

PARTICIPATING ADDENDUM



**SECURITY & FIRE PROTECTION
SERVICES**

Led by the State of Nevada

Master Agreement #: **99SWC-NV23-16270**

Contractor: **Johnson Controls Fire Protection, LP**

Resellers: **Johnson Controls, Inc. & Johnson Controls Security Solutions**

Participating Entity: **STATE OF NORTH DAKOTA**

The following products or services are included in this contract portfolio:

- All products and accessories listed on the Contractor page of the NASPO ValuePoint website.

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the ***Security and Fire Protection Services (2023-2028)*** led by the State of Nevada for use by state agencies and other entities located in the Participating State of North Dakota authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of North Dakota. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Tom Staves
Address:	5757 N Green Bay Ave, Milwaukee, WI 53209
Telephone:	443.676.8813
Email:	thomas.staves@jci.com

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Participating Entity

Name:	Gabriel Hoggarth "State of North Dakota"
Address:	4 th Floor Capitol Tower, 600 E Blvd Ave, Dept 012 Bismarck, ND 58505-0310
Telephone:	701-328-2740
Email:	gjhoggarth@nd.gov

**4. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER
AGREEMENT**

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

☐ No changes to the terms and conditions of the Master Agreement are required.

☒ The following changes are modifying or supplementing the Master Agreement terms and conditions.

5. Coterminous: The term of this Participating Addendum shall be coterminous with the State of Nevada Master Agreement Number 99SWC-NV23-16270 ("Contract").
6. Confidentiality: CONTRACTOR shall not use or disclose any information it receives from STATE under this Contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by STATE. STATE shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. ch. 44-04. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Contract.
7. Compliance with Public Records Laws: CONTRACTOR understands that, except for disclosures prohibited in this Contract, STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records obtained or generated by CONTRACTOR under this Contract, except for records that are confidential under this Contract, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. CONTRACTOR agrees to contact STATE as soon as reasonably possible upon receiving a request for information

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under the public records law and to comply with STATE's instructions on how to respond to the request.

8. Spoliation: CONTRACTOR shall notify State of all potential claims that CONTRACTOR is aware of that arise as a result of CONTRACTOR'S performance under this Contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to State the opportunity to review and inspect the evidence, including the scene of an accident.
9. Cooperative Purchasing Contract: This Contract is a cooperative purchasing contract established pursuant to North Dakota Century Code (N.D.C.C.) § [54-44.4-13](#). This Contract is made available to state entities, institutions under the jurisdiction of the State Board of Higher Education, other government entities (including counties, cities, townships, public primary and secondary educational entities, governmental boards and commissions), nonprofit entities established on behalf of public entities, tribal agencies, transportation providers under N.D.C.C. [ch. 39-04.2](#), and the International Peace Garden. Participation in this open-ended Contract is not mandated; therefore, the estimated volume of this Contract is not known.
10. Governing Law and Venue: This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.
11. Insurance: Contractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:
 - a) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with liability limits of \$2,000,000 per occurrence.
 - b) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with liability limits of \$500,000 per person and \$2,000,000 per occurrence.
 - c) Workers compensation coverage meeting all statutory requirements.
 - d) Employer's liability or "stop gap" insurance of \$2,000,000 as an endorsement on the workers compensation or commercial general liability insurance.

The insurance coverages listed above must meet the following additional requirements:

- a. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor or Authorized Dealer.
- b. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with

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- insurers rated “A-” or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an “A-” rating must be approved by the State.
- c. The State of North Dakota and its agencies, officers, and employees shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured, which shall be achieved through use of a blanket endorsement. The State shall have all the benefits, rights and coverages of an additional insured under these policies.
 - d. The insurance required in this agreement, excluding Workers’ Compensation, through a policy or endorsement, shall include:
 - i. A provision that Contractor’s insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the State and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of Contractor’s insurance and shall not contribute with it.
 - ii. Cross liability/severability of interest for all policies and endorsements. The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
 - iii. The insolvency or bankruptcy of the insured Contractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Contractor from meeting the retention limit under the policy.
 - iv. Contractor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
 - e. Failure to provide insurance as required in this agreement is a material breach of contract entitling STATE to terminate this agreement immediately.
 - f. Contractor shall endeavor to provide at least 30 day notice of any cancellation or material change to the policies or endorsements.
12. Indemnification: In addition to any indemnity obligations found within the Master Agreement, Contractor agrees that any attorney appointed to represent the STATE must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08.
13. Alternative Dispute Resolution – Jury Trial: STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.
14. Attorney Fees: In the event a lawsuit is instituted by STATE to obtain performance due under this Contract, and STATE is the prevailing party, Contractor shall, except when

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prohibited by N.D.C.C. § 28-26-04, pay STATE'S reasonable attorney fees and costs in connection with the lawsuit.

15. Lease Agreements: Any State agencies, institutions and other eligible participating entities of the Participating Entity may finance their purchase subject to the terms and conditions contained in the Master Price Agreement (including terms and conditions in the incorporated Request for Proposal) or, at the Participating Entity's option, a third party leasing company not associated with Contractor. If a third party lease or financing agreement is entered into, that agreement is separate from this Participating Addendum between Contractor and Participating Entity. Eligible participating entities of the Participating Entity that are subject to N.D.C.C. § 54.44.4 and N.D.A.C. § 4-12-01 require a lease vs. purchase analysis to be completed in accordance with North Dakota Office of Management and Budget (OMB) Fiscal and Administrative Policy 312 – Leases and Lease-Purchase Agreements.
16. Subcontractors: All contactors, dealers, and resellers authorized in the State of North Dakota, shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
17. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.
18. Limitation of Liability: In no event shall Contractor and its affiliates and their respective personnel, suppliers and vendors be liable for any damages, claims, demands, suits, costs, or loss relating to this Agreement or the services contemplated thereby in any amount exceeding the total amount paid to Contractor under the Agreement, regardless of the cause or fault and whether arising in contract, tort (including negligence) or otherwise.
19. Any offshoring prohibition under the Master Agreement or its attachments is hereby deleted.
20. Category 16: Inspections & Monitoring of the Master Agreement: The following mutually agreed upon documents are hereby incorporated into the Participating Addendum and Master Agreement as applicable to Category 16 of the Master Agreement.
 - Monitoring Long Form dated October 4, 2022 (attached to this Participating Addendum as its Exhibit A; and
 - Monitoring Addendum dated October 4, 2022 (attached to this Participating Addendum as its Exhibit B)

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In the event of a conflict in documents related to Category 16 of the Master Agreement, the terms and conditions of Exhibits A and B shall control as to the liability of the parties.

IN WITNESS, WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: State of North Dakota	Contractor: Johnson Controls Fire Protection LP
Signature: 	Signature: 
Name: Gabriel Hoggarth	Name: James Haag
Title: State Procurement Officer	Title: Market General Manager
Date: 9/19/2023	Date: 10/05/2023

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Portfolio Manager:	Joel E. Atkinson
Telephone:	850-848-1250
Email:	jatkinson@naspo.org

***[Please email fully executed PDF copy of this
document to***

PA@naspovaluepoint.org

***to support documentation of participation and posting
in appropriate data bases.]***

Johnson Controls Fire Protection LP

Westminster, MA 01441 U.S.A.

SUBSCRIBER’S NAME:

The *Subscriber’s legal* name. If a business, this would be the name as indicated on the business license. Also include name of the building or premise if the Subscriber is a commercial property manager.

MONITORING ACCOUNT #

The account number (location address code) given to you by the Monitoring Center.

UL ACCOUNT:

Is the fire or burglar alarm listed with Underwriters Laboratories?

ADDRESS:

This must be the street address of the monitored premises, along with any additional address information such as Suite or Building #. Post office boxes cannot be allowed for obvious reasons. If a separate address or P.O. Box is used for billing purposes, please provide where indicated.

CITY:

City, Township, etc. where the Subscriber is located.

STATE:

State in which Subscriber is located.

ZIP:

Zip code in which Subscriber is located.

CUSTOMER NUMBER/SEQUENCE:

The eight digit number assigned to this customer in the Johnson Controls billing system, along with the four digit Sequence Number which identifies the monitoring unit created for this account.

PREMISE TELEPHONE #

Subscriber’s phone number. Used to verify alarm signals and to contact subscribers in the event of alarm malfunction.

PREMISE FAX #

Subscriber’s fax number, if appropriate.

CROSS STREET:

Authority having jurisdiction often asks for the nearest cross street in order to expedite dispatching of emergency response personnel.

TOWNSHIP:

Many jurisdictions require the township as well as the city name prior to dispatching the authorities.

MAILING ADDRESS:

Subscriber’s mailing address if it is different from the premise address.

ACCOUNT TYPE:

┆ Fire ┆ Burglary ┆ Medical ┆ Elevator ┆ National Account ┆ Critical Condition

CONTACT / CALL LIST (RESPONSIBLE PARTIES):

Premises # will be called prior to contact list.

NAME:

Responsible parties’ names in the order in which they are to be called. Names listed should be persons who can shut off the alarm system and if necessary respond to the premises when notified of an alarm activation by the Monitoring Center.

PHONE #

Phone number at which the responsible party can be contacted by the Monitoring Center.This is presumed to be a residence phone number unless otherwise noted.

PASS CODE / ABORT CODE (10 CHARACTER LIMIT):

This can be a number, word, or combination of letters and numbers. It is a secret code selected by the Subscriber to confirm that the user is authorized to access account information, place the system on test and verify false alarms. All security alarm monitoring accounts must have a Pass Code; Pass Codes on fire alarm monitoring accounts are recommended but not required. On fire alarm accounts, the monitoring account number will function as the Pass Code if one is not selected by the Subscriber.

LOCAL EMERGENCY DISPATCH NUMBERS:

List telephone number, including area code, of correct local emergency dispatch authority/agency (Police, Fire Department, 911, etc.) Be sure to verify that the Subscriber is located within the jurisdiction of the agency given. The number should be the 24-hour emergency dispatch number, not the administrative office.

COMMUNICATOR:

Manufacturer’s name and type of dialer (DACT) used.

MODEL #

Model number of dialer (DACT) used.

INTRUSION PANEL MODEL #

Example: 3001, 3007, etc.

FORMAT REPORTING:

Check appropriate box or write in specific type of communications format to be used by the dialer (DACT).

Monitoring Service Agreement
Instructions and Explanation List

TIME ZONE:

EST, CST, MST, PST.

AUTOMATIC TEST TIMER INTERVAL:

The interval between Automatic Timer tests, i.e. 24 hours (Daily), Weekly, Monthly or None.

ACTIVITY REPORTS:

Computer generated reports of all account activity, including Open/Close signals if applicable, which are to be sent periodically to the customer. Specify whether reports are to be sent monthly or weekly.

NUMBER OF PARTITIONS:

A “partition” is a group of devices or points that are monitored in the central station and assigned an account number that makes it unique. Typically this “partition” is a building on a multi-building campus setting.

CODE TRANSMITTED:

Codes transmitted by the alarm system dialer to the Monitoring Center, i.e. 1, 2, 3, 31, 32, etc., depending on the electronic communications format used. It is necessary to list all code information to be used by the dialer.

PROTECTED AREA:

Description of area the alarm zone would cover, i.e. Front Door, Warehouse, etc. on a security alarm. Please note that although you may have the resolution code list, be sure to always include the description of that zone in order to assure accuracy.

AUD / SIL:

Check appropriate box.
AUD=Audible Alarm; SIL=Silent Alarm

TERMS OF THIS AGREEMENT:

Terms of customer payment.

METHOD OF CUSTOMER PAYMENT:

Credit card information.

SPECIAL INSTRUCTIONS (IF REQUIRED):

Please note as specifically as possible any special instructions on how alarm activations are to be handled by the Monitoring Center if they differ in any way from normal dispatch and notification procedures. Example: “Call customer premise first to verify before dispatching on alarms received during normal business hours.”

OPENING AND CLOSING SIGNALS:

On security alarm systems only, dialers can be programmed to send a signal to the Monitoring Center each time the system is disarmed (opening signal) or armed (closing signal).

OPEN / CLOSE - LOG ONLY:

All opening and closing signals received by the Monitoring Center are logged in the account’s activity history, but no action is taken by an operator.

OPEN / CLOSE - SUPERVISED:

The monitoring center will call on any opening or closing signals which are received outside of the scheduled “window” for the account.

WINDOW:

If the Subscriber’s business will be reporting Open/Close signals from a security alarm system which are to be supervised by the monitoring center, the default time set for the “window” is 60 minutes. The window works as follows: If a business is scheduled to open at 0800 and has a 60 minute window, the business will receive a call from the monitoring center for an Early Open if the system is disarmed prior to 0700. If the business does not open by 0900, the Monitoring Center will call on a No Open received. If the business is scheduled to close at 1700, but remains open (alarm system is not armed) past 1800, the Monitoring Center will call on the No Close Received.

DISPATCH PERMIT #

Required by some authorities prior to dispatch.

STATE LICENSE #

Include Johnson Controls State License # on this form, if applicable. Some states require this number to be printed on all correspondence. Check state and local jurisdiction laws or codes as they pertain to your area.

DISTRICT #

This would normally be the district office listing number.

COMPLETED BY:

Name of person completing form.

DATE:

Date form was completed and signed.

MAINTENANCE AGREEMENT COVERAGE CODE:

Insert technical support response code for contract response services.

ANNUAL MONITORING FEE:

Write in the dollar amount to be billed to the customer on an annual basis.

SUBSCRIBER / AUTHORIZED SIGNATURE:

This acknowledges Subscriber’s agreement to pay the Annual Monitoring Fee, as well as Subscriber’s agreement to be bound by the Terms and Conditions set forth by Johnson Controls on the reverse side of the Monitoring Service Agreement form.

Westminster, MA 01441 U.S.A.

U.L. Acct. ☐

Subscriber's Name _____ Monitoring Account # _____

Address _____ City _____

State _____ Zip _____ Customer No. / Sequence _____

Premise Phone # (_____) _____ Fax # (_____) _____ Cross Street _____

Township _____ Mailing Address _____

Account Type: ☐ Fire ☐ Burglary ☐ Medical ☐ Elevator ☐ National Account ☐ Critical Condition

CONTACT/CALL LIST (Responsible Parties): Premises # will be called prior to contact list.

Name		Phone #	Pass/Abort Code (10 character Limit)
Fire Dept. (Local)	() .	Paramedics (Local)	() .
Police Dept. (Local)	() .	Other:	() .

LOCAL EMERGENCY DISPATCH NUMBERS (Must be 24-HR)

Communicator (dialer) type _____ Model # _____ Intrusion Panel Model # _____

Format Reporting: ☐ 3 x 1 ☐ 3 x 1 EXT ☐ 4 x 2 ☐ B FSK ☐ Contact ID ☐ Per Point _____

Time Zone _____ Automatic Test Timer Interval (Daily, Weekly, Monthly or None) _____

This account to receive periodic activity reports on the following basis: ☐ Weekly Reports ☐ Monthly Reports

Alarm System Dialer Programming/Set-up Information: _____ Number of Partitions: _____

Code Transmitted	Protected Area	AUD	SIL	Alarm Type

TERMS OF THIS AGREEMENT ARE

☐ Time and Material ☐ Price Not to Exceed \$ _____ Fixed Price of \$ _____

DEPOSIT \$ _____ BALANCE DUE \$ _____ A M E X ☐ M C / V I S A ☐ D i s c o v e r ☐

CARD HOLDER: _____ CREDIT CARD # _____ Expiration Date: _____

Special Instructions (if required): _____

This account will be programmed to send opening and closing signals (security alarm systems only) ☐ YES ☐ NO

Type of Open / Close Monitoring to be provided: Open / Close Log Only Monitoring ☐ Supervised Open / Close Monitoring ☐

☐ Daily schedule for supervised open/close monitoring:

SHADED AREA TO BE FILLED OUT

Dispatch Permit # _____

State License # _____ District# _____ Completed by _____ Date _____

Maintenance Agreement Coverage Code: _____

Daily	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Opening time							
Closing time							
Window*							

Holidays Closed: _____

*All supervised accounts will be assigned a 60 minute time window for scheduled openings and closings. If subscriber requests a longer or shorter time window, please specify.

Term of Agreement: The initial term of this Agreement shall be for a period of _____ year(s) beginning on the Date of Agreement and may be renewed for successive periods of 1 year thereafter under the same terms and conditions except for the price, which shall be increased to the applicable price in effect at the renewal date, unless either party gives the other written notice of cancellation at least thirty (30) days prior to the expiration of a term. It is agreed that Johnson Controls Fire Protection shall not be responsible to provide Monitoring Services under this Agreement unless and until the communication link between Subscriber's premises and Johnson Controls Monitoring Center has been tested.

IMPORTANT NOTICE REGARDING YOUR LEGAL RIGHTS: The Terms and Conditions on the reverse side are an important part of this Agreement and may affect your legal rights. Among other things, these terms significantly limit Johnson Controls Fire Protection liability should an event occur that this service is designed to detect. By signing this Agreement you acknowledge that you have read, acknowledge, and agree to be legally bound by all Terms and Conditions of this Agreement.

Annual Monitoring Fee \$ _____

Subscriber/Authorized Signature: _____ Johnson Controls Fire Protection Representative Signature: _____ Date: _____

Printed: _____ Printed: _____

TERMS AND CONDITIONS

1. Introduction. Subscriber has contracted with Johnson Controls Fire Protection for monitoring services at the location indicated on the front side of this Agreement.
2. Johnson Controls Fire Protection Duties. Subscriber agrees and acknowledges that Johnson Controls Fire Protection sole and only obligation under this Agreement shall be to monitor signals sent by various media including, but not limited to, telephone lines, cellular devices, satellite technology, and radio telemetry and received by means of a protective system (hereinafter “System”) and to respond thereto by notifying the party (or parties) identified by Subscriber. Upon receipt of a protective system signal, Johnson Controls Fire Protection shall WITHOUT WARRANTY attempt to notify the party (or parties) that has been identified by Subscriber as the proper party to notify under the circumstances encountered.
3. Waiver of Warranty; Exculpatory Clause. Subscriber understands that Johnson Controls Fire Protection offers several levels of protection services and that the level described has been chosen by Subscriber after considering and balancing various levels of protection afforded and their related costs. IT IS UNDERSTOOD AND AGREED THAT: JOHNSON CONTROLS FIRE PROTECTION IS PROVIDING A SERVICE DESIGNED TO REDUCE THE RISK OF LOSS; THAT JOHNSON CONTROLS FIRE PROTECTION IS NOT AN INSURER; THAT INSURANCE, IF ANY, SHALL BE OBTAINED BY SUBSCRIBER COVERING PERSONAL INJURY, INCLUDING DEATH, AND REAL OR PERSONAL PROPERTY LOSS OR DAMAGE; THE PAYMENTS HEREUNDER ARE BASED SOLELY ON THE VALUE OF THE MONITORING SERVICES AS DESCRIBED HEREIN AND ARE UNRELATED TO THE VALUE OF ANY OF SUBSCRIBER'S PROPERTY, OR THE PROPERTY OF OTHERS LOCATED AT SUBSCRIBER'S LOCATION, THE VALUE OF WHICH IS KNOWN ONLY BY SUBSCRIBER; THAT JOHNSON CONTROLS FIRE PROTECTION DOES NOT ASSUME ANY LIABILITY FOR LOSSES CAUSED BY THE MALFUNCTION OR NON-FUNCTION OF THE SYSTEM OR EQUIPMENT OR THE MONITORING, REPAIRING, SIGNAL HANDLING OR DISPATCHING SERVICES REGARDLESS OF THE CAUSE. JOHNSON CONTROLS FIRE PROTECTION MAKES NO GUARANTEE OR WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, THAT THE SERVICES OR EQUIPMENT SUPPLIED WILL AVERT OR PREVENT OCCURRENCES, OR THE CONSEQUENCES THEREFROM, WHICH THE SERVICES OR EQUIPMENT ARE DESIGNED TO DETECT AND SUBSCRIBER EXPRESSLY ASSUMES ANY AND ALL RISK OF ERROR, INOPERABILITY OR FAILURE OF THE EQUIPMENT OR SERVICES TO WORK AS INTENDED. JOHNSON CONTROLS FIRE PROTECTION MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, THAT THE EQUIPMENT SUPPLIED, OR ANY HARDWARE, SOFTWARE OR NETWORKS USED IN CONNECTION WITH THE SYSTEM SHALL CORRECTLY HANDLE THE PROCESSING OF DATES BEFORE AND AFTER DECEMBER 31, 1999, OR THAT THE SERVICES HEREUNDER SHALL ENSURE SUCH CORRECT DATE HANDLING.
4. Third Party Claims. **Although Subscriber may not agree to indemnify Johnson Controls** Subscriber acknowledges and agrees that it retains the sole responsibility for the life and safety of all persons on its premises, and for protecting against losses to its own property and the property of others located on its premises. Additionally, Subscriber agrees to list Johnson Controls Fire Protection, as additional loss payee or additional insured, as applicable, on all insurance policies in effect on the premises. **Subscriber disclaims any reliance upon the services provided under this Agreement in meeting its obligations and acknowledges the services provided under this Agreement are subject to error.**
5. Limitation of Liability; Liquidated Damages. SUBSCRIBER ACKNOWLEDGES THAT IT IS IMPRACTICAL TO FIX ACTUAL DAMAGES, IF ANY, WHICH MAY PROXIMATELY RESULT FROM FAILURE ON THE PART OF JOHNSON CONTROLS FIRE PROTECTION TO PERFORM ANY OF ITS OBLIGATIONS OR SERVICES HEREIN, INCLUDING, BUT NOT LIMITED TO, MONITORING SERVICES, INSTALLATION OR MAINTENANCE, THE FAILURE OF THE EQUIPMENT (SYSTEM) TO OPERATE PROPERLY, BY ACTIVE OR PASSIVE NEGLIGENCE, OR BY FAILURE TO PERFORM ANY OF THE OBLIGATIONS HEREIN, BECAUSE OF AMONG OTHER THINGS: (A) THE UNCERTAIN AMOUNT OR VALUE OF SUBSCRIBER'S PROPERTY OR THE PROPERTY OF OTHERS KEPT AT THE MONITORED LOCATION WHICH MAY BE LOST, STOLEN, DESTROYED, DAMAGED OR OTHERWISE AFFECTED BY OCCURRENCES WHICH THE EQUIPMENT (SYSTEM) AND/OR SERVICES IS DESIGNED TO DETECT; (B) THE UNCERTAINTY OF THE RESPONSE TIME OF ANY POLICE DEPARTMENT, FIRE DEPARTMENT, PARAMEDIC UNIT, PATROL SERVICE OR OTHERS, SHOULD ANY OF THESE PARTIES BE DISPATCHED AS A RESULT OF A SIGNAL BEING RECEIVED OR AN AUDIBLE DEVICE SOUNDING; (C) THE INABILITY TO ASCERTAIN WHAT PORTION, IF ANY, OF ANY LOSS WOULD BE PROXIMATELY CAUSED BY JOHNSON CONTROLS FIRE PROTECTION FAILURE TO PERFORM OR BY ITS EQUIPMENT'S FAILURE TO OPERATE; OR
(D) THE UNCERTAIN NATURE OF OCCURRENCES WHICH MIGHT CAUSE INJURY OR DEATH TO SUBSCRIBER OR ANY OTHER PERSON. THEREFORE, BASED UPON ITS ACCEPTANCE OF ALL RISKS ASSOCIATED WITH THE PRODUCTS OR SERVICES NOT WORKING AS INTENDED, SUBSCRIBER AGREES TO SECURE PROPERTY INSURANCE COVERING ALL OF ITS REAL AND PERSONAL PROPERTY LOCATED WHERE SUCH MONITORING SERVICES ARE PROVIDED TOGETHER WITH A WAIVER OF SUBROGATION AND LIABILITY COVERAGE PURSUANT TO NORTH DAKOTA LAW. CONSISTENT WITH NDCC 32-12.2-15, JOHNSON CONTROL'S LIABILITY TO SUBSCRIBER IS LIMITED TO TWO TIMES THE ANNUAL MONITORING FEE FOR THE LOCATION GIVING RISE TO THE CLAIM AND AS MORE SPECIFICALLY SET FORTH IN THE ADDENDUM. UNDER NO CIRCUMSTANCES SHALL JOHNSON CONTROL FIRE PROTECTION ASSUME ANY LIABILITY TO SUBSCRIBER OR ANY OTHER PERSON FOR GENERAL, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE IN EXCESS OF SUCH AMOUNT, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR PERSONAL INJURY OR DAMAGES TO REAL OR PERSONAL PROPERTY, LOSS OF PROPERTY OR REVENUE, COST OF CAPITAL, COSTS OF PURCHASED OR REPLACED GOODS, OTHER ECONOMIC LOSS HOWEVER OCCASIONED, AND WHETHER ALLEGED AS CAUSED BY THE INSTALLATION, REPAIR, DESIGN, SALE, LEASE, OR FAILURE OF THE MONITORING EQUIPMENT OR SERVICE OR THE PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS UNDER THIS AGREEMENT OR BREACH OF WARRANTY OR NEGLIGENCE, ACTIVE, PASSIVE, JOINT, SEVERAL OR OTHERWISE, STRICT LIABILITY, TORT, OR OTHERWISE BY JOHNSON CONTROLS FIRE PROTECTION . ITS OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS, SUPPLIERS, OR REPRESENTATIVES. Subscriber agrees to obtain insurance coverage adequate to protect Subscriber's interest in light of the limitation of liability stated in this Agreement. The foregoing shall survive the termination or expiration of this Agreement. Johnson Controls Fire Protection assumes no responsibility for any loss in excess of such amount.
6. Subscriber's Duties. In addition to Subscriber's duty as provided above: (a) Subscriber 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 Johnson Controls Fire Protection during the term of this Agreement. Subscriber shall be solely responsible for testing the System for accurate date handling capabilities, and for maintaining such capabilities. Subscriber agrees that it is responsible for any losses or damages due to malfunction, miscommunication, or failure of Subscriber's system to accurately handle, process, or communicate date 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 Subscriber's premises of signal or data transmission through any media, Subscriber shall notify Johnson Controls Fire Protection immediately. If space/interior protection (i.e., ultrasonic, microwave, infrared, etc.) is part of the System, Subscriber shall walk test the system in the manner recommended by Johnson Controls Fire Protection. (b) 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 source of air turbulence or movement which may interfere with the effectiveness of the System during closed periods while the alarm system is on, Subscriber shall notify Johnson Controls Fire Protection. (c) Subscriber shall notify Johnson Controls Fire Protection regarding any remodeling or other changes to the protected premises that may affect operation of the System. (d) Subscriber shall cooperate with Johnson Controls Fire Protection in the installation, operation, and 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. (e) Subscriber shall pay all charges made by any telephone company or other utility for installation, leasing, and service charges of telephone lines connecting Subscriber's

premises to Johnson Controls Fire Protection. Subscriber acknowledges that alarm signals from Subscriber's premises to Johnson Controls Fire Protection are transmitted over Subscriber's telephone service and that in the event the telephone service is out of order, disconnected, placed on "vacation," or otherwise interrupted, signals from Subscriber's alarm system will not be received by Johnson Controls Fire Protection during any such interruption in telephone service and the interruption will not be known to Johnson Controls Fire Protection. Subscriber agrees that in the event the equipment or system continuously transmits signals reasonably determined by Johnson Controls Fire Protection to be false and/or excessive in number, Subscriber shall be subject to the additional costs and fees incurred by Johnson Control in receiving and/or responding to the excessive signals.

7. Authorized Personnel & Emergency Information. Subscriber agrees to furnish forthwith a written list of the names, addresses and telephone numbers of all persons authorized to enter or remain on Subscriber's premises and/or that should be notified in the event of an alarm. Subscriber agrees to provide all changes, revisions and modifications to the above to Johnson Controls Fire Protection in writing in a timely manner. Subscriber shall furnish to Johnson Controls Fire Protection certain emergency information and shall keep it current by providing Johnson Controls Fire Protection with any changes in writing, providing the required identifying information in a timely manner.
8. Assignees and/or Subcontractors of Johnson Controls Fire Protection. Johnson Controls Fire Protection shall have the right to assign this Agreement in whole or in part to any other person, firm, or corporation and shall have the further right to subcontract any surveillance, monitoring, maintenance, patrol, emergency response, or other services which it may be required to perform hereunder. Subscriber acknowledges that this Agreement, and particularly those paragraphs relating to Johnson Controls Fire Protection maximum liability shall inure to the benefit of and are applicable to any assignees and/or subcontractors of Johnson Controls Fire Protection, and that they bind Subscriber with respect to said assignees and/or subcontractors with the same force and effect as they bind Subscriber to Johnson Controls Fire Protection.
9. Assignment by Subscriber. Subscriber acknowledges that the sale or transfer of Subscriber's premises shall not relieve Subscriber of duties and obligations under this Agreement unless Johnson Controls Fire Protection agrees in writing to the transfer of the Agreement.
10. Taxes, Fees, Fines, Licenses, and Permits. (a) Subscriber 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. Johnson Controls Fire Protection shall have the right, at any time, to pass along to Subscriber any increases in the monthly charges which hereafter may be imposed on Johnson Controls Fire Protection by utility or government agencies relating to the service(s) provided under the terms of this Agreement, and Subscriber hereby agrees to pay the same. (b) Subscriber agrees to assume all responsibility for any false alarms or signals given by the protective equipment. Subscriber will indemnify, pay and defend Johnson Controls Fire Protection and its authorized contractors and hold each of them harmless from and against any responsibility or liability for payment of associated fines, penalties or other costs. (c) Subscriber 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 license and registration fees now or hereafter imposed by any government body or agency upon the equipment or its use. If Subscriber fails to maintain any required licenses or permits, Johnson Controls Fire Protection shall not be responsible for performing the services and may terminate the services with notice to Subscriber.
11. Increase in Service Charges. Johnson Controls Fire Protection shall have the right to increase the Service Charges provided for herein by giving Subscriber thirty (30) days written notice in advance of the effective date of such increase. Charges for time and materials services are based upon Johnson Controls Fire Protection service rates in effect at the time of the service, and are subject to change without notice.
12. Delay or Interruptions. Johnson Controls Fire Protection assumes no liability for delay in the installation of the System or for interruption of monitoring services due to strikes, riots, floods, storms, earthquakes, fire, power failures, insurrections, interruption of availability of telephone, cable, cellular, satellite, or radio service or service through any other medium, malfunction or unavailability of the system related to date handling pro Johnson Controls Fire Protection, and will not be required to provide installation or other services to Subscriber while interruption of service due to any such cause may continue. Johnson Controls Fire Protection assumes no liability for delay of installation or services due to non-cooperation of the Subscriber or his agents in providing access to that area of installation or service on any device or devices of the Subscriber or of others to which Johnson Controls Fire Protection equipment is attached.
13. Outside Charges. Subscriber understands and accepts that Johnson Controls Fire Protection specifically denies 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 Subscriber, whether requested or not and whether such entities were correctly or incorrectly notified by Johnson Controls Fire Protection, its agents, or subcontractors.
14. Default/Termination. In the event Subscriber fails to pay any amount, Subscriber abuses the equipment or the use of the monitoring facility, Subscriber fails to comply with any of the terms and conditions hereof, or if Subscriber is in default under this Agreement such default continues for ten (10) days after Johnson Controls Fire Protection gives Subscriber written notice of such default, in addition to any other remedies provided by law, Johnson Controls Fire Protection may pursue any one or more of the following remedies, which are cumulative and nonexclusive: (a) Terminate all services subscribed for hereunder by giving ten (10) days written notice to Subscriber, without terminating this Agreement, and recover all amounts due to Johnson Controls Fire Protection; (b) Take possession of all Johnson Controls Fire Protection owned equipment wherever situated and for such purpose enter upon Subscriber's property without liability for so doing; (c) By notice to Subscriber, declare immediately due and payable all moneys to be paid by Subscriber during the Primary Term or, if the Primary Term has then expired, declare immediately due and payable all moneys to be paid during any Renewal Term then in effect, and Subscriber shall thereupon be obligated to pay such moneys to Johnson Controls Fire Protection immediately. Subscriber shall in any event remain fully liable for reasonable damages as provided by law and for all costs and expenses incurred by Johnson Controls Fire Protection on account of such default including all court costs and reasonable attorneys' fees. The waiver by Johnson Controls Fire Protection of a breach of any obligation of Subscriber shall not be deemed a waiver of such obligation or any subsequent breach of the same or any other obligation. The subsequent acceptance of payment hereunder by Johnson Controls Fire Protection shall not be deemed a waiver of any prior existing breach, regardless of Johnson Controls Fire Protection knowledge of such prior existing breach at the time of acceptance of such payments.
15. One Year Limitation on Actions. It is agreed that no suit or cause of action shall be brought against Johnson Controls Fire Protection more than one year years after the accrual of the cause of action therefor.
16. Waiver of Subrogation. Subscriber does hereby for itself and all other parties claiming under it release and discharge Johnson Controls Fire Protection from and against all hazards covered by Subscriber's insurance, it being expressly agreed and understood that no insurance company or insurer will have any right of subrogation against Johnson Controls Fire Protection.
17. Entire Agreement; Modification; Waiver. This writing is intended by the parties as a final expression of their Agreement and as a complete and exclusive statement of the terms thereof. This Agreement supersedes all prior representations, understandings or agreements of the parties, written or oral, and shall constitute the sole terms and conditions of sale for all equipment and services. This Agreement can be modified only in writing, signed by the parties or their duly authorized representatives. No waiver of a breach of any term or condition of this Agreement shall be construed to be a waiver of any succeeding breach.
18. Choice of Law; Venue. The laws of the state of North Dakota shall govern the validity, enforceability and interpretation of the Agreement. It is agreed that any suit or action initiated as a result of this Agreement or in any way arising out of this Agreement or the Monitoring Services to be provided under this Agreement shall be brought in a court of competent jurisdiction within the state of North Dakota.

Exhibit B

Addendum

The following provisions shall control to the extent of any conflict or contrary provision contained in the Monitoring Services Agreement.

1. Indemnity and Limitation of Liability. The State of North Dakota (the "State") does not agree to any contractual defense or indemnity obligation in favor of the Johnson Controls Fire Protection, LP ("JCFP"). Although, the State may not agree to indemnify JCFP, it expressly recognizes that it has sole responsibility for the health and safety of individuals located within its premises subject to monitoring services and the protection of any property of third-parties located within the premises and expressly disclaims any reliance upon the monitoring service in meeting its obligations. The State assumes all risk error, inoperability or other cause of any monitoring system not functioning as intended.
2. State agrees to secure property insurance covering all its real and personal property located in any building, structure or location subject to the monitoring services naming JCFP a loss payee together with a waiver of subrogation in favor of JCFP, and to the extent the property of third parties (other than personal effects of state employees) is located in any building, structure or location to insure that property or require that any third-party secure appropriate property insurance naming JCFP as a loss payee together with waiver of subrogation in favor of JCFP. Upon request, JCFP may be provided copies of such insurance certificates, additional insured endorsements, and waivers of subrogation in favor of JCFP.
3. Consistent with North Dakota's modified comparative fault law (NDCC Ch. 32-03.2), State agrees that it will have no basis to assert any right of indemnity or contribution from JCFP and agrees not to pursue any such claims.
4. Pursuant to NDCC 32-12.2-15, the State hereby agrees JCFP's total liability to State shall be two times the annual monitoring fees for the location giving rise to the claim.
5. Venue and Choice of Law. This agreement shall be construed consistent with North Dakota law, and any action to enforce this agreement must be brought in the district court of Burleigh County, North Dakota.