Agreement.

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

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

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

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

### **SECTION ONE RESPONSIBILITY OF PROVIDER**

1.1. The Provider shall perform all of its obligations in the manner set forth in this Agreement including, without limitation, selling the Products to the City at the prices and quantities set forth in the Provider’s quote dated November 20, 2019 (“Quote”) attached hereto as Exhibit A, and all related additional or incidental tasks necessary to effectuate the intent of this Agreement.

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

1.3. The Provider shall install the Products at the address specified in the Quote. Provider bears all risk of loss or damage to the Products until the installation of the Products at the address specified in the Quote. Title to the Products passes to the City only after installation is complete of the Products at the address specified in the Quote. Installation of the Products is not complete until such Products have physically been received, installed, and accepted by the City.

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

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

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

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

## **SECTION TWO PAYMENT AND TERM**

2.1. The term of this Agreement shall commence on the Effective Date and continue until the Project is complete as determined by the City in its sole and complete discretion, whichever is later ("Term"). Depending on the City's order quantities for the Project the City may pay the City may pay the Provider for the Products up to an amount not to exceed Four Hundred Seven Thousand, Four Hundred Dollars and 00/100 (\$407,400.00).

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

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

City of North Las Vegas Finance Department  
Attention: Accounts Payable  
2250 Las Vegas Blvd., North, Suite 700  
North Las Vegas, NV 89030

### **SECTION THREE REPRESENTATIONS AND WARRANTIES**

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

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

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

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

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

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

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

### **SECTION FOUR INSURANCE**

4.1. Provider shall procure and maintain, and shall cause each subcontractor, principal or agent to procure and maintain at all times the following insurance coverage for all work related to the performance of this Agreement:

4.1.1 Workers' Compensation Insurance as required by applicable law, covering all persons employed in connection with the matters contemplated hereunder and with respect to whom death or injury claims could be asserted against City, Provider or Provider's subcontractors, principals or agents.

4.1.2. Commercial General Liability (CGL) : Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$4,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 05 09 or 25 04 05 09) or the general aggregate limit shall be twice the required occurrence limit.

4.1.3. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Provider has no owned autos, covering hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000.00 per accident for bodily injury and property damage.

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

4.1.5. Professional liability (Errors and Omissions): Insurance appropriate to the Provider's profession, with limit no less than \$2,000,000.00 per occurrence or claim, \$2,000,000.00 aggregate.

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

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

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

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

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

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

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

4.2.6. Self-Insured Retentions: Self-insured retentions must be declared to and approved by the City. The City may require the Provider to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

4.2.7. Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

#### 4.3. Claims Made Policies

4.3.1. If any of the required policies provide claims-made coverage:

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

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

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

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

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

## **SECTION FIVE TERMINATION**

5.1. The City may terminate this Agreement at any time with or without cause upon notice to the Provider, and the City shall have no liability to the Provider for such termination except that the City shall pay the Provider for the reasonable value of the Products provided by the Provider to City up through and including the date of termination, provided that the Provider, within thirty (30) days following the date of the City's termination notice, submits an invoice for such Products in a form reasonably acceptable to the City and such invoice is supplemented by such underlying source documentation as is reasonably requested by the City.

5.2. The City may terminate this Agreement at any time with or without cause upon notice to the Provider, and the City shall have no liability to the Provider for such termination except that the City shall pay the Provider for the reasonable value of the Products provided by the Provider to City up through and including the date of termination, provided that the Provider, within thirty (30) days following the date of the City's termination notice, submits an invoice for such Products in a form reasonably acceptable to the City and such invoice is supplemented by such underlying source documentation as is reasonably requested by the City.

## **SECTION SIX INDEMNIFICATION**

Notwithstanding any of the insurance requirements or limits of liability set forth herein, the Provider shall defend, protect, indemnify and hold harmless the City, and its officers, agents and employees, from any liabilities, claims, damages, losses, expenses, proceedings, suits, actions, decrees, judgments, reasonable attorneys' fees, and court costs which the City suffers, and/or its officers, agents or employees suffer, as a result of, or arising out of, the negligent or intentional acts or omissions of the Provider, its agents, and employees, or anyone employed by any of them, in fulfillment or performance of the terms, conditions or covenants of this Agreement including, without limitation, compliance with the terms of Exhibit\_A. This Section Six shall survive the completion of the Project, if applicable, and the termination or expiration of this Agreement until such time as the applicable statutes of limitation expire.

## **SECTION SEVEN INDEPENDENT CONTRACTOR**

Provider, its employees, subcontractors, and agents are independent contractors and not employees of the City. No approval by City shall be construed as making the City responsible for the manner in which Provider performs the Services or for any negligence, errors, or omissions of Provider, its employees, subcontractors, or agents. All City approvals are intended only to provide the City the right to satisfy itself with the quality of the Services performed by Provider. The City

acknowledges and agrees that Provider retains the right to contract with other persons in the course and operation of Provider's business and this Agreement does not restrict Provider's ability to so contract.

## **SECTION EIGHT NOTICES**

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

To City: City of North Las Vegas  
Attention: Brittany Contardi  
2250 Las Vegas Blvd., North, Suite 710  
North Las Vegas, NV 89030  
Phone: 702-633-1463

To Provider: Honeywell Building Solutions SES Corporation  
Attention: David Sharp  
2925 East Patrick Lane, Suite E & F  
Las Vegas, NV 89120  
Phone: 702-350-0459

8.2. The address to which any notice, demand or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

## **SECTION NINE SAFETY**

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

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

## **SECTION TEN MISCELLANEOUS**

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

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

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

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

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

10.6. Attorneys' Fees. In the event any action is commenced by either party against the other in connection with this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, as determined by the court, including without limitation, fees for the services of the City Attorney's Office. This Section 10.6 shall survive the completion of this Agreement until the applicable statutes of limitation expire.

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

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

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



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

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

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

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

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

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

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

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

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

City of North Las Vegas,  
a Nevada municipal corporation

Honeywell Building Solutions SES Corporation,  
a Delaware corporation

By: \_\_\_\_\_  
John J. Lee, Mayor

By: Richard D. McIntyre Jr  
Title: PROJECT MANAGEMENT LEADER  
Name: RICHARD D MCINTYRE JR  
11/27/2021

Attest:

By: \_\_\_\_\_  
Catherine A. Raynor, City Clerk

Approved as to Form:

By: \_\_\_\_\_  
Micaela Rustia Moore, City Attorney

Exhibit A

Quote

Please see attached page(s).



**Proposal for:**

**City Of North Las Vegas, NV  
LV-E CNLV Justice Bldg - CPO Upgrade**

**Presented by:**

**David Sharp**  
**Honeywell Building Solutions**

## CNLV Justice Bldg - CPO Upgrade



Honeywell International  
2925 E Patrick Ln  
Suite E and F  
Las Vegas, NV 89120

**Quote Date:** 20-Nov-2019  
**Quote Number:** Opp-1980572-98428  
**Honeywell Professional:** David Sharp

**Site:** CNLV Justice Building  
2232 N Las Vegas Blvd.  
North Las Vegas, Nevada 89030

**Customer:** City of North Las Vegas  
2250 N Las Vegas Blvd.  
North Las Vegas, Nevada 89030

**Contact:** Ed Pinkerman  
**Phone:** 1-702-633-1249

### OVERVIEW OF SCOPE

The CNLV of North Las Vegas (CNLV) utilizes Honeywell Building Automation Systems (BAS) at more than twenty of its facilities. Many of the buildings were constructed decades ago, so the infrastructures have become outdated. To maintain serviceability, CNLV has begun updating these BAS systems to current technology. Most recently, the Alexander Library underwent such an upgrade, which Honeywell was proud to complete. CNLV is now considering a similar upgrade to the Justice Facility.

The Justice Building BAS was designed and deployed by Honeywell in 2004. This existing system is controlled locally by a single Honeywell Excel Plus R7044 panel, which directly services the chillers, one boiler, one hot water pump, and one rooftop AC unit. The R7044 also monitors the following field control devices:

- 8 - MacroCel controllers - serving AHUs, cooling towers, and load pumps
- 1 - MicroCel controller - serving an AC Unit
- 143 - MicroCel VAV controllers

CNLV technicians use Honeywell's EBI software to manage their sites, including the Justice Building. The EBI software was just recently upgraded to Version 500, and the connection to the Justice Building is functional, using a C-NAP network interface board and TMA modem. Exhibit A lists the points currently connected to the R7044.

As mentioned, the Honeywell Excel Plus R7044 panel has reached obsolescence, so CNLV requested this quote from Honeywell to upgrade the system. A site walk was completed, and the original drawing Set 550-23226 reviewed. Based on the site walk, drawings, and feedback from CNLV, Honeywell developed this proposal for consideration.

### PROJECT DESCRIPTION:

Honeywell will replace the Excel Plus R7044 panel with ComfortPoint Open (CPO). A new power supply will be installed adjacent to the control enclosure. Existing 120V power will be connected. All other existing wiring and devices will be re-connected.

From the LAN rack, new CAT6 cables will be ran to the existing control enclosures serving the chillers and boilers, cooling towers, and load pumps. A new LAN jack will be installed adjacent to each control enclosure and terminated at both ends. The LAN ports at the IT rack will be made available by CNLV.

For each existing MacroCel controller, all wiring will be tagged and disconnected, and a new Honeywell controller and power supply will be installed. AHU-1 through AHU-4 will require two controllers each. For the cooling tower and load pump controllers, one new network controller and power supply with enclosure will be installed. New Input-Output boards will be installed within each enclosure. The existing 24V AC power and associated transformers will be re-used. All other existing wiring and devices will be re-connected.

For each existing MicroCel-Controlled VAV, all wiring will be tagged and disconnected. The existing controller will be replaced with a new unitary BACnet controller. For new controllers located in an exposed area, a suitably sized and rated electrical enclosure will be provided. The existing space and discharge air temperature sensors will be replaced with new, and reconnected to the VAV controller. The existing 24VAC power and associated transformers will be re-used. All other existing wiring and devices will be re-connected.

New twisted-pair BACnet communications buses will be installed from the control enclosures to the new VAV and AHU controllers in a daisy-chain fashion, with no more than twenty-eight devices per bus. These buses will be installed as follows:

- Bus 1 - Serves the AHU-1 controller, the AC-1 controller, and approximately half of the VAV controllers prefixed with V1
- Bus 2 - Serves the balance of the VAV controllers prefixed with V1
- Bus 3 - Serves the AHU-2 controller, the AHU-7 controller, and approximately half of the VAV controllers prefixed with V2
- Bus 4 - Serves the balance of the VAV controllers prefixed with V2
- Bus 5 - Serves the AHU-3 controller, and all of the VAV controllers prefixed with V3
- Bus 6 - Serves the AHU-4 controller, and all of the VAV controllers prefixed with V4

#### **INCLUDED WORK:**

- Mounting of panel equipment and field devices
- Termination of panel equipment and field devices
- Installation of conduit, boxes and fittings
- Installation of wire and cable
- Provision of 120 VAC power to control panels and devices
- Point-to-point checkout through EBI.

#### **PROJECT SCHEDULE:**

From the date Honeywell receives the Signed Proposal and Purchase Order from CNLV, this project is expected to take 150-180 days to complete. During the first six weeks, Honeywell will prepare the drawings and assemble the necessary equipment.

#### **EXHIBIT A - POINTS AND POINTS LIST:**

The scope of work includes replacement of the controllers and the space and discharge air temperature sensors on a "like for like" basis. No additional sensors or points will be added. Point descriptions will be programmed into the new controllers and displayed using the existing EBI graphics.

##### **VAV Point list - Typical of 142**

- Justice, V1-01, Space Temperature (AI)
- Justice, V1-01, Space Temp Setpoint (AO)
- Justice, V1-01, Supply Air Flow (AI)
- Justice, V1-01, Flow Control Setpoint (AI)
- Justice, V1-01, Damper Position (AI)
- Justice, V1-01, Microcel 51 Diagnostic Alarm (AI)
- Justice, V1-01, VAV Box Load, 100=Full Clg, -100=Full Htg (AI)
- Justice, V1-01, Reheat Valve Position (AI)

##### **AHU Point list - Typical of 4, AHU-1, 2, 3, 4**

- Justice - AHU-1 Supply Fan Start/Stop (DO)
- Justice - AHU-1 Return Fan Start/Stop (DO)
- Justice - AHU-1 Filter Pressure (AI)
- Justice - AHU-1 Supply Fan Status (DI)
- Justice - AHU-1 Duct Static Pressure (AI)
- Justice - AHU-1 Return Fan Status (DI)
- Justice - AHU-1 Heating Valve (AO)
- Justice - AHU-1 Supply Fan Speed (AO)
- Justice - AHU-1 Return Fan Speed (AO)
- Justice - AHU-1 Mixed Air Damper (AO)
- Justice - AHU-1 Cooling Valve (AO)
- Justice - AHU-1 Sec CHW Differential Pressure (AI)
- Justice - AHU-1 Discharge Air Smoke Detector (DI)
- Justice - AHU-1 Sec HW Differential Pressure (AI)
- Justice - AHU-1 Return Air Smoke Detector (DI)
- Justice - AHU-1 Discharge Air High Static Alarm (DI)
- Justice - AHU-1 Discharge Air Temperature (AI)
- Justice - AHU-1 Mixed Air Temperature (AI)
- Justice - AHU-1 Return Air Temperature (AI)
- Justice - AHU-1 Mix Air Low Temp Alarm (DI)

##### **Other Points**

- Justice - AHU-7 Supply Fan Start/Stop (DO)
- Justice - AHU-7 Filter Pressure #1 (AI)
- Justice - AHU-7 Supply Fan Status (DI)
- Justice - AHU-7 Filter Pressure #2 (AI)

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LV-E CNLV Justice Bldg - CPO Upgrade

Honeywell

Justice - AHU-7 Isolation Damper Open/Closed (DO)  
 Justice - AHU-7 Supply Fan Speed (AO)  
 Justice - AHU-7 Supply Fan Speed Feedback (AI)  
 Justice - AHU-7 TB Room Differential Pressure (AI)  
 Justice - AHU-7 Supply Fan VFD Failure (DI)  
 Justice - Chiller 1 Start/Stop (DO)  
 Justice - Chiller 2 Start/Stop (DO)  
 Justice - Chiller 1 Chilled Water Isolation Valves (DO)  
 Justice - Chiller 2 Chilled Water Isolation Valves (DO)  
 Justice - Heat Exchange Isolation Valves (DO)  
 Justice - Condenser Water Pump 7 Start/Stop (DO)  
 Justice - Condenser Water Pump 8 Start/Stop (DO)  
 Justice - Condenser Water Pump 9 Start/Stop (DO)  
 Justice - Chilled Water Source Pump 10 Start/Stop (DO)  
 Justice - Chilled Water Source Pump 11 Start/Stop (DO)  
 Justice - Chilled Water Source Pump 12 Start/Stop (DO)  
 Justice - Boiler 1 Enable/Disable (DO)  
 Justice - Boiler 2 Enable/Disable (DO)  
 Justice - Boiler 3 Enable/Disable (DO)  
 Justice - Boiler 1 Source Pump Start/Stop (DO)  
 Justice - Boiler 2 Source Pump Start/Stop (DO)  
 Justice - Boiler 3 Source Pump Start/Stop (DO)  
 Justice - Chiller 1 Setpoint Output (AO)  
 Justice - Chiller 2 Setpoint Output (AO)  
 Justice - Chiller 1 Condenser Water Isolation Valve (AO)  
 Justice - Chiller 2 Condenser Water Isolation Valve (AO)  
 Justice - Boiler 1 Setpoint Adjustment (AO)  
 Justice - Boiler 2 Setpoint Adjustment (AO)  
 Justice - Boiler 3 Setpoint Adjustment (AO)  
 Justice - Chiller 1 Status (DI)  
 Justice - Chiller 2 Status (DI)  
 Justice - Chiller 1 Alarm (DI)  
 Justice - Chiller 2 Alarm (DI)  
 Justice - Chiller 1 Amps (AI)  
 Justice - Chiller 2 Amps (AI)  
 Justice - Primary Chilled Water Supply Temp (AI)  
 Justice - Secondary Chilled Water Supply Temp (AI)  
 Justice - Secondary Chilled Water Return Temp (AI)  
 Justice - Outside Air Temperature (AI)  
 Justice - Condenser Water Pump 7 Amps (AI)  
 Justice - Condenser Water Pump 8 Amps (AI)  
 Justice - Condenser Water Pump 9 Amps (AI)  
 Justice - Chilled Water Pump 10 Amps (AI)  
 Justice - Chilled Water Pump 11 Amps (AI)  
 Justice - Chilled Water Pump 12 Amps (AI)  
 Justice - Primary Hot Water Supply Temp (AI)  
 Justice - Secondary Hot Water Supply Temp (AI)  
 Justice - Secondary Hot Water Return Temp (AI)  
 Justice - Outside Air Humidity (AI)  
 Justice - Boiler 1 Status (DI)  
 Justice - Boiler 2 Status (DI)  
 Justice - Boiler 3 Status (DI)  
 Justice - Boiler 1 Alarm (DI)  
 Justice - Boiler 2 Alarm (DI)  
 Justice - Boiler 3 Alarm (DI)  
 Justice - Boiler 1 Source Pump Status (DI)  
 Justice - Boiler 2 Source Pump Status (DI)  
 Justice - Boiler 3 Source Pump Status (DI)  
 Justice - CLP-13 Start/Stop DO  
 Justice - CLP-14 Start/Stop DO

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Honeywell

Justice - CLP-15 Start/Stop  
 Justice - CLP-13 Amps (AI)  
 Justice - CLP-14 Amps (AI)  
 Justice - CLP-15 Amps (AI)  
 Justice - CLP-13 Pump Speed (AO)  
 Justice - CLP-14 Pump Speed (AO)  
 Justice - CLP-15 Pump Speed (AO)  
 Justice - CLP-13 Status (DI)  
 Justice - CLP-14 Status (DI)  
 Justice - CLP-15 Status (DI)  
 Justice - Chilled Water Differential Pressure At Pumps (AI)  
 Justice - BLP-4 Start/Stop (DO)  
 Justice - BLP-5 Start/Stop (DO)  
 Justice - BLP-6 Start/Stop (DO)  
 Justice - BLP-4 Status (DI)  
 Justice - BLP-5 Status (DI)  
 Justice - BLP-6 Status (DI)  
 Justice - BLP-5 Pump Speed (AO)  
 Justice - BLP-6 Pump Speed (AO)  
 Justice - BLP-4 Pump Speed (AO)  
 Justice - Hot Water Differential Pressure At Pumps (AI)  
 Justice - Cooling Tower 1 Fan Start/Stop (DO)  
 Justice - Cooling Tower 2 Fan Start/Stop (DO)  
 Justice - Cooling Tower 1 Sump Heater Start/Stop (DO)  
 Justice - Cooling Tower 2 Sump Heater Start/Stop (DO)  
 Justice - Cooling Tower 1 Fan Status (DI)  
 Justice - Cooling Tower 2 Fan Status (DI)  
 Justice - Cooling Tower 1 Isolation Valves (DO)  
 Justice - Cooling Tower 2 Isolation Valves (DO)  
 Justice - Cooling Tower 1 Fan Speed (AO)  
 Justice - Cooling Tower 2 Fan Speed (AO)  
 Justice - Cooling Tower 1 Sump Low Level (DI) Justice -  
 Cooling Tower 2 Sump Low Level (DI) Justice - Cooling  
 Tower 1 Enable (DO)  
 Justice - Cooling Tower 2 Enable (DO)  
 Justice - Condenser Water Supply Temperature (AI)  
 Justice - Condenser Water Return Temperature (AI)  
 Justice - Cooling Tower 1 Sump Temperature (AI)  
 Justice - Cooling Tower 2 Sump Temperature (AI)  
 Justice - EF-13 Fan Status (DI)  
 Justice - EF-13 Oa Damper (AO)  
 Justice - EF-13 Chiller Room Space Static Pressure (AI)  
 Justice - EF-12 Fan Status (DI)  
 Justice - AC-1 Fan Start/Stop (DO)  
 Justice - AC-1 Fan Status (DI)  
 Justice - AC-1 Space Temperature (AI)  
 Justice - AC-1 Cooling Valve Position (AO)  
 Justice - AC-1 Heating Valve Position (AO)

#### CLARIFICATIONS / EXCLUSIONS

Clarification: Additional parts and labor chargeable.

Clarification: All work is based on using ladders.

Clarification: During the upgrade, portions of the building automation system will be off-line for extended periods of time.

Clarification: Quotation assumes customer provides full access to all areas required to complete work.

Clarification: Replaced equipment to be removed from the site by Honeywell.

Clarification: This quote is subject to Honeywell's standard terms and conditions.

Clarification: Work schedule and costing are based on an uninterrupted work period. As such, any outside delays may result in additional costs being levied.

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LV-E CNLV Justice Bldg - CPO Upgrade

Honeywell



Clarification: Work to be carried out during normal working hours.

Exclusion: Others to provide all penetration required for cabling.

Exclusion: Quotation assumes fault-free system at commencement of work - fault rectification NOT included in this.

Exclusion: Touch-up painting and drywall repair are excluded.

Price

**QUOTATION TOTAL: \$407,400.00**

THIS QUOTATION is valid for 30 days.

Sales tax, if applicable, will be invoiced separately.

Use tax, if applicable, is included in the price.

Currency: USD

#### Terms and Conditions

This offer is subject to Honeywell Terms & Conditions, copy available upon request. This quotation is valid for a period of 30 days from the date of issue. We reserve the right to apply for partial payment at any time during contract performance.

Payment: Upon Customer acceptance of this proposal or contract execution, whichever occurs first, the Customer shall pay Honeywell \$101,850.00 (25 percent of the price). Such payment shall be used for engineering, drafting, and other mobilization costs reasonably incurred prior to on-site installation.

To accept this proposal, simply sign the document and return together with an official purchase order to either the issuing engineer or via post/fax to the address listed above. By accepting this quotation, the Customer Responsible Person is aware of and agrees with the proposed system modification(s).

Honeywell reserves the right, in its discretion, to increase the price(s) set forth in this Proposal in the event that tariffs (or similar governmental charges) imposed by the United States or other countries result in any increase in the costs that Honeywell used to determine such price(s).

I confirm acceptance of this quotation in accordance with the aforementioned Terms & Conditions. I agree that any terms and conditions referenced in the official purchase order shall be considered null and void.

*David Sharp*

Honeywell Professional

#### Customer Acceptance

Name: John J. Lee

Title: Mayor

Date:

Signature:

Purchase Order #:

Attest:

Approved as to Form:

Quote Number: Opp-1980572-98428

LV-E CNLV Justice Bldg - CPO Upgrade

By:

Catherine A. Raynor, City Clerk

By:

Micaela Rustia Moore, City Attorney

Honeywell

# **General Terms and Conditions**

## **1. WORKING HOURS**

Unless otherwise stated, all labor and services under this Agreement will be performed during the hours of 8:00 a.m. - 4:30 p.m. local time Monday through Friday, excluding federal holidays. If for any reason Customer requests Honeywell to furnish any such labor or services outside of the hours of 8:00 a.m. - 4:30 p.m. local time Monday through Friday (or on federal holidays), any overtime or other additional expense occasioned thereby, such as repairs or material costs not included in this Agreement, shall be billed to and paid by Customer.

## **2. TAXES**

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

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

## **3. PROPRIETARY INFORMATION**

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

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

## **4. INSURANCE OBLIGATIONS**

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

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

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

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

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

Honeywell will not issue coverage on a per project basis.

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

## **5. HAZARDOUS SUBSTANCES, MOLD AND UNSAFE WORKING CONDITIONS**

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

**5.2** Honeywell is not responsible for determining whether any equipment or the temperature, humidity and ventilation settings used by Customer, are appropriate for Customer and the Site except as specifically provided in an attached Work Scope Document.

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

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

## **6. WARRANTY**

**6.1** Honeywell will replace or repair any product Honeywell provides under this Agreement that fails within the warranty period of one (1) year because of defective workmanship or materials, except to the extent the failure results from Customer negligence, fire, lightning, water damage, or any other cause beyond the control of Honeywell. This warranty is effective as of the date of Customer acceptance of the product or the date Customer begins beneficial use of the product, whichever occurs first, and shall terminate and expire one (1) year after such effective date. Honeywell's sole obligation, and Customer's sole remedy, under this warranty is repair or replacement, at Honeywell's election, of the applicable defective products within the one (1) year warranty period. All products repaired or replaced, if any, are warranted only for the remaining and unexpired portion of the original one (1) year warranty period.

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

## **7. INDEMNITY**

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

## **8. LIMITATION OF LIABILITY**

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

## **9. EXCUSABLE DELAYS**

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

## **10. PATENT INDEMNITY**

10.1 Honeywell shall, at its expense, defend or, at its option, settle any suit that may be instituted against Customer for alleged infringement of any United States patents related to the hardware or software manufactured and provided by Honeywell under this Agreement ("the equipment"), provided that a) such alleged infringement consists only in the use of such equipment by itself and not as part of, or in combination with, any other devices, parts or software not provided by Honeywell hereunder, b) Customer gives Honeywell immediate notice in writing of any such suit and permits Honeywell, through counsel of its choice, to answer the charge of infringement and defend such suit, and c) Customer gives Honeywell all needed information, assistance and authority, at Honeywell's expense, to enable Honeywell to defend such suit.

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

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

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

## **11. SOFTWARE LICENSE**

All software provided in connection with this Agreement shall be licensed and not sold. The end user of the software will be required to sign a license agreement with provisions limiting use of the software to the equipment provided under these specifications, limiting copying, preserving confidentiality, and prohibiting transfer to a third party. Licenses of this type are standard for computer-based equipment of the type covered by this Agreement. Customer shall be expected to grant Honeywell access to the end user for purposes of obtaining the necessary software license.

## **12. DISPUTE RESOLUTION**

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

## **13. ACCEPTANCE OF THE CONTRACT**

This proposal and the pages attached shall become an Agreement upon signature above by Honeywell and Customer. The terms and conditions are expressly limited to the provisions hereof, including Honeywell's General Terms and Conditions attached hereto, notwithstanding receipt of, or acknowledgment by, Honeywell of any purchase order, specification, or other document issued by Customer. Any additional or different terms set forth or referenced in Customer's purchase order are hereby objected to by Honeywell and shall be deemed a material alteration of these terms and shall not be a part of any resulting order.

## **14. MISCELLANEOUS**

14.1 This Agreement represents the entire Agreement between Customer and Honeywell for the Work described herein and supersedes all prior negotiations, representations or Agreements between the Parties related to the work described herein.

14.2 None of the provisions of this Agreement shall be modified, altered, changed or voided by any subsequent Purchase Order or other document unilaterally issued by Customer that relates to the subject matter of this Agreement. This Agreement may be amended only by written instrument signed by both Parties.

14.3 This Agreement shall be governed by the law of the State where the work is to be performed.

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

14.5 Customer may not assign its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of Honeywell. Honeywell may assign its right to receive payment to a third party.

## **15. TERMS OF PAYMENT**

Subject to Honeywell's approval of Customer's credit, payment terms are as follows:

**Progress Payments** - Honeywell will invoice at least monthly for all materials delivered to the job site or to an off-site storage facility and for all installation, labor, and services performed, both on and off the job site. Customer agrees to pay the full amounts invoiced, less retainage, upon receipt of the invoice at the address specified by the Customer. Invoices not paid within thirty (30) days of the invoice date are past due and accrue interest from the invoice date to the date of payment at the rate of one percent (1%) per month, compounded monthly, or the highest legal rate then allowed.

**Retainage** - Customer shall not withhold, as retainage, a greater percentage than is withheld from Customer under a prime contract, if applicable. Customer shall pay all retainage to Honeywell within 30 days after Honeywell's work is substantially complete.

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

## **16. WORK BY OTHERS**

16.1 Unless otherwise indicated, the following items are to be furnished and installed by others: electric wiring and accessories, all in-line devices (including but not limited to flow tubes, hand valves, orifice plates, orifice flanges, etc.), pipe and pipe penetrations including flanges for mounting pressure and level transmitters, temperature sensors, vacuum breakers, gauge glasses, water columns, equipment foundations, riggings, steam tracings, and all other items and work of like nature. Automatic valve bodies and dampers furnished by Honeywell are to be installed by others.

16.2 Services Honeywell will provide under this Agreement specifically exclude professional services which constitute the practice of architecture or engineering unless specifically set forth in the Scope of Work. Customer or Owner will specify all performance and design criteria that Honeywell will follow in performing Work under this Agreement. If professional design services or certifications by a design professional related to systems, materials, or equipment are required, such services and certifications are the responsibility of others. To the fullest extent permitted by law, Customer shall indemnify and hold harmless Honeywell and its agents and employees from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, that in any way result from or arise under breach of the representations in this Section 16. This indemnification shall survive termination of this Agreement for whatever reason. Nothing in this Section 16 shall be construed to require that Customer indemnify and hold harmless Honeywell from claims and costs resulting from Honeywell's negligent actions or willful misconduct.

## **17. DELIVERY**

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

## **18. DAMAGE OR LOSS**

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

## **19. TERMINATION**

19.1 By Customer. Customer may terminate this Agreement for cause if Honeywell defaults in the performance of any material term of this Agreement, or fails or neglects to carry forward the Work in accordance with this Agreement, after giving Honeywell written notice of its intent to terminate. If Honeywell has not, within seven (7) business days after receipt of such notice, acted to remedy and make good such deficiencies, Customer may terminate this Agreement and take possession of the site together with all materials thereon, and move to complete the Work itself expeditiously. Upon request of Honeywell, Customer will furnish to Honeywell a detailed accounting of the costs incurred by Customer in finishing the Work. If the unpaid balance of the contract price exceeds the expense of finishing the Work, the excess shall be paid to Honeywell, but if the expense exceeds the unpaid balance, Honeywell shall pay the difference to Customer.

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

## **20. CHANGES IN THE WORK**

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

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

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

## **21. ACCEPTANCE OF THE WORK**

Upon receipt of notice by Honeywell that the Work is ready for final inspection and acceptance, Customer will make such final inspection and issue acceptance within three (3) business days. Acceptance will be in a form provided by Honeywell, stating that to the best of Customer's knowledge, information and belief, and on the basis of Customer's on-site visits and inspections, the Work has been fully completed in accordance with the terms and conditions of this Agreement. If Customer finds the Work unacceptable due to non-compliance with a material element of this Agreement, which non-compliance is due solely to the fault of Honeywell, Customer will notify Honeywell in writing within the three (3) business days setting forth the specific reasons for non-acceptance. Customer agrees that failure to inspect and/or failure to issue proper notice of non-acceptance within three (3) business days shall constitute final acceptance of the Work under this Agreement. Customer further agrees that partial or beneficial use of the Work by Customer or Owner prior to final inspection and acceptance will constitute acceptance of the Work under this Agreement. To the fullest extent permitted by law, Customer shall indemnify and hold harmless Honeywell and its agents and employees from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, that in any way result from or arise under breach of the representations in this Section 21. This indemnification shall survive termination of this Agreement for whatever reason. Nothing in this Section 21 shall be construed to require that Customer indemnify and hold harmless Honeywell from claims and costs resulting from Honeywell's negligent actions or willful misconduct.

## **22. DEFINITIONS**

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

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

22.3 "Covered Equipment" means the equipment covered by the Services to be performed by Honeywell under this Agreement, and is limited to the equipment included in the respective work scope attachments.