

# LARAMIE COUNTY CLERK BOARD OF COUNTY COMMISSIONERS AGENDA ITEM PROCESSING FORM

1. DATE OF PROPOSED ACTION: July 7, 2015

2. AGENDA ITEM:     Appointments     Bids/Purchases     Claims  
 Contracts/agreements/leases     Grants     Land Use: Variances/Board App/Plats  
 Proclamations     Public Hearings/Rules & Reg's     Reports & Public Petitions  
 Resolutions     Other

3. DEPARTMENT: **Building Maintenance**

APPLICANT: **Kone, Inc.**                  AGENT: **Chris Wegner**

4. DESCRIPTION: Consideration of a service and maintenance agreement for Laramie County's elevators.

Amount \$ **1,312.00/mo.**                                  From                                  To

5. DOCUMENTATION:    2 Originals

RECEIVED AND APPROVED AS  
TO FORM ONLY BY THE  
LARAMIE COUNTY ATTORNEY



<u>Commissioner</u>	<u>Clerks Use Only:</u>
Ash _____	<u>Signatures</u>
Hasenauer _____	Co Attny _____
Holmes _____	Assist Co Attny _____
Humphrey _____	Grants Manager _____
Thompson _____	Outside Agency _____
Action _____	
Postponed/Tabled _____	

**ADDENDUM TO HYDRAULIC ELEVATOR MAINTENANCE AGREEMENT  
BETWEEN LARAMIE COUNTY AND KONE INC.**

THIS ADDENDUM is made and entered into by and between Laramie County, Wyoming, P. O. Box 608, Cheyenne, Wyoming, 82003-0608 ("COUNTY") and KONE Inc., 8585 Concord Center Drive, Suite 900, Denver, Colorado 80112 (hereinafter referred to as ("CONTRACTOR")) and is intended to provide for the service and maintenance of COUNTY'S elevators, said elevators referenced in the document entitled 'Attachment 'A'' which attached and is fully incorporated herein.

**I. PURPOSE**

The purpose of this Addendum is to modify the proposal to service and maintenance of the COUNTY'S elevators consisting of, the "Terms and Conditions of the City and County of Denver Master Contract," (19 pages) including its "Exhibit 'A'" (21 pages) and the "Attachment 'A'" entitled, "KONE Inc. proposal to supply elevator, escalator, moving walkways services, repair or modernization under the US communities program utilizing the terms and conditions of the City and County of Denver Master contract (reference GEN RL-201414653-00 dated April 1, 2014)" (9 pages) and this Addendum (5 pages) hereinafter referred to as "the Agreement" all aforementioned components of said Agreement to be fully incorporated and referenced herein.

**II. TERM**

This Addendum shall commence on the date last executed by the duly authorized representative of the parties to this Addendum and Agreement and shall remain in full force and effect until terminate pursuant to the terms of the Agreement and this Addendum

**III. ADAPTATION OF TERMS**

The parties agree and understand that in the portions of this agreement which were initially drafted for the City and County of Denver, the terms referring to that governmental entity shall be considered in any interpretation of this agreement to refer to COUNTY. In the event of an ambiguity in regard to the conversion of said terms and conditions from the City and County of Denver Master contract and its Exhibit A, the interpretation which provides lenity to the position of COUNTY shall prevail.

**IV. MODIFICATIONS TO ATTACHMENT 'A' OF THE AGREEMENT**

A. Notwithstanding any terms in the Agreement regarding the term of the Agreement and this Addendum, it is agreed between the parties that there shall be no automatic renewal of this Agreement, that the term of the Agreement shall be for one year periods and may be renewed by mutual written agreement between the parties. The following shall control in regard to the term of this agreement:

“This Agreement shall run from July 1, 2015 and shall remain in full force and effect until June 30, 2016, unless terminated at an earlier date pursuant to the provisions of this Agreement and Addendum, or pursuant to federal or state statute, rule or regulation.”

B. The section entitled “Service Requests (Callbacks)” of Kone’s Attachment ‘A’ shall be modified with the addition of the following:

“CONTRACTOR agrees to provide same day, twenty-four (24) hour service to the three units at the Laramie County Detention facility.”

## **V. PAYMENT**

A. Payment shall be paid in an amount no more than \$1,312.00 per month. Payment will be made to CONTRACTOR upon receipt of the CONTRACTOR’S invoice to the COUNTY. No payment shall be made before the last signature is affixed to this Agreement. Payments shall be in accordance with WYO. STAT. ANN. § 16-6-602 (2007). **Invoices will be paid quarterly.**

## **VI. RESPONSIBILITIES OF CONTRACTOR**

A. CONTRACTOR shall provide and complete the services described in the Comprehensive Proposal for Laramie County attached hereto and fully incorporated herein and in the Agreement.

B. CONTRACTOR agrees to retain all required records for three (3) years after the County makes final payment and all other matters relating to the Agreement are concluded. CONTRACTOR agrees to permit access by the COUNTY or any of its duly authorized representatives to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this specific Agreement for purposes including but not limited to audit, examination, excerpts, and transcriptions. It is agreed that finished or unfinished documents, data or reports, prepared by CONTRACTOR under this contract shall be considered the property of the COUNTY and upon completion of the services to be performed, or upon termination of this Agreement for cause, or for the convenience of the COUNTY, will be turned over to the COUNTY.

## **VII. ADDITIONAL PROVISIONS**

1. Independent Contractor: The services to be performed by CONTRACTOR are those of an independent contractor and not as an employee of COUNTY. CONTRACTOR is not eligible for Laramie County Employee benefits and will be treated as an independent contractor for federal tax filing purposes. CONTRACTOR assumes responsibility for its personnel who provide services pursuant to this contract and will make all deductions required of employers by state, federal and local laws and shall maintain liability insurance for each of them. CONTRACTOR is free to perform the same or similar services for others.

2. Entire Agreement: The Agreement and Addendum represents the entire and integrated

agreement and understanding between the parties in regard to the subject matter herein and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.

3.Assignment: Neither this Agreement and Addendum, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.

4.Modification: This Agreement and Addendum shall be modified only by a written agreement, duly executed by all parties hereto.

5.Termination: This Agreement may be terminated (a) by either party at any time for failure of the other party to comply with the terms and conditions of this agreement; (b) by either party, with thirty (30) days' prior written notice to the other party; or (c) upon mutual written agreement by both parties.

6.Invalidity: If any provision of this Agreement and Addendum is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties the provisions of this Agreement and Addendum are fully severable.

7.Applicable Law and Venue: The parties mutually understand and agree this Agreement and Addendum shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement and Addendum or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming or the Federal District Court, District Of Wyoming. This provision is not intended nor shall it be construed to waive COUNTY's governmental immunity as provided in this Agreement and Addendum.

8.Discrimination: All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement and Addendum because of race, color, gender, creed, handicapping condition, or national origin.

9.ADA Compliance: All parties agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, *et seq.*, and/or any properly promulgated rules and regulations relating thereto.

10.Governmental/Sovereign Immunity: COUNTY does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 *et seq.*, by entering into this Agreement and Addendum. Further, COUNTY fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement and Addendum.

11. Third Parties: The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement and Addendum shall not be construed so as to

create such status. The rights, duties and obligations contained in this Agreement and Addendum shall operate only between the parties to the Agreement and Addendum, and shall inure solely to the benefit of the parties to this Agreement and Addendum.

12. Conflict of Interest: COUNTY and CONTRACTOR affirm, to their knowledge, no CONTRACTOR employee has any personal beneficial interest whatsoever in the agreement described herein. No staff member of CONTRACTOR, compensated either partially or wholly with funds from this Agreement, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Agreement.

13. Force Majeure: Neither party shall be liable to perform under this Agreement and Addendum if such failure arises out of causes beyond control, and without the fault or the negligence of said party. Such causes may include, but are not restricted to, Act of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said party.

14. Limitation on Payment: COUNTY's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by CONTRACTOR the Agreement may be terminated by COUNTY at the end of the period for which funds are available. COUNTY shall notify CONTRACTOR at the earliest possible time of the services which will or may be affected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if COUNTY knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to COUNTY in the event this provision is exercised, and COUNTY shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision. This provision shall not be interpreted or construed to permit COUNTY to terminate this Agreement in order to acquire similar services from another party.

15. Notices: All notices required and permitted under this Agreement shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the party for whom intended at such parties' address listed herein, or when personally delivered personally to such party. A party may change its address for notice hereunder by giving written notice to the other party.

16. Addendum Controls: Where a conflict exists or arises between any provision or condition of this Addendum and the Agreement, the provisions and conditions set forth in this Addendum shall control.

17. Compliance with Law: The parties agree that they shall comply with all applicable laws, regulations and ordinances, whether Federal, State or Local.

**[Remainder of this page left intentionally blank]**

**ADDENDUM TO HYDRAULIC ELEVATOR MAINTENANCE AGREEMENT  
BETWEEN LARAMIE COUNTY AND KONE INC.**

**Signature Page**

LARAMIE COUNTY, WYOMING

By: \_\_\_\_\_ Date \_\_\_\_\_  
Amber Ash, Chairman, Laramie County Commissioners

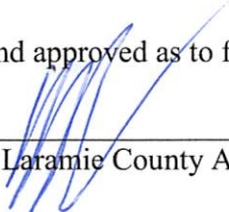
ATTEST:

By: \_\_\_\_\_ Date \_\_\_\_\_  
Debra K. Lathrop, Laramie County Clerk

CONTRACTOR, KONE Inc.

By:  \_\_\_\_\_ Date 06/25/2015  
Title: Jeff Blum, Senior Vice President West Region  
KONE Contract# 41033502

Reviewed and approved as to form.

By:  \_\_\_\_\_ Date 7/2/18  
Mark Voss, Laramie County Attorney



**Attachment A**

**KONE Inc. Proposal to Supply Elevator, Escalator, Moving Walkway Services,  
repair or modernization under the U.S. Communities Program utilizing the Terms  
and Conditions of the City and County of Denver Master Contract  
(Reference GENRL-201414653-00 dated April 1<sup>st</sup>, 2014)**

**Laramie County Government  
309 W. 20<sup>th</sup> Ave Suite 1900  
Cheyenne, Wy. 82001**

Agreement Effective date 06/01/2015

**UNITS & EQUIPMENT PRICING: Total \$ 1,312.00 per month**

- 8- Hydraulic Elevators At Government Complex & 1- Dumbwaiter**
- 3- Hydraulic Elevators W/ Overtime callbacks included at Sheriffs bldg.**
- 1- Dumbwaiter and 2- Hydraulic elevators at Historical Courthouse**
- 1- Hydraulic elevator at the City & County Health Bldg**

**\*\*KRMS-Elevator Phone Monitoring                    Y                    N**

**\*\*Requires execution and completion on the CIS (Customer Information Sheet) before phones can be programmed to KONE.**

**PERFORMANCE**

**KONE will systematically examine, maintain, adjust and lubricate the equipment. In addition, unless specifically excluded elsewhere, KONE will repair or replace the following if the repair or replacement is, in KONE's judgment, necessitated by normal wear and tear.**

## **HYDRAULIC ELEVATORS**

### **MICROPROCESSOR HYDRAULIC ELEVATOR SYSTEM COMPONENTS**

#### **CONTROL SYSTEM**

Controller cabinet, machine room connection board, LCE CPU board, safety relay assembly, hydraulic level shifter board, power supply, transformers, contactor panels, bypass switches, relays, fuses, motor starters and accessories.

KONE First Service technicians will be equipped with necessary field diagnostic and service tools. Microprocessor software examinations will be conducted to ensure dispatching and motion control systems are operating at proper levels.

#### **POWER UNIT**

Enclosure, pump, motor, power transmission elements between the pump and motor, valves, strainers, mufflers, gaskets and all other accessories.

#### **HYDRAULIC SYSTEM ACCESSORIES**

Exposed piping, fittings, jack packing and accessories, such as vibration dampeners and silencers between the pumping unit and the jack unit. Hydraulic fluid, heating or cooling elements, insulation and accessories installed by the elevator equipment manufacturer for controlling oil temperature.

#### **CAR EQUIPMENT**

Car panel connect board, car operating board, car top inspection station, floor

leveling unit assembly, switch tree assembly and floor controllers.

#### **ELECTRICAL**

Electrical wiring, conduit, ducts, and traveling cables from the elevator equipment to the machine room mainline disconnect switch, and hoistway outlets.

#### **HOISTWAY AND PIT EQUIPMENT**

Landing and slowdown switches, limits and car buffers.

#### **RAILS AND GUIDES**

Guide rails, guide shoe gibs and rollers. Guide rails will be properly lubricated, except where roller guides are used.

#### **DOOR EQUIPMENT**

Automatic door operators, hoistway and car door hangers, hoistway and car door contacts, door protective devices, hoistway door interlocks, door gibs and auxiliary door closing devices.

#### **SIGNALS AND ACCESSORIES**

Car operating panels, hall push button stations, hall lanterns, emergency lighting, car and hall position indicators, lobby control panels, car operating panels, fireman's service equipment and all other signal and accessory facilities furnished and installed as an integral part of the elevator equipment.

Re-lamping of signal fixtures is included only during KONE's systematic examinations. Service requests related to re-lamping of signal fixtures will be considered billable.



### **HOUSEKEEPING**

Purchaser and KONE have a shared responsibility to clean elevator machine rooms, pit areas, hoistway equipment including rails, interlocks, hoistway door hangers and tracks, relating devices, switches, buffers and car tops.

### **LUBRICANTS**

KONE will use lubricants compounded under OEM's specifications or equal.

### **HOURS OF SERVICE**

All work covered under this Agreement is to be performed during the regular working hours of regular working days of the elevator trade, unless otherwise indicated herein.

### **KONE SERVICE CENTER**

The KONE Service Center is available 24-hours a day, seven days a week to respond to all calls and dispatch a service technician if necessary. In the unlikely event of an entrapment, a highest priority response will be given. If your unit is equipped with remote monitoring capabilities, KONE reserves the right to utilize this functionality and the phone line for the unit to collect data related to the use and operation of your equipment.

### **SERVICE REQUESTS (CALLBACKS)**

This Agreement covers minor adjustment service requests during the regular working hours of regular working days of the elevator trade, unless otherwise indicated herein.

The Sheriffs Building has overtime callback coverage included in this agreement

If Purchaser should require, at any time, service requests (unless included above) to be made on overtime, Purchaser will be charged only for the difference between KONE's regular hourly billing rate and KONE's regular overtime billing rate applicable for each overtime hour worked. All work outside the scope of this Agreement is to be performed by KONE at an agreed upon rate.

Service requests are defined as minor adjustments, corrections or emergency entrapments that require immediate attention and are not caused by reasons beyond KONE's control. Service requests do not include work that requires more than one technician or more than two hours to complete.

### **TESTS**

KONE will perform the following tests on the equipment:

#### **HYDRAULIC ELEVATOR**

A pressure relief test and a yearly leakage test as required by the A.S.M.E. A-17.1 code.

Annual Traction test as per A.S.M.E. A-17.1 Code

Five year full load Traction test as per A.S.M.E. A-17.1 code

#### **TRACTION ELEVATORS**

#### **RELAY LOGIC CONTROL SYSTEM**

All control system components.

#### **MICROPROCESSOR CONTROL SYSTEM**

All control system components. System performance examinations will be conducted to ensure dispatching and motion control systems are operating properly.

#### **GEARED/GEARLESS MACHINES**

All geared and gearless machine components.

#### **WIRING**

All elevator control wiring and all power wiring from the elevator equipment input terminals to the motor.

#### **CAR EQUIPMENT**

All elevator control system components on the car.

#### **HOISTWAY AND PIT EQUIPMENT**

All elevator control equipment, car and counterweight buffers, overspeed governors, governor tension sheave assemblies, and car and counterweight safeties.

#### **RAILS AND GUIDES**

Guide rails, guide shoe gibs and rollers.

#### **HOIST ROPES**

Hoist ropes will be properly lubricated and adjusted for equalized tension.

#### **DOOR EQUIPMENT**

Automatic door operators, hoistway and car door hangers, hoistway and car door contacts, door protective devices, hoistway door interlocks, door gibs and auxiliary door closing devices.

#### **MANUAL FREIGHT DOOR EQUIPMENT**

Switches, retiring cams, interlocks, guide shoes, sheaves, rollers, chains, sprockets, tensioning devices, and counter-balancing equipment.

#### **POWER FREIGHT DOOR EQUIPMENT**

Controller, relays, contactors, rectifiers, timers, resistors, solid state components, door motors, retiring cams, interlocks, switches, guide shoes, sheaves, rollers, chains, sprockets, and tensioning devices.

#### **SIGNALS AND ACCESSORIES**

Car operating panels, hall push button stations, hall lanterns, emergency lighting, car and hall position indicators, lobby control panels, car operating panels, fireman's service equipment and all other signal and accessory facilities furnished and installed as an integral part of the elevator equipment. Re-lamping of signal fixtures is included only during KONE's systematic examinations. Service requests related to re-lamping of signal fixtures will be considered billable.

#### **ESCALATORS**

##### **ESCALATOR SYSTEM COMPONENTS**

##### **CONTROL SYSTEM**

All control system components.

##### **DRIVE MACHINERY AND MOTOR EQUIPMENT**

All drive machine components. The gear case will be periodically drained and flushed to remove sediment and grit and refilled with new gear oil.

##### **WIRING**

All escalator control wiring and all power wiring from the escalator equipment input terminals to the motor.

##### **HANDRAIL DRIVE SYSTEM**

All handrail drive components.

### **SAFETY SWITCH SYSTEM**

Missing step detector, handrail speed detector, handrail inlet switches, step upthrust inlet switches, combplate impact device, skirt switches, pit and motor stop switches, access cover switches, out-of-level step switches, emergency stop and inspection switches, alarm on the stop switch cover, broken step chain switches, key start switches, and brake temperature switch.

### **GUIDANCE AND ALIGNMENT SYSTEMS**

All steps, guidance and alignment components and demarcation lights. Balustrades and decks will be examined, adjusted, aligned, and properly fastened.

### **POWER WALKS**

#### **POWER WALK SYSTEM COMPONENTS**

##### **CONTROL SYSTEM**

All control system components and wiring.

##### **DRIVE MACHINERY AND MOTOR EQUIPMENT**

All drive machine components. The gear case will be periodically drained and flushed to remove sediment and grit and refilled with new gear oil.

##### **WIRING**

All power walk control wiring and all power wiring from the power walk equipment input terminals to the motor.

##### **HANDRAIL DRIVE SYSTEM**

Handrail and all handrail drive components.

##### **SAFETY SWITCH SYSTEM**

Missing pallet detector, handrail speed detector, handrail inlet switches, comb plate impact device, skirt switches, pit and motor stop switches, access cover switches, out-of-level pallet detector, emergency stop and inspection switches, alarm on the stop switch cover, broken pallet chain switches, and key start switches.

##### **GUIDANCE AND ALIGNMENT SYSTEMS**

All pallets, guidance and alignment components, and demarcation lights. Balustrades, decks and skirt panels will be examined regularly, adjusted, properly fastened, and aligned as applicable.

### **EXCLUSIONS**

KONE assumes no responsibility for the following items or services, which are excluded from the Agreement:

#### **HYDRAULIC ELEVATOR**

Refinishing, repairing, replacement or cleaning of car enclosure, gates and/or door panels, door pull straps, hoistway enclosure, rail alignment, hoistway doors, door frames, sills, hoistway gates, finished flooring, power feeders, switches, their wiring and fusing, car light diffusers, ceiling assemblies and attachments, smoke or heat sensors, fireman's phone devices, intercoms, music systems, media displays, card-readers or other security systems, light tubes and bulbs, hydraulic cylinder, unexposed piping, pit pumps, emergency power generators, disposal of or clean-up of waste oil or any contamination caused by leaks in the hydraulic cylinder or unexposed piping, including any consequential damages.

## **GENERAL**

KONE shall not be obligated to make other safety tests other than those specified herein, equipment adjustments, or to install new attachments whether or not recommended or directed by insurance companies, or by federal, state, municipal, A.S.M.E. codes, or other governmental or non-governmental authorities. KONE will maintain the equipment performance and its components to the operating condition at the effective date of this agreement. KONE shall not be required to perform and keep records of firefighter's service testing, unless specifically included elsewhere in this agreement. KONE shall not be obligated to make equipment adjustments to achieve Code required Escalator Step/Skirt Performance Index or loaded gap values. KONE shall not be obligated to make changes or adjustments required by new or retroactive code changes. KONE will not be responsible to perform tests or correct outstanding violations or deficiency lists cited by code authorities or any third party agency prior to the effective date of this agreement. KONE will not be required to make renewals or repairs necessitated by fluctuations in the building AC power systems, adverse machine room conditions (including temperature variations below 60 degrees and above 90 degrees Fahrenheit), excessive humidity, adverse environmental conditions, water damage, prior water exposure, rust, fire, explosion, acts of God, misuse, vandalism, theft, war, acts of government, labor disputes, strikes, lockouts or tampering with the elevator equipment by unauthorized personnel. KONE shall not be obligated to make repairs or renewals for damage or deterioration caused by UV rays.

KONE shall not be required to make renewals or repairs necessitated by negligence or misuse of the equipment or any other cause beyond its control except ordinary wear and tear. Obsolete items are excluded from this agreement. Obsolete items and the labor to replace them will be at the owner's expense. Obsolete items (including, but not limited to, assemblies, parts, components or systems) are defined as follows: An item for which the original design is no longer regularly manufactured by the OEM or the original item has been replaced with an item of different design. No exception to this exclusion will be made for items defined as obsolete above simply because they can be custom made or acquired at any price. Any modifications to existing equipment necessary to accommodate replacement components will also be at the owner's expense. KONE will not be required to furnish reconditioned or used parts.

## **PURCHASER ASSURANCES**

### **AUTHORIZED PERSONNEL**

Purchaser agrees to furnish KONE with a list of authorized personnel responsible for building operations.

### **WIRING DIAGRAMS**

Purchaser agrees to provide KONE with a complete set of as built wiring diagrams.

### **NOTIFICATION**

In the event that the equipment is not functioning properly, purchaser agrees to shut down equipment and notify KONE for repair.

Purchaser agrees to notify KONE in the event of any injury or accident in or about the equipment included in this agreement. Verbal notification must be provided immediately and written notification must be provided within seven days.

### **OPERATION**

Purchaser shall at all times be solely liable for the proper use of the equipment. Purchaser agrees to post any and all instructions and warnings to passengers related to the use of the equipment. Purchaser shall not permit anyone other than KONE to make

repairs, additions, modifications, upgrades or adjustments to the equipment covered herein during the term of the agreement.

#### **TESTING AND SERVICING**

Purchaser agrees to perform the monthly firefighter's service testing and keep record of such tests, if required and not specifically included elsewhere herein. Purchaser agrees to annually maintain the mainline disconnect switch by a certified electrician and repair as necessary.

#### **EQUIPMENT ACCESS**

Purchaser agrees to provide safe access to the equipment and machine room areas for service and keep all machine rooms and pit areas free from water, stored materials and debris. Purchaser agrees to remove and dispose of any hazardous materials, water or waste according to applicable laws and regulations. Purchaser agrees to provide a safe workplace for our personnel.

#### **SATISFACTION**

If you are ever less than very satisfied with KONE's performance, Purchaser agrees to contact KONE immediately.

#### **CONTRACT TERM**

The service specified will be furnished from the effective date stated herein, and shall continue for an initial term of One Year with an Option to renew for 2- additional one year periods for a total of Three Years. Either party may terminate this Agreement either at the end of the initial One year term or at the end of any subsequent One year term by giving the other party ninety (30 days written notice, via certified mail, prior to the expiration date of the Agreement, the expiration date being one (1) year from the effective date of this agreement or One (1) years from the effective date of any subsequent renewal term. The parties acknowledge that premature cancellation of this Agreement or delayed notice of termination shall constitute a material breach of contract and the entire remaining amount of the contract will accelerate and become due to KONE as liquidated damages. In the event of the sale, lease or other transfer of the ownership of the equipment described herein, or the premises in which it is located, Purchaser agrees to see that such Purchaser is made aware of this Agreement and assumes and agrees to be bound by the terms hereof for the balance of the Agreement. KONE may, at its sole discretion, temporarily suspend upon written notice or terminate entirely upon thirty (30) days' written notice this Agreement at any time due to the Purchaser's breach of contract. In the event of circumstances presenting a safety hazard to the riding public or KONE's technicians (including, but not limited to, Purchaser's act of creating or allowing unsafe practices or conditions or Purchaser's failure to authorize necessary repairs or upgrades), KONE may immediately terminate this Agreement in its entirety upon written notice.

#### **PRICE ADJUSTMENTS Capped at no more than 3.5% per year**

The contract price will be adjusted annually, each year of the contract.  
The payment adjustment will reflect the increase or decrease in labor costs.

#### **Labor**

100% of the current contract price will be increased or decreased by the percent increase or decrease in the straight time hourly labor cost. The current straight time labor cost is the sum of the straight time hourly rate plus the cost of fringe benefits (fringe benefits include but are not limited to welfare, pension, vacations, paid holidays, insurance, and other union contributions) paid to elevator examiners in the locality the equipment is maintained.

## **PAYMENT TERMS**

Payments are due within Thirty (30) days of date of invoice. Owner may also pay via credit card. A delinquent payment charge calculated at the rate of 1½% per month, or if such rate is usurious then at the maximum rate under applicable law, shall be applied to delinquent payments. In the event of default of the payment provisions herein, Purchaser agrees to pay, in addition to any defaulted amount, all attorney fees, collection cost or court cost in connection therewith. Failure to pay any sum due by Purchaser within sixty (60) days will be a material breach. KONE may at KONE's option declare all sums due or to become due for the unexpired term immediately due and payable as liquidated damages, and until the same are paid, KONE may suspend service, and be discharged from further obligations under the contract. If KONE exercises its right to suspend service, KONE shall not be responsible for injury or damage resulting from the lack of service. When service is resumed, Purchaser will be responsible for any costs KONE incurs as a result of the lapse in service.

These payment terms shall also be applicable to any charges for work outside the scope of this Agreement.

## **NON-KONE EQUIPMENT**

The Purchaser agrees to procure replacement parts or proprietary diagnostic devices from the original equipment manufacturer when requested by KONE for replacement, repair, inventory, restoration or modification of the operation of the equipment. KONE agrees to reimburse owner for the cost of all parts acquired at KONE's request. The purchaser authorizes KONE to produce single copies of the EPROM and/or ROM chips for each unit for the sole purpose of an archive backup of the embedded software. These will be stored on the building premises and the purchaser retains possession. KONE agrees that these backup chips shall only be used for the replacement of a defective or damaged chip on the subject unit. KONE will notify purchaser promptly if the need for an OEM diagnostic tool arises. Purchaser agrees to provide diagnostic tools and facilitate repair of diagnostic tools through OEM. Purchaser further agrees that KONE will not be responsible for any delays, damage, cost or claims associated with the failure to provide such diagnostic tools in a timely manner.

KONE agrees to maintain the existing performance as designed and installed. KONE shall not be required under this Agreement to make changes in operation and/or control, subsequent to the date of this contract.

## **PERFORMANCE CLAUSE**

Purchaser may, at any time and at Purchaser's expense, call for an independent elevator consulting firm to evaluate KONE's performance within the scope of this contract. The elevator consulting firm shall be mutually agreed upon by Purchaser and KONE.

If it is found KONE is not complying with the terms of this Agreement, a detailed report shall be submitted to KONE outlining the specific requirements and a minimum period of ninety (90) days shall be allowed for KONE to correct the corresponding non-compliance.

In the event KONE fails to correct the noted material items within the allowed time, Purchaser shall have the right to terminate this Agreement by giving KONE ninety (90) days written notice. Notwithstanding this right, Purchaser remains obligated to pay all previously outstanding balances owed KONE.

**TAX**

Purchaser shall pay, in addition to the price, any tax imposed upon Purchaser by any existing or future law and the amount of tax imposed upon KONE, KONE's suppliers or Purchaser under any statute, court decision, rule or regulation currently effective or becoming effective after the date of this Agreement which is based upon or incident to the transfer, use, ownership, or possession of the materials or equipment involved in the performance hereof or the services rendered, hereunder.

**OBLIGATIONS OF THE PARTIES**

Nothing in this Agreement shall be construed to mean that KONE assumes any liability of any nature whatsoever arising out of, relating to or in any way connected with the use or operation of the equipment covered by this Agreement. Purchaser shall be solely responsible for supervising the use of the equipment and for taking such steps including but not limited to providing attendant personnel, warning signs and other controls necessary to ensure the safety of the user or safe operation of the equipment.

Neither KONE nor its affiliates shall be liable for any loss, damage, detention or delay caused by accidents, strikes, lockouts, material shortages or by any other cause which is beyond its reasonable control, or in any event, for incidental or consequential damages. KONE shall not be liable for any work, service or material other than that specifically mentioned herein.


KONE will not be liable for any indirect, consequential, or special damages including but not limited to fines, penalties, loss of profits, goodwill, business or loss of use of equipment or property.

**Acceptance**

**Purchaser**

Name \_\_\_\_\_  
Date \_\_\_\_\_

**KONE Inc.**

Name   
Date 06/25/2015

KONE Contract# 41033502