



A UTC Fire & Security Company

COMMERCIAL MONITORING AGREEMENT

Diversified Fire Products
4384 Enterprise Place
Fremont, CA 94538
(510) 438-1300

Proposal Number:
Effective Date: July 1, 2010
FM record number: 2225

Watergate Condominiums (Bldgs. A-F)
Customer Name

8 Captain Drive, Emeryville, Ca 94608
Premises (Alarm/Video site) Address (Street, City, State, Zip)

Premises Phone Number
Tim Sutherland (510) 450-1729
Customer Contact Phone Number

Billing Address (if different from above)
wcaoffice@aol.com
Customer Email Address

Table with columns for Billing Frequency, One Time Set-up Fee, Security Alarm Monitoring, Cell Primary, Cell Back-Up, Two-Way Voice, Video Monitoring, Audio Monitoring, Fire/Smoke Alarm Monitoring, Other, Monitoring Reports, Sales Tax, and Total Annual Charge.

CUSTOMER CONFIRMS THAT THE INFORMATION PROVIDED IS TRUE AND CORRECT. CUSTOMER HEREBY ACKNOWLEDGES THAT IT HAS READ, UNDERSTANDS AND ACCEPTS WITHOUT LIMITATION OR EXCEPTION, THE TERMS AND CONDITIONS SET FORTH HEREIN.

Customer Representative Signature: Robert C. Blain
Print Name: Robert C. BLAIN
Title: Board President
Date: 6/21/10

Diversified Fire Products Representative Signature: Richard Haswell
Print Name: Richard Haswell
Title: General Branch Manager
Date: 6/23/10

TERMS AND CONDITIONS

THIS AGREEMENT is made on the date stated above ("Effective Date") by and between Diversified Fire Products, ("Company" "We", "Us" or "Our,") and the Customer (hereafter referred to as "Customer", "You" or "Your"), together referred to as "the Parties." We agree to provide, or cause to be provided, the alarm and/or video monitoring service for the security system ("System") installed at the "Premises" stated above. This Agreement will not be binding upon Us until it is signed by Our authorized representative and a test signal is successfully received at Our monitoring station.

1. TERM: The initial term of this Agreement is One (1) years and, upon the expiration of such initial term, shall be automatically renewed for successive one (1) year terms, unless either party gives the other written notice of its intent to not renew the Agreement, which notice shall be at least Thirty (30) days prior to the end of any term and which notice shall be sent in accordance with Section 18 below. In the event such renewal is prohibited by applicable law, then this Agreement shall be renewed for the maximum amount of time permitted by such law.

2. OUR MONITORING OBLIGATIONS: We will provide, or cause to be provided, alarm and/or video monitoring and notification services as provided in Section 2 above. Upon Our receipt of an alarm signal from Your System, We shall make a reasonable effort to notify the police, fire department, emergency medical services, private guard service, or other authority having jurisdiction (collectively, the "Emergency Services") as we deem appropriate under the circumstances in the reasonable exercise of Our judgment, unless there is reasonable cause to conclude that an emergency condition does not exist, in which case, We shall make a reasonable effort to notify one or more of the representatives designated on Your Emergency Notifications and/or Protocol form, unless You have instructed Us to do otherwise. We, at Our option, may attempt to call Your Premises prior to notifying any of the Emergency Services in an attempt to verify the nature of any such alarm and/or video signal. Upon receipt of a trouble, auxiliary, supervisory, or low battery signal from the System, We shall make a reasonable effort to notify You. If Video Monitoring services are provided in Section 2, Our sole obligation arising from Our monitoring of video images from Your Premises shall be to monitor the signals We actually receive from Your System and, upon receipt of an image indicating in the reasonable exercise of Our judgment that an emergency condition exists, We will make a reasonable effort to notify the Emergency Services We deem appropriate and to such persons on Your Emergency Notifications and/or Protocol form. You understand that any or all of the Emergency Services contacted by Us in response to an alarm and/or video signal may not respond. You understand that local laws, ordinances or policies may restrict Our ability to provide the alarm and/or video monitoring and notification services. You understand that upon receiving a fire or a medical signal,

the police, fire department or other responding authority may forcefully enter Your Premises. You consent to the recording of all telephone communications between Our monitoring station and You and Your employees and representatives.

3. PAYMENT: You agree to pay Us all amounts due annually in advance. The first payment is due when service begins and will include the prorated amount for the month in which service begins. If any charge due hereunder from You becomes more than fifteen (15) days past due, You agree to pay interest on all delinquent amounts at the lesser of 1.5% per month (18% annually) or the maximum applicable legal rate permitted to be charged. You are responsible for any charges associated with the dishonor by Your bank or credit card company of any payments made by You and a reconnection fee if Your service is suspended for non-payment. We have the right to increase the monthly charges, and/or service fees at any time after the first year, provided there shall be no more than one such increase during any twelve (12) month period and provided you are given thirty (30) days written notice of any such increase. We will increase the monthly charges and/or service fee by no more than ten percent (10%) of the monthly payment last in effect prior to such increase.

4. ADDITIONAL SERVICES: Additional fees apply for the following services: any changes to the Emergency Notification and/or Protocol form, system code changes and any special reports requested by You.

5. DISCLAIMER OF WARRANTIES: TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE MAKE NO EXPRESS OR IMPLIED WARRANTIES AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE CONDITION OF THE SYSTEM, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. WE NEITHER REPRESENT NOR WARRANT: THAT THE SYSTEM MAY NOT BE COMPROMISED OR CIRCUMVENTED; THAT THE SYSTEM WAS DESIGNED TO OR WILL PREVENT ANY LOSS BY BURGLARY, HOLD UP, FIRE, PHYSICAL INJURY, MEDICAL CONDITION OR ILLNESS, OR OTHERWISE; OR THAT THE SYSTEM WILL PROVIDE THE DETECTION OR RESPONSE FOR WHICH IT IS INTENDED. YOU AGREE: THAT ANY AFFIRMATION OF FACT OR PROMISE MADE BY US SHALL NOT BE DEEMED TO CREATE AN EXPRESS WARRANTY; YOU REPRESENT THAT YOU HAVE NOT RELIED ON ANY STATEMENT, REPRESENTATION, ACTION, OR OTHER CONDUCT BY US IN ELECTING TO ENTER INTO THIS AGREEMENT OR THAT, ABSENT SUCH REPRESENTATION, YOU WOULD NOT HAVE ENTERED INTO THIS AGREEMENT. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

6. WE ARE NOT AN INSURER: YOU UNDERSTAND AND AGREE THAT WE ARE NOT AN INSURER; THAT INSURANCE, IF ANY, SHALL BE OBTAINED BY YOU; THAT THE PAYMENTS PROVIDED HEREIN ARE BASED SOLELY ON THE VALUE OF THE SERVICES SET FORTH HEREIN, AND ARE UNRELATED TO THE VALUE OF YOUR PREMISES OR PROPERTY LOCATED ON SUCH PREMISES. IN THE EVENT OF ANY LOSS OR INJURY TO ANY PERSON OR PROPERTY, YOU AGREE TO LOOK EXCLUSIVELY TO YOUR INSURER TO RECOVER DAMAGES. YOU WAIVE ALL SUBROGATION AND OTHER RIGHTS OF RECOVERY AGAINST US THAT ANY INSURER OR OTHER PERSON MAY HAVE AS A RESULT OF PAYING ANY CLAIM FOR LOSS OR INJURY TO ANY OTHER PERSON.

7. LIMITATION OF LIABILITY: YOU ASSUME ALL RISK OF LOSS AND/OR DAMAGE TO YOUR PREMISES AND THE CONTENTS THEREOF AND YOU ASSUME ALL RISK FOR ANY AND ALL INJURY AND/OR DEATH TO ANY PERSON. IF, NOTWITHSTANDING ANY OTHER PROVISIONS HEREOF, ANY LIABILITY IS IMPOSED ON US OR OUR ASSIGNEES, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUBSIDIARIES, AFFILIATES OR PARENT COMPANIES FOR ANY REASON WHATSOEVER, YOU AGREE THAT OUR AND OUR ASSIGNEES, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUBSIDIARIES, AFFILIATES OR PARENT COMPANIES LIABILITY TO YOU WHETHER UNDER THIS AGREEMENT OR OTHERWISE SHALL BE LIMITED TO A SUM EQUAL TO TEN PERCENT (10%) OF THE ANNUAL MONITORING CHARGE OR ONE THOUSAND DOLLARS (\$1,000.00), WHICHEVER IS GREATER. THIS SUM SHALL BE YOUR EXCLUSIVE REMEDY AND THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL LOSS, DAMAGE, INJURY OR DEATH, IRRESPECTIVE OF CAUSE OR ORIGIN, RESULTING DIRECTLY OR INDIRECTLY TO PERSONS OR PROPERTY, FROM THE PERFORMANCE OR NONPERFORMANCE OF THE OBLIGATIONS IMPOSED BY THIS AGREEMENT, OR, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FROM THE NEGLIGENCE, ACTIVE OR OTHERWISE, OF US, OUR ASSIGNEES, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUBSIDIARIES, AFFILIATES OR PARENT COMPANIES. YOU ACKNOWLEDGE AND AGREE THAT IN THE EVENT OF ANY EXPIRATION OR EARLY TERMINATION OF THIS AGREEMENT FOR ANY REASON WHATSOEVER, ALL OF THE PROVISIONS, LIMITATIONS AND DISCLAIMERS HEREIN RELATING TO OUR LIABILITIES SHALL SURVIVE SUCH EXPIRATION OR EARLY TERMINATION. IF YOU WISH US TO ASSUME A GREATER DOLLAR LIABILITY THAN PROVIDED FOR IN THIS AGREEMENT, YOU MAY OBTAIN FROM US A HIGHER LIMIT BY PAYING A HIGHER MONITORING CHARGE TO US. IF YOU ELECT TO EXERCISE THIS OPTION, A RIDER SHALL BE ATTACHED TO THIS AGREEMENT, SETTING FORTH SUCH HIGHER LIMIT AND ADDITIONAL COST, BUT SUCH RIDER SHALL IN NO WAY BE INTERPRETED TO HOLD US LIABLE IN EXCESS OF SUCH PROVISIONS. IN NO EVENT WILL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED. SOME STATES DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CERTAIN CIRCUMSTANCES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. YOU AGREE TO FILE ANY LAWSUIT OR OTHER ACTION YOU MAY HAVE AGAINST US OR OUR ASSIGNEES, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUBSIDIARIES, AFFILIATES OR PARENT COMPANIES WITHIN ONE (1) YEAR FROM THE DATE OF THE EVENT THAT CAUSED THE CLAIM, LOSS, DAMAGE OR LIABILITY. THE LIMITATION OF LIABILITY AS HEREIN SET FORTH IS KNOWINGLY FIXED BY THE PARTIES HERETO AS LIQUIDATED DAMAGES AND NOT AS A PENALTY.

8. YOUR RESPONSIBILITY: You acknowledge that the System is owned by You, and that You are responsible for any charges assessed by Your transmission system provider. You agree to operate the System according to the procedures prescribed or suggested by Us and the manufacturer(s) of the System. You agree to test both the alarm and video (if applicable) Systems in accordance with this Agreement and applicable instructions and contact Us promptly in the event the System fails to test or fails in any other respect and You agree to notify Us of such defect or malfunction as soon as reasonably possible. In the event an on-site service call is required to inspect, test, or repair the System, and You do not have a Service Agreement with Us, You are responsible to pay for the costs of all parts and/or labor. You agree, at Your sole cost, to inspect, test and replace as needed all batteries used in the System. You agree to promptly notify Us in writing (and provide appropriate updated information) of any changes needed to be made to the persons, entities or information listed by Customer on the Emergency Notifications and/or Protocol form then most recently received by Us. You acknowledge that in some areas it is a requirement to obtain a permit or license to operate an alarm system. At Your sole expense, You will obtain any necessary permit or license that may be required for monitoring and operation of the System and will provide Us a copy of such permit or license. You agree to maintain any such permit or license during the term of this Agreement and for any renewals of this Agreement. You acknowledge that failure to obtain and maintain any such permit or license may result in refusal of the Emergency Services to respond to an alarm and/or video notification and You release Us from any responsibility or liability for their refusal to respond. You acknowledge that this Section 7 is not a complete listing of Your responsibilities under this Agreement.

9. TRANSMISSION SYSTEMS: You understand that: (a) the System communicates with the monitoring station over one or more transmission systems, such as POTS (plain old telephone service), VOIP, IP, DSL, broadband, cable, cellular, radio, internet, etc.; (b) these transmission systems are beyond Our control and are maintained and serviced solely by the applicable transmission system provider; (c) these transmission systems may not always be reliable; and (d) any changes made to these transmission systems may disrupt communications to and from the System and, without notice from the Customer, We will have no way to know of such problem. YOU UNDERSTAND THAT WE WILL NOT RECEIVE SIGNALS FROM THE SYSTEM IF YOUR TRANSMISSION SYSTEM IS NOT WORKING PROPERLY OR IF CHANGES IN THE TRANSMISSION SYSTEM PREVENT THE SYSTEM FROM COMMUNICATING WITH OUR MONITORING FACILITY. YOU ARE SOLELY RESPONSIBLE FOR TESTING THE SYSTEM ON A WEEKLY BASIS, AS WELL AS IMMEDIATELY FOLLOWING ANY CHANGE TO YOUR TRANSMISSION SYSTEM. YOU FURTHER UNDERSTAND THAT YOU WILL NOT BE ABLE TO USE YOUR TELEPHONE SERVICE TO MAKE OTHER CALLS (SUCH AS TO 911) WHEN THE SYSTEM IS ACTIVATED AND, THEREFORE, YOU MAY WISH TO HAVE THE SYSTEM CONNECTED TO A DIFFERENT TELEPHONE SERVICE. IF YOUR TELEPHONE SERVICE IS OUT OF ORDER, PLACED ON VACATION STATUS, OR OTHERWISE NOT WORKING PROPERLY, SIGNALS CANNOT BE TRANSMITTED, AND WE WILL NOT KNOW OF THE TELEPHONE SERVICE PROBLEM. WE ARE NOT RESPONSIBLE FOR ANY INTERRUPTION OF SERVICE DUE TO ANY CAUSE BEYOND OUR CONTROL, SUCH AS WHEN YOUR TRANSMISSION SYSTEM HAS BEEN TAMPERED WITH (I.E., WHEN THE

TELEPHONE LINE HAS BEEN CUT) OR IS OTHERWISE NOT WORKING PROPERLY, OR AS A RESULT OF ANY DAMAGE OR DESTRUCTION TO OUR MONITORING STATION, EQUIPMENT OR FACILITIES. YOU ARE RESPONSIBLE FOR THE COSTS (INCLUDING LABOR AND MATERIALS) OF ANY AND ALL UPGRADES OR MODIFICATIONS TO YOUR SYSTEM NEEDED TO ENSURE CONTINUED FUNCTIONALITY DUE TO CHANGES IN THE TRANSMISSION SYSTEM, REGARDLESS OF WHETHER MANDATED BY THE TRANSMISSION SYSTEM PROVIDER, ANY LOCAL, STATE OR FEDERAL GOVERNMENT, OR OTHERWISE.

10. VIDEO MONITORING: If video monitoring services are being provided pursuant to Section 2 above, You agree that You are solely responsible for the location, positioning and direction of all video cameras. You understand and agree that the video cameras will only depict, produce or capture video images of limited areas of Your premises based on how You position, locate, aim and focus the cameras. You further acknowledge that You have approved the location, aim, position and focus of the video cameras including, but not limited to, selecting what rooms, areas, locations, things or persons that the video cameras may depict or capture. You shall be solely responsible for the video camera images produced or captured by the video cameras and You shall defend, indemnify and hold Us harmless in connection with the use, operation, location, aim and position of the video cameras and the video images resulting therefrom, including, but not limited to, any claims of any person depicted in a video camera image and any claim by such person that his or her privacy has been invaded or intruded upon or his or her likeness has been misappropriated. Any duty to warn, notify or otherwise obtain the consent or permission of any person depicted in a video camera image to have his or her likeness depicted, received, recorded, transmitted or otherwise used, and the duty to determine and comply with any and all applicable laws, regulations, standards and other obligations that govern the legal, proper and ethical use of video capturing devices, including, but not limited to, any and all requirements for signage or other notices which provide notification that the video cameras are in use at the Your premises, shall be Your sole responsibility. You agree to maintain at all times, and to provide to Us, an e-mail address capable of automatically receiving the video camera images that may be transmitted to Our monitoring station. We shall have no liability for any lost, discarded or damaged video camera images, or the quality thereof, and We make no promise, agreement, warranty or representation as to the length of time that we may retain video camera images.

11. TERMINATION AND BREACH: We may, in Our sole discretion, terminate or suspend this Agreement for any of the following any reasons: a) We determine that it is impractical to continue Our services due to modifications, alterations, damage or destruction of Your System or Your Premises; b) We cannot acquire or retain the transmission connection or authorization to transmit signals between Your Premises and Our monitoring station or the applicable Emergency Service provider, or between Our monitoring station and the applicable Emergency Service provider; c) Our monitoring station receives an excessive number of false alarms from Your System; and/or d) Our monitoring station is destroyed or damaged so that it is impractical for Us to continue Our services. If We elect to terminate or suspend this Agreement, We will provide ten (10) days prior written notice to You. In the event of any such termination or suspension, Our sole liability shall be to refund to You the amount that has been paid in advance for services to be supplied after the date of such termination or suspension, less any amounts still due for the installation of equipment, for services already rendered, and for any other charges due. We will not be liable for damages or subject to penalty as a result of such termination or suspension. In the event of Your breach of this Agreement which includes: a) Your failure to pay any money to Us after We have given You five (5) days notice of non-payment; b) Your failure to perform any other non-monetary obligation under this Agreement after We have given You ten (10) days notice of non-performance; c) Your failure to follow Our recommendations to repair or replace any defective part of the System; d) Your failure to operate the System according to the manufacturers' instructions; and/or e) Your becoming insolvent or a party to any bankruptcy or receivership proceeding or similar action affecting Your affairs or property; then in any such event, We may terminate this Agreement effective immediately or We may continue to provide services hereunder without waiver of the breach. Regardless of whether We elect to terminate this Agreement or to continue to provide services hereunder without waiver of the breach, We shall be entitled to collect from You all damages resulting from Your breach, including, but not limited to, all sums which may have accrued before or after the breach under this Agreement, together with all appropriate interest, costs of collection, attorneys' fees, and any incidental or consequential damages that may be available. In the event You terminate this Agreement for any reason, or We terminate this Agreement as a result of Your breach, then You will pay Us all accrued but unpaid charges incurred prior to the effective date of such termination together with an additional amount equal to eighty percent (80%) of the remaining payments which You would have been obligated to pay from the effective date of termination until the end of the then-existing term. You agree that Our actual damages for the remainder of the then-existing term will be difficult to calculate and therefore acknowledge that the preceding sentence reflects an agreement between You and Us on liquidated damages to be paid and that such liquidated amount is not a penalty.

12. FALSE REPORTS AND ALARMS: In the event a fine, penalty or fee shall be assessed against Us by any governmental agency as a result of any false alarm or violation originating from Your Premises, You agree to reimburse Us for payment of such false alarm fine, penalty or fee. In addition, in the event a false alarm originates from Your Premises and the System was intentionally, knowingly or negligently activated when no emergency condition existed or due to Your failure to follow the applicable instructions for operating and maintaining the System, then You shall indemnify and hold Us harmless for any costs or expenses incurred by Us, directly or indirectly, as a result of such false alarm. You acknowledge that the transmission of an excessive number of false alarms through the improper, careless, negligent, malicious or accidental use of the System, or any misuse or abuse of the System or failure to follow the applicable instructions for operating and maintaining the System, shall constitute a breach of this Agreement by You pursuant to Section 11. You agree that all such fines, penalties, fees, costs and expenses will be charged back to You and that You will reimburse Us within ten (10) days from receipt of an invoice for the same.

13. WE ARE NOT LIABLE FOR EVENTS BEYOND OUR CONTROL (FORCE MAJEURE): We shall not be liable for failure to perform Our obligations hereunder or for any interruption of Our service at any time due to strikes, riots, floods, storms, earthquakes, fires, power failures, insurrection, interruption of or unavailability of phone service or equipment, acts of God, or any other cause beyond Our reasonable control, including without limitation (i) the monitoring facility, connecting wires, radio repeater/tower, or other equipment having been damaged or destroyed by fire, catastrophe or by any other means, or (ii) Our being unable to either secure or retain the connections, licenses, or privileges necessary for the transmission of signals between Your Premises and the monitoring facility. We will not be required to supply service to You while any interruption of service due to any such cause shall continue.

14. INDEMNIFICATION: YOU AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD US HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, INCLUDING THIRD PARTY CLAIMS, LIABILITY AND DAMAGES (INCLUDING WITHOUT LIMITATION EXPENSES, COSTS AND ATTORNEYS' FEES) RELATING TO THE DESIGN, INSTALLATION, PERFORMANCE OR OPERATION OF THE SYSTEM, THE MONITORING OF THE SYSTEM, AND ANY RISKS, LOSSES, DAMAGES, INJURIES, DEATH OR OTHER EFFECTS OF ANY HAZARD OR EVENT THAT OCCURS AT OR AROUND THE PREMISES, INCLUDING, BUT NOT LIMITED TO, SUCH CLAIMS OR LIABILITIES THAT ARE BASED UPON THE NEGLIGENCE, BREACH OF CONTRACT, BREACH OF WARRANTY, AND/OR STRICT LIABILITY BY US, OUR ASSIGNEES, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUBSIDIARIES, AFFILIATES OR PARENT COMPANIES. YOUR INDEMNIFICATION OBLIGATIONS SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS AGREEMENT FOR ANY REASON WHATSOEVER.

15. ASSIGNABILITY AND SUBCONTRACT: This Agreement may not be assigned by you without Our prior written consent. We have the unlimited right to assign and/or subcontract part or all of this Agreement without notice to You. We may, in Our sole discretion and without notice to You or any other person, provide to any actual or prospective assignee, purchaser, transferee, or participant, any information that We have or know pertaining to this Agreement. We have the further unlimited right to subcontract the monitoring or other services without notice to You. You acknowledge that this Agreement and particularly those paragraphs relating to Our disclaimer of warranties and limited liability and third party indemnification, inure to the benefit of, and are applicable to, any assignees and subcontractors with the same force and effect as they bind You to Us. You further acknowledge that any assignees of this Agreement shall not be responsible for claims, liabilities, or damages which accrued prior to the date of assignment.

16. COSTS AND ATTORNEYS' FEES: In the event that it shall become necessary for Us to employ a collection agency or attorney to collect unpaid charges or any other sums You may owe hereunder, You shall be liable to Us for Our reasonable and necessary costs of collection and attorneys' fees incurred in such collection activities. In the event of any other legal proceeding related to this Agreement, the prevailing party in such proceeding shall be entitled to recover its costs and reasonable attorneys' fees from the other party.

17. **PARTIAL INVALIDITY; PERFORMANCE AND VENUE; GOVERNING LAW:** If any provision of this Agreement is deemed to be invalid, unenforceable, void or voidable, such provision shall not affect the validity or enforceability of any other provision of this Agreement. You agree and understand that the Parties' obligations under this Agreement are to be performed, in whole or in part, in Alameda County, CA. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding its choice of law rules. You consent to the exclusive jurisdiction of California and, you further agree that venue for any legal proceeding shall take place in the City of San Jose, Alameda County, California.

18. **NOTICES:** All notices under this Agreement shall be in writing, signed, dated and sent by overnight courier, or registered or certified U.S. mail, postage prepaid and return receipt requested, to You or Us at the address stated at the beginning of this Agreement. All changes of address must be in writing and delivered as provided in this Section.

19. **COMPLETE AGREEMENT:** This Agreement, together with all amendments and other attachments specifically incorporated by reference herein, constitutes the entire agreement between the Parties. This Agreement supersedes and replaces any prior or contemporaneous oral or written understandings or other agreements with respect to the subject matter hereof, all of which communications are merged herein. Neither Party has relied on any representation, promise, condition, inducement or warranty, express or implied, in signing this Agreement unless expressly contained in writing in this Agreement. The terms and conditions hereof apply as printed without alterations, strikeouts or qualifications except as specifically agreed to in writing by both Parties. This Agreement may be amended only by a written instrument duly executed by both of the Parties, and may not be amended orally or by course of performance. All such amendments or modifications of this Agreement shall be binding upon the Parties despite any lack of consideration, so long as the same shall be in writing and executed by the Parties hereto.

20. **CONSTRUCTION:** Each party has substantially participated in the drafting and negotiation of this Agreement, and no provision hereof shall be construed against either party by virtue of the fact that such provision was drafted by such party. Captions used herein are for convenience only and shall not be deemed a part of this Agreement or be used to construe any of the provisions hereof.

21. **BINDING EFFECT; BENEFIT OF SUCCESSORS AND ASSIGNS; NO THIRD PARTY BENEFICIARIES:** This Agreement shall be binding upon and inure to the benefit of each of the Parties hereto and, except as otherwise provided herein, their respective legal successors and permitted assigns. This Agreement is for the sole and exclusive benefit of the Parties to this Agreement, and all of their respective successors and permitted assigns. Nothing contained herein shall be construed to give any person not a party to this Agreement any legal or equitable right, remedy, interest, or claim under or with respect to this Agreement.