



**CORPORATE OFFICE**  
5130 Commercial Cir. Concord, CA 94520  
Sales: 1-800-610-1000 / Service: 1-800-470-1000  
*A Family Business Since 1946*  
[www.bayalarm.com](http://www.bayalarm.com)

DAVID LEBARRE,

I would like to thank you for the opportunity to submit this Commercial Fire Alarm System Purchase and/or Services Agreement for your review and approval. I am proud to say that Bay Alarm Company has grown to become the largest family owned & operated electronic security company in America. We have been protecting businesses like yours for over 70 years, and we currently service more than one-hundred and forty thousand customers.

Although we have grown to become one of the largest alarm companies in America, we still recognize the importance of quick and efficient service. You will immediately recognize the difference between Bay Alarm and the other companies when you experience our commitment to total customer satisfaction. This is accomplished through providing our customers with one point of contact for all of their needs. Bay Alarm's mission is to provide our customers with the highest level of security and fire protection in the industry.

As a leader in our industry, we are proud to be affiliated with the following associations and agencies:

**California Alarm Association**  
**The Monitoring Association**  
**California Automatic Fire Alarm Association**  
**Electronic Security Association**  
**NetOne**  
**National Fire Protection Association (NFPA)**

Thank you for your consideration. If I can be of any assistance by providing clarification or additional information please feel free to contact me. To learn more about Bay Alarm Company, please visit us at [www.bayalarm.com](http://www.bayalarm.com).

Sincerely,

PAUL TIERNAN JR  
ENTERPRISE SALES DIVISION

CSFM Automatic Fire Extinguishing Concern, Type 1 License, A-0471  
California Contractor's License No. 880138  
Alarm Operator's ACO License No. 28  
Bay Alarm Company – What Have You Got To Lose?

**Bay Alarm Company  
Pricing Summary/Scope of Work**

User Name: HAYWARD COLLEGIATE CHARTER SCHOOL Site Phone Number: 000-000-0000

Site Address: 166 W HARDER RD. HAYWARD, CA 94544

**New System or Takeover**    **New Owner**    **Addendum-Alteration Addition**    **Cancel Former Agreement-Alteration Addition**  
**Services Provided:**    **Full Service**    **Time Plus Material Service**    **Monitor Only**

<b>Sale and Installation Price and Payment Summary:</b> Total Installation Price:      \$ <u>54,580.00</u> (Plus Applicable Taxes to be billed separately) Deposit Due at Signing:        \$ <u>27,290.00</u> Due Upon Completion of Prewire:    \$ _____ Balance Due Upon Completion:    \$ <u>27,290.00</u> Monthly Service Charge: \$ <u>315.00</u> due Quarterly in Advance	<b>Fire Test Frequency:</b> <input checked="" type="checkbox"/> <b>NFPA 72</b> <input type="checkbox"/> Sprinkler Inspection Service, Bay will inspect _____ risers in accordance with C.C.R. Title 19 <input type="checkbox"/> Other: _____  <b>Fire Test Devices:</b> <input type="checkbox"/> Panel Only <input checked="" type="checkbox"/> Panel & Fire Devices <input type="checkbox"/> Other _____	<b>Communication Type:</b> <input type="checkbox"/> Single Phone Line <input type="checkbox"/> Two-Way Radio <input checked="" type="checkbox"/> One-Way Radio <input type="checkbox"/> Other Means Permitted by NFPA 72 _____
<b>FOR OFFICE USE ONLY</b>		

**Scope of Work**

User hereby authorizes Bay Alarm Company hereinafter "Bay", or assigns to sell, install and/or provide service for a life safety System under the following conditions and agrees to pay the installation charge upon completion and the service charge in advance to Bay's address, from the date the System is operational.

BAY ALARM TO MONITOR, MAINTAIN, AND SERVICE THE FOLLOWING DEVICES AS PER THE APPROVED FIRE ALARM SHOP DRAWINGS:

- (1) FIRELITE ADDRESSABLE CONTROL PANEL
- (1) FIRELITE ANNUNCIATOR
- (1) CELLULAR COMMUNICATOR
- (1) FIRELITE EMERGENCY COMMAND CENTER
- (1) FIRELITE AUDIO AMPLIFIER
- (1) BEAM SMOKE DETECTOR
- (1) FIRELITE FLASHCAN ADDRESS MONITOR
- (1) SILENT KNIGHT 10 ZONE EXPANDER
- (20) FIRELITE SMOKE DETECTORS
- (3) FIRELITE HEAT DETECTORS
- (3) FIRELITE MODULES
- (14) SPEAKER STROBES
- (14) SPEAKER STROBE WALLMOUNTS
- (5) OUTDOOR SPEAKER STROBES

BAY ALARM TO PROVIDE:

- (1) SET OF FIRE ALARM SHOP DRAWINGS
  - (1) NFPA 72 FIRE ALARM TESTING
  - (1) FIRE ALARM FINAL INSPECTION
  - (1) DOCUMENTATION CABINET
  - (1) CIRCUIT BREAKER LOCKOUT KIT
- BAYNET PLUS - ONLINE ACCOUNT MANAGEMENT

CUSTOMER TO PROVIDE:

- (1) DEDICATED FIRE ALARM CIRCUIT

\*\*CHILDREN CANNOT BE PRESENT DURING THE TIME OF INSTALL

User desires no additional protection at this time, I.E. SMOKE DETECTORS

Pricing: The pricing set forth in this Agreement is based on the number of devices to be installed as set forth in the Scope of Work. If the actual number of devices installed is different than the number set forth in the Scope of Work, the price will be adjusted accordingly.

Bay Alarm Company – What Have You Got To Lose?

## **Special Provisions:**

### **Services Provided:**

**Full Service:** Bay will provide all repairs necessitated by ordinary wear and tear to the System. All other repairs shall be at User's expense on a time plus material basis at Bay's then prevailing rates, which include a minimum 30 minute visit charge.

**Time Plus Material Service:** At the end of Bay's limited warranty Bay will provide all repairs at User's expense on a time plus material basis. Parts and labor will be billed at Bay's then prevailing rates, which include a minimum 30 minute visit charge.

**Monitor Only:** Bay will not provide repair service, testing or inspections to the Systems. User is responsible to provide this service.

### **Fire System:**

Smoke/Heat detectors—for area or spot detection only.

Bay to plan check and apply for required permits. User agrees to pay all permit, plan check, or drawing charges as required.

User understands and agrees that any additional devices required by the AHJ before final acceptance of System will be at User's expense at Bay's then prevailing rates.

User to provide a RED 20 amp Circuit Disconnecting Means for all required Dedicated Branch Circuits—User shall provide listed locks for the Circuit Disconnecting Means.

User to also provide dedicated 120VAC to the Fire Alarm Control Unit and associated power supplies, and install breaker locks for required power. .

If smoke detectors are installed and then become dirty due to construction that takes place, the User understands they are responsible for repair and/or replacement.

If Bay is unable to gain access to the System for testing and inspections, User understands there may be a return trip fee. Bay will not issue a credit for failed or no access inspections.

User understands and agrees that the automatic fire alarm devices and appliances that will be installed or are located on this property are pursuant to the approved shop drawings that will be or were previously submitted by Bay to the AHJ for this property.

Additional state, other government agency, insurance inspections or testing which requires Bay personnel to be on site will be charged on a time plus material basis, at Bay's then prevailing rates.

Once System has been powered up and System is programmed at Bay's monitoring center the Monthly Service Fees is payable.

HVAC System power/shut off is to be provided by mechanical and/or electrical contractors. Duct detectors shall be provided with a grade level reset switch. Bay will monitor only.

If during the installation process the AHJ deems a fire watch is necessary while the System is being installed or temporarily inoperable, User to provide and pay for this service.

Any painting and/or patching is not included unless expressly stated otherwise.

Additional fees that are not included in the contract are as follows: permit fees, additional off hour inspections or re-inspection due to other contracted parties failure to show and have equipment ready for inspection.

Bay shall install a fire alarm System based on the Codes and Standards that were in effect at the time the System was designed, based on the prescriptive requirements for the occupancy. Bay is not providing an engineering assessment. If an engineering assessment of risk hazards is required, the User should contact a Registered Fire Protection Engineer.

### **If System Inspections are to be Performed:**

Bay will perform system inspections during normal business hours, Monday-Friday 9-5. Inspections performed after normal business hours are available at a premium rate. Depending on the type of inspection being performed, User understands it may cause a disruption in business. This includes the annual testing of Notification Appliances.

### **If Sprinkler Inspections Service is Provided:**

Bay will conduct the inspections in accordance with Title 19, California Code of Regulations, Chapter 5, and Article 4. Bay is not providing or will not provide design analysis of the premises sprinkler system through the inspection. If a design analysis is desired the User should contact a Registered Fire Protection Engineer. Subscriber is responsible for having a design analysis performed if there is a change of use to the occupancy and/or products that are stored or produced within the occupancy.

### **If a New Owner Labor Agreement:**

Bay tests and inspects up to one (1) hour only. Any additional work that has not been contracted will be done on a time plus materials basis at Bay's then prevailing rate.

### **If a Takeover / Connect to User Owned Devices:**

Bay to connect to and monitor or control User's owned equipment. Any work to be done on User owned equipment that exceeds one (1) hour will be on a time plus material basis at Bay's then prevailing rate including any repairs or modifications required to make System operational.

### **Network & VoIP:**

User shall provide and maintain operational an Ethernet Network connected CAT-5 or higher cable with a RJ-45 plug termination at location specified by Bay. If required, User will provide I.P. address, gateway address and submask. If the Internet or Wireless Transmission is used as a primary or secondary transmission path, User will provide, at your expense, the necessary telecommunications connections facilities and required standby power. The Internet, radio and cellular networks are maintained and serviced by the applicable service provider and are totally beyond Bay's control. Signal transmission connectivity and speed may vary due to traffic volumes, adverse weather, System outages and other circumstances beyond our control. Internet Connectivity can only be supported through a PC with Internet Explorer. Mac's or other Browsers are not compatible at this time.

**VoIP TELEPHONE SERVICE:** The use of VoIP telephone service may interfere with the ability of the System to transmit alarm signals to our monitoring facility. The User must notify Bay in advance if considering the use of a managed VoIP service in order to assure its ability to function. User understands that DSL, unmanaged VoIP, or other internet-based services not approved in advance by Bay may not be used.

### **If a UL Certificate is Issued:**

User understands and agrees that UL charges Bay an annual fee for their services. User will reimburse Bay for the fee. Bay will automatically renew agreement and certificate for same initial agreement term, unless notified thirty days in advance by User.

### **Progress Billing:**

User understands and agrees that if there is a User caused interruption (i.e. User construction delay, remodeling, prewire, no power available, etc.) in Bay's ability to start and finish the installation and Bay must return at a later date to complete the installation, Bay will progress bill for a portion of work completed. A return trip charge may be incurred.

### **If an Addendum-Alteration Addition:**

User understands and agrees that Bay will leave balance of System as listed per previous agreements.

### **If Cancels Former Agreement-Alteration Addition:**

Contract terms begin upon date System and/or Service is online.

## **SIGNS, DECALS AND SYSTEM COMMUNICATOR REMAIN THE PROPERTY OF BAY**

Bay Alarm Company – What Have You Got To Lose?

# Service Agreement

The agreement is made by and between HAYWARD COLLEGIATE CHARTER SCHOOL "User" and Bay Alarm Company hereinafter "Bay" and is effective for an initial period of **five years**, from date the System is operational. This agreement shall automatically, without action by either party, extend and renew itself under the same terms and conditions for successive periods of two (2) years each, after the initial period unless either party gives to the other at least thirty (30) days written notice, prior to expiration date, or its intention to terminate this agreement upon its original or any renewed expiration date.

Bay will sell to you and install the system ("System") described on the Scope of work section (s) and/or any additional continuation page (s), and if subscribed to by User, monitor and provide other services pursuant to the terms and conditions of this agreement.

**Fire Alarm Shop Drawings** will be completed for submittal to the governing Authority Having Jurisdiction (AHJ). Submittal times may be delayed if User cannot provide useable CAD (Computer Aided Design) files or architectural drawings to Bay. This may require Bay to create a set of floor plans in CAD at an additional expense to User. Floor plans are required for the production of fire alarm shop drawings.

**Governmental Review:** The AHJ may require approval of the System installation. Depending on the processing time for your current AHJ, Bay will not be responsible from delays arising for this portion of the installation process.

**Installation:** Local and state building and fire codes may prohibit the installation of a fire alarm System until approved by the governing AHJ and a permit for the installation is issued. Once Bay receives the approved permit the installation will begin approximately 8-10 weeks and will be completed within approximately 8-10 weeks.

**SCOPE OF WORK:**

Services to be provided at the following location:

166 W HARDER RD. HAYWARD, CA 94544

**Total Installation Charge:** \$ 54,580.00 (plus applicable sales tax)

**Total Monthly Service Charge Due Quarterly in Advance:** \$ 315.00

**User Acceptance:**

In accepting this agreement, User agrees to the terms and conditions herein and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that the User may issue. Any changes in the System requested by the User after the execution of this agreement shall be paid for by the User and such charges shall be authorized in writing.

**Bay Alarm Company:**

PAUL TIERNAN JR

**Sales Representative**

531839

**Agent #**

**User:**

\_\_\_\_\_

**User's Signature**

\_\_\_\_\_

**User's Printed Name and Title**

**Approved**

**Date**

**Date Signed**

This agreement will not be effective until either approved by one of Bay's managers, or Bay begins the installation of the equipment or initiates service. In the event of disapproval, Bay's only obligation shall be to refund any monies paid by User to Bay. User acknowledges and agrees that User will not receive a copy of this agreement signed by Bay's manager, and such lack of receipt shall not, in any way, invalidate or otherwise affect this agreement.

CSFM Automatic Fire Extinguishing Concern, Type 1 License, A-0471  
California Contractor's License No. 880138  
Alarm Operator's ACO License No. 28

Bay Alarm Company – What Have You Got To Lose?

## Terms & Conditions

**1. LIMITED WARRANTY:** (a) **WHAT IS COVERED:** For one year parts and ninety (90) days labor; after we complete the installation, we will repair or replace any defective part of the System without charge to you. We can use new or used parts of the same quality. (b) **HOW TO GET SERVICE:** Call 1-800-470-1000. (c) **WHAT IS NOT COVERED:** Repair of the System is our only duty. This warranty does not include batteries or labor associated with the replacement of batteries. We make no other express warranty including any warranty of merchantability of the System or its fitness for any special purpose. All the implied warranties of merchantability or fitness for any special purpose are limited to the duration of this expressed limited warranty. We do not warrant that the System will always detect, or help prevent any fire, smoke, waterflow or other such event. We do not warrant that the System cannot be defeated or compromised or that it will always operate. This warranty does not cover repairs that are needed because of an accident, acts of God, your failure to properly use the System, or if someone other than us attempts to repair or change the System, or any other reason except a defect in the equipment. We are not liable for consequential or incidental damages. You agree that this is our only warranty and we have given you no other warranty for the System. (d) **STATE LAW:** Some states do not allow the exclusion or the limitation of consequential or incidental damages or a limitation on the duration of implied warranties, so the above limitations or exclusions may not apply to you. The warranty gives you specific legal rights and you may also have other rights which may vary from state to state.

**2. ADDITIONAL COSTS:** User agrees to pay Bay's standard rate for past due or carrying charges and collection costs if payments are not made on time or if installation charge is paid on a periodic payment plan or progress billing. A reconnect charge is to be paid by User if the System is disconnected because of a past due balance and User desires it reconnected. User will receive no credit if System is temporarily disconnected or out of service for any reason. Bay assumes no liability for failure to perform because of labor disputes, riots, floods, fires, acts of God or any catastrophe or condition beyond our control and is not required to perform work while any such condition exists. If it becomes necessary for Bay to institute legal proceedings to collect any charges as set forth herein, the unsuccessful party shall pay to the successful party reasonable attorney's fees and actual court cost wherein permitted by law. If User fails to pay any obligations under this agreement when due, upon ten (10) days' written notice, Bay may disconnect the System. A reconnection fee in addition to all past due amounts, will be required prior to reactivating System.

**3. BAY IS NOT AN INSURER, LIQUIDATED DAMAGES, LIMITATION OF LIABILITY:** For all Systems and services provided, User acknowledges that it is impractical and extremely difficult to fix the actual damages if any, which may proximately result from Bay's negligence, a failure by Bay to perform any of the obligations herein, including but not limited to, installation, monitoring, warranty repair, repair service or other services, or the failure of the System to properly operate with resulting loss to User because of, among other things a) The uncertain amount or value of User's property or the property of others kept on the premises which may be lost, destroyed, damaged or otherwise affected by occurrences which the System or service is designed to detect or avert; b) The uncertainty of the response time of any fire department, should they be notified as a result of a signal from or at premises; c) The inability to ascertain in advance what portion, if any, of any personal injury, death, or property loss would be proximately caused by Bay's failure to perform or by its equipment to operate; or d) The nature of the service to be performed by Bay. User understands and agrees that if Bay should be found liable for loss or damage due to failure of Bay to perform any of the obligations herein, including but not limited to installation, repair services, monitoring, fire inspections, or the failure of the System equipment in any respect whatsoever, or Bay's negligence then, Bay's liability shall be limited to a sum equal to the total of one half the annual payment or Fifteen Hundred Dollars (\$1,500.00), whichever is the lesser, as liquidated damages and not as a penalty and this liability shall be exclusive; and that the provisions of this paragraph shall apply if loss or damage, irrespective of cause or origin, results directly or indirectly to persons or property, from performance or nonperformance of the obligations imposed by this agreement, or from negligence of Bay, its agents, assigns or employees. User may obtain a limitation of liability from Bay for a higher limitation of liability in lieu of the liquidated damages set forth above by paying an additional fee to Bay. If User elects this option, a rider will be added to this agreement which will set forth the amount of the limitation of liability and the amount of the fee. Agreeing to the limitation of liability does not mean that Bay is an insurer.

**4. THIRD PARTY INDEMNIFICATION:** When User, in the ordinary course of business, has the property of others in its/his custody, or the System extends to protect property of others, User agrees to and shall indemnify, defend and hold harmless Bay, its employees and agents for and against all claims brought by parties, other than the parties to this agreement. This provision shall apply to all claims regardless of cause including Bay's performance or failure to perform and including defects in products, design, installation, monitoring, repair, service, operation or non-operation of the System whether based upon negligence, warranty, contribution, indemnification, strict or product liability on the part of Bay, its employees or agents, but this provision shall not apply to claims for loss or damage which occur while an employee or agent of Bay is on User's premises and are solely and directly caused by such employee or agent.

**5. SUBROGATION:** So far as it is permitted by User's property insurance coverage, User hereby releases, discharges and agrees to hold Bay harmless from any and all claims, liabilities, damages, losses or expenses, arising from or caused by any hazard covered by insurance in or on the User's premises whether said claims are made by User, his agents, or insurance company or other parties claiming under or through User. User agrees to indemnify Bay against, defend and hold Bay harmless from, any action for subrogation which may be brought against Bay by any insurer or insurance company or its agents or assigns including the payment of all damages, expenses, costs and attorney's fees. User shall notify his insurance carrier of the terms of this provision.

**6. USER DUTIES:** You will instruct all other persons who may use the System on its proper use. If a problem in the System occurs you will notify us. Authorities may not respond to an alarm, and/or you may be subject to a fine or penalty unless you have all necessary permits and licenses for the use of the System. You agree that we may disclose the information of the instructions to any governmental agency having jurisdiction over the use and operation of the System. You will notify us in writing of any change in your fire rating bureau or agency. User will give Bay access to all portions the premises necessary to conduct inspections and tests of the System.

**7. INSTALLATION:** User will permit Bay to install the System during Bay's normal business hours and will give Bay uninterrupted access to User's premises. User agrees to compensate Bay for any additional installation/service visits required as a result of cancellation, readiness or unavailability to Bay's current prevailing rate. User has approved the locations of where the control panel, audible devices and all protective devices will be installed. User has the affirmative duty to inform Bay, prior to beginning of installation, of every location at the premises where we should not (because of concealed obstructions or hazards such as pipes, wires or asbestos) enter or drill holes. Upon request, User will repair the premises (including fixing broken sprinkler system components) reasonably necessary to facilitate the installation and operation of the System. If asbestos or other health hazardous material is encountered during installation, Bay will cease work until User has, at User's sole expense, obtained clearance from a licensed asbestos removal or hazardous material contractor that continuation of work will not pose any danger to Bay's personnel. In no case shall Bay be liable for discovery or exposure of hidden asbestos or other hazardous material, and User shall indemnify and hold Bay and its employees harmless from any claims brought against Bay and/or its employees by third parties for damages, personal injury, death, emotional injury, whether actual or prospective allegedly caused by the presence, spread, ingestion or inhalation of any substance/vapor on or originating from User's premises. Bay is not responsible if the installation is delayed because of bad weather, labor disputes, unavailability of electrical power or telephone service, Acts of God or other reasons beyond Bay's control. After completion of the System, User and a Bay representative will inspect it. If something is missing or not properly installed you the User will notify Bay within ten (10) days, otherwise the System will have been accepted by User.

**8. CHARGES, TAXES, and RATE INCREASES:** All charges set forth herein are based upon existing federal, state and local taxes and utility charges, including telephone company charges, if any. Bay shall have the right at any time to increase the monthly charges provided herein, to reflect any additional taxes, fees or charges provided herein, or charges which hereafter may be imposed on Bay by any utility or governmental agency relating to the service(s) provided under the terms of this agreement and User agrees to pay the same. So that Bay may properly adjust its rates to meet changing service costs and notwithstanding the terms and conditions set forth herein after the expiration of one (1) year from the date of completion of installation and not more often than once each twelve (12) months, Bay may increase the monthly service charge by up to 1.5 times the current Bureau of Labor Statistics Consumer Price Index for all urban consumers (related areas) or if this index is discontinued a comparable index as measured from the date of this agreement to the effective date of the increase upon giving User notice in writing. The billing invoice setting forth the new charge shall be sufficient notice of the increase. Notwithstanding any other terms and conditions set forth in this agreement, so that Bay may properly adjust periodic charges to recover increases in its services costs which are not recovered by increase pursuant to paragraph above, at any time after the expiration of one (1) year from date of installation, Bay may increase the monthly service charge to an amount exceeding the charge provided in paragraph above upon giving the User notice in writing. The billing invoice setting forth the new charge shall be sufficient notice of the increase. If User is unwilling to pay such additional monthly charges imposed pursuant to this paragraph and Bay is unwilling to rescind the additional amount, User may terminate this agreement upon giving written notice to Bay within ten (10) days from the effective date of the increase. User's failure to notify Bay within said ten (10) days shall constitute User's consent to the increase pursuant to this paragraph.

**9. ASSIGNEES/SUBCONTRACTORS OF BAY:** Bay may transfer or assign this agreement to any other person or entity including any financial institution or alarm company. User may not transfer this agreement to someone else (including some-one who purchases or rents User's premises) unless Bay approves the transfer in writing. Bay may use subcontractors to provide installation, repairs, inspections, tests or monitoring services. This Agreement, and particularly paragraphs 3, 4 and 5, shall apply to the work or services Bay's assignees or subcontractors provide, and shall apply to them and protect Bay's assignees and subcontractors in the same manner as it applies to and protects Bay.

**10. MONITORING SERVICE:** When a signal from the System is received in Bay's Central Station, Bay will try to telephone the proper fire department or other emergency personnel and the first available person on the Emergency Notification List User gives us. You will notify us in writing of any changes in the instructions. . To avoid Unwanted Alarms, Bay may, where permitted or required by the Authority Having Jurisdiction, call User's premises first to determine if an actual emergency exists before Bay calls any authorities. If Bay has reason to believe that no actual emergency exists, Bay may choose not to place such notification calls. Bay may discontinue any part of this service if required to do so by governmental or insurance authorities. User acknowledges and agrees that both User and Bay are required to comply with all laws, rules and regulations regarding monitoring and alarm response enacted or adopted by the governmental authorities having jurisdiction over the System. User consents to the tape recording of all telephonic communications between Bay's Central Station and User's premises. Bay may charge User for non-emergency signals, use of premises keys or alarm response by Bay personnel. If Bay holds premises keys, it is hereby authorized to enter and make a visual inspection of the interior of the premises or protected area. User acknowledges that if Bay utilizes a digital communicator for the purpose of sending alarm signals from User's premises to Bay's Central Station, that the signals from User's System may be sent over a single phone line to Bay's Central Station and other telephone calls cannot be made when the System is activated including 911 emergency operator calls; and in the event User's telephone service is out of order, disconnected, placed on vacation or otherwise interrupted, signals from User's System will not be received in Bay's Central Station during any such interruption and the interruption will not be known to Bay. User further acknowledges and agrees that signals are sent over telephone company lines which are wholly beyond the control and jurisdiction of Bay and are maintained and serviced by the applicable telephone company. User agrees to pay all charges for all telephone services connecting User's protected premises and Bay. User acknowledges that if Wireless Transmission becomes inoperative for any reason, signals will not be received in Bay's Central Station. User acknowledges that Wireless Transmission may be impaired or interrupted by atmospheric conditions, including electrical storms, power failures or other conditions beyond the control of Bay.

**11. EXCESSIVE ALARMS:** In the event an excessive number of false alarms or service calls are caused by User or in the event User in any manner misuses or abuses the System, Bay may, in its sole discretion, deem same to be a material breach of contract on the part of User and, at its option, be excused from further performance upon the giving of ten (10) days written notice to User. Bay's excuse from performance shall not affect its right to recover damages from User. **User represents he fully understands that the equipment, because of its sensitivity and nature, is subject to the influence of external events which are not within the control of Bay and which may cause the alarm to activate.** In the event a fine, penalty or fee is assessed against Bay or User by any governmental or municipal agency as a result of any alarm originating from User's premises, User agrees to be responsible for payment of all assessments and/or reimburse Bay for Bay assessments. Any or all such alarms shall not excuse any of the obligations of User as set forth in the agreement.

**12. DISCONNECT POLICY:** User hereby authorizes Bay to manually or automatically disconnect System if so ordered by a public official or regulation or for nuisance or electrical reasons or if Bay is unable to notify User at emergency numbers listed or if User declines or fails to arrive at premises within thirty (30) minutes after notification. User agrees to hold Bay harmless and to indemnify Bay for any damage, loss, or liability which may result from the turning off of the System.

**13. CONTROL COMMUNICATOR:** The control communicator is owned by Bay. User acknowledges and agrees that Bay reserves the right to access the digital control communicator by way of remote programming in order to perform diagnostics, change and/or update information, or disconnect service upon the termination or expiration of this agreement.

**14. RENEWAL; ENTIRE AGREEMENT:** It is understood and agreed by and between the parties hereto, that if there is any conflict between this agreement and User's purchase order or any other document or Bay literature, this agreement will govern, whether such purchase order or other document is prior or subsequent to this agreement unless expressly superseded or replaced by a subsequent agreement. In the event any provisions or parts of this agreement shall be unenforceable, the parties understand and agree that the remaining provisions and parts shall continue in full force and effect. There are no verbal understandings changing or modifying this agreement. If User cancels agreement before installation begins, User agrees to pay an administrative charge of 50% of the installation charge. We retain ownership in the System until the sales price is paid in full. If you fail to make any payment for the purchase of the System you empower us and will permit us to disconnect and remove the System or any part of it from your premises. In addition we may pursue any rights and remedies we may have as a secured creditor under the Uniform Commercial Code or pursue any other rights we may have under the law. Removal or disconnection of the System shall not be deemed a waiver of our rights to collect damages, and we shall be under no obligation to restore your premises to its original condition if we terminate the installation or remove the System or any part of it.

**15. GOVERNING LAW:** 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; and the parties rely only upon the contents of this agreement in executing it. This agreement can only be modified in writing signed by the parties or their duly authorized agent. No waiver or breach of any term or condition of this agreement shall be construed to be a waiver of any succeeding breach. User agrees that this agreement is performed in the state of California and shall be governed by the laws of California. User agrees that any and all legal proceedings will have Contra Costa County California as the exclusive place of venue.

**16. LEGAL WAIVERS; JUDICIAL REFERENCE:** Both parties hereby agree that no suit or action that relates in any way to this agreement (whether based upon contract, negligence or otherwise) shall be brought against the other more than one (1) year after the accrual of the cause of action therefore. Both parties agree that no lawsuit or any other legal proceeding connected with this Agreement shall be brought or filed more than one (1) year after the incident giving rise to the claim occurred. Any controversy, dispute, or claim between the parties arising out of or relating to this Agreement, (other than actions brought by Bay in small claims court to collect amounts due under this Agreement) will be settled by a reference proceeding in Contra Costa County California, in accordance with the provisions of Sections 638, et seq and 641 through 645.1, and of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any controversy, dispute, or claim concerning this Agreement, including whether such controversy, dispute, or claim is subject to the reference proceeding. The referee shall be appointed to sit as a temporary Judge with all of the powers of a temporary Judge authorized by law. In the event that the enabling legislation, which provides for the appointment of a referee is repealed and no successor statute is enacted, any dispute between the parties that would otherwise be determined by a reference procedure herein, will be resolved and determined by binding arbitration. That arbitration will be conducted by a retired Judge of the Superior Court in accordance with Section 1280 to 1294.2 of the California Code of Civil Procedure, as amended from time to time.

**17. IMAGING:** User agrees that Bay may save and store all agreements and other documents executed by User in an electronic media and all such agreements and other documents shall be deemed to be, and may be used by Bay as, originals and shall be given the same force and effect as the paper-form original.

**18. DEFAULT BY USER; EXPIRATION; TERMINATION:** If any proceeding in bankruptcy, receivership, or insolvency shall be commenced by or against User or his property, or if User makes an assignment for the benefit of creditors, User and Trustee or Assignee appointed to take charge of User's assets shall elect within thirty (30) days to assume or reject this agreement. If assumed, the party assuming this agreement shall within sixty (60) days thereafter: (1) cure all defaults including payment of all amounts due, and (2) provide to Bay adequate assurances of the future performances. Bay shall have the right to terminate this agreement. If User defaults or cancels this agreement, or this agreement is terminated in whole or in part for any reason other than Bay's default, Bay shall be entitled to collect and User shall pay to Bay: (i) all amounts due to Bay for services performed and equipment provided through the termination date of the agreement, and (ii) all amounts to which Bay is entitled by law for the unexpired term of the agreement, including loss of profits. Thirty day written cancellation required. At the expiration or termination of this agreement for any reason, Bay is authorized to enter onto the premises of User and remove Bay's identification signs, decals, equipment and reprogram or otherwise modify the control communicator so that it will no longer communicate signals to Bay's Central Station.

**19. BAY'S LICENSES: CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTOR'S STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR (4) YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN TEN (10) YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 2600, SACRAMENTO, CA 95826.**

## **PLEASE READ ENTIRE AGREEMENT**



**CORPORATE OFFICE**  
5130 Commercial Cir. Concord, CA 94520  
Sales: 1-800-610-1000 / Service: 1-800-470-1000  
*A Family Business Since 1946*  
www.bayalarm.com

HAYWARE COLLEGIATE CHARTER SCHOOL,

I would like to thank you for the opportunity to submit this Commercial Fire Alarm System Purchase and/or Services Agreement for your review and approval. I am proud to say that Bay Alarm Company has grown to become the largest family owned & operated electronic security company in America. We have been protecting businesses like yours for over 70 years, and we currently service more than one-hundred and forty thousand customers.

Although we have grown to become one of the largest alarm companies in America, we still recognize the importance of quick and efficient service. You will immediately recognize the difference between Bay Alarm and the other companies when you experience our commitment to total customer satisfaction. This is accomplished through providing our customers with one point of contact for all of their needs. Bay Alarm's mission is to provide our customers with the highest level of security and fire protection in the industry.

As a leader in our industry, we are proud to be affiliated with the following associations and agencies:

**California Alarm Association**  
**The Monitoring Association**  
**California Automatic Fire Alarm Association**  
**Electronic Security Association**  
**NetOne**  
**National Fire Protection Association (NFPA)**

Thank you for your consideration. If I can be of any assistance by providing clarification or additional information please feel free to contact me. To learn more about Bay Alarm Company, please visit us at [www.bayalarm.com](http://www.bayalarm.com).

Sincerely,

PAUL TIERNAN JR  
ENTERPRISE SALES DIVISION

CSFM Automatic Fire Extinguishing Concern, Type 1 License, A-0471  
California Contractor's License No. 880138  
Alarm Operator's ACO License No. 28  
Bay Alarm Company – What Have You Got To Lose?



**Bay Alarm Company  
Pricing Summary/Scope of Work**

User Name: HAYWARD COLLEGIATE CHARTER SCHOOL Site Phone Number: 510-955-7083

Site Address: 166 W HARDER RD, HAYWARD, CA 94544

**New System or Takeover**    **New Owner**    **Addendum-Alteration Addition**    **Cancel Former Agreement-Alteration Addition**  
**Services Provided:**    **Full Service**    **Time Plus Material Service**    **Monitor Only**

<p><b>Sale and Installation Price and Payment Summary:</b></p> <p>Total Installation Price:      \$ <u>11,275.00</u>          (Plus Applicable Taxes to be billed separately)</p> <p>Deposit Due at Signing:         \$ <u>5,637.50</u></p> <p>Due Upon Completion of Prewire:   \$ _____</p> <p>Balance Due Upon Completion:    \$ <u>5,637.50</u></p> <p>Monthly Service Charge:          \$ <u>75.00</u>                      due Quarterly in Advance</p>	<p><b>Fire Test Frequency:</b></p> <p><input checked="" type="checkbox"/> <b>NFPA 72</b>  <input type="checkbox"/> <b>Sprinkler Inspection Service, Bay will inspect _____ risers in accordance with C.C.R. Title 19</b>  <input type="checkbox"/> <b>Other:</b> _____</p> <p><b>Fire Test Devices:</b></p> <p><input type="checkbox"/> <b>Panel Only</b>  <input checked="" type="checkbox"/> <b>Panel &amp; Fire Devices</b>  <input type="checkbox"/> <b>Other</b> _____</p>	<p><b>Communication Type:</b></p> <p><input type="checkbox"/> <b>Single Phone Line</b>  <input type="checkbox"/> <b>Two-Way Radio</b>  <input checked="" type="checkbox"/> <b>One-Way Radio</b>  <input type="checkbox"/> <b>Other Means Permitted by NFPA 72</b> _____</p>
FOR OFFICE USE ONLY		

**Scope of Work**

User hereby authorizes Bay Alarm Company hereinafter "Bay", or assigns to sell, install and/or provide service for a life safety System under the following conditions and agrees to pay the installation charge upon completion and the service charge in advance to Bay's address, from the date the System is operational.

BAY ALARM TO MONITOR, TEST, INSPECT AND SERVICE ON A TIME AND MATERIALS RATE BASIS THE FOLLOWING SUB-OWNED EQUIPMENT AS PER THE APPROVED FIRE ALARM SHOP DRAWINGS:

- (3) OUTDOOR SPEAKER STROBES
- (3) INTERIOR SPEAKER STROBES
- (12) FIRELITE SMOKE DETECTORS
- (6) FIRELITE HEAT DETECTORS
- (3) FIRELITE MANUAL PULL STATIONS

BAY ALARM TO PROVIDE:

- FIRE ALARM SHOP DRAWINGS
- FIRE FINAL INSPECTION
- NFPA 72 INSPECTIONS
- BAYNET PLUS - ONLINE ACCOUNT MANAGEMENT

CUSTOMER TO PROVIDE:

- UNDERGROUND CONDUIT LEADING TO CONNECTING TO PORTABLES

User desires no additional protection at this time, I.E. ADDITIONAL SMOKE DETECTORS

Pricing: The pricing set forth in this Agreement is based on the number of devices to be installed as set forth in the Scope of Work. If the actual number of devices installed is different than the number set forth in the Scope of Work, the price will be adjusted accordingly.

## Special Provisions:

### Services Provided:

**Full Service:** Bay will provide all repairs necessitated by ordinary wear and tear to the System. All other repairs shall be at User's expense on a time plus material basis at Bay's then prevailing rates, which include a minimum 30 minute visit charge.

**Time Plus Material Service:** At the end of Bay's limited warranty Bay will provide all repairs at User's expense on a time plus material basis. Parts and labor will be billed at Bay's then prevailing rates, which include a minimum 30 minute visit charge.

**Monitor Only:** Bay will not provide repair service, testing or inspections to the Systems. User is responsible to provide this service.

### Fire System:

Smoke/Heat detectors—for area or spot detection only.

Bay to plan check and apply for required permits. User agrees to pay all permit, plan check, or drawing charges as required.

User understands and agrees that any additional devices required by the AHJ before final acceptance of System will be at User's expense at Bay's then prevailing rates.

User to provide a RED 20 amp Circuit Disconnecting Means for all required Dedicated Branch Circuits—User shall provide listed locks for the Circuit Disconnecting Means.

User to also provide dedicated 120VAC to the Fire Alarm Control Unit and associated power supplies, and install breaker locks for required power. .

If smoke detectors are installed and then become dirty due to construction that takes place, the User understands they are responsible for repair and/or replacement.

If Bay is unable to gain access to the System for testing and inspections, User understands there may be a return trip fee. Bay will not issue a credit for failed or no access inspections.

User understands and agrees that the automatic fire alarm devices and appliances that will be installed or are located on this property are pursuant to the approved shop drawings that will be or were previously submitted by Bay to the AHJ for this property.

Additional state, other government agency, insurance inspections or testing which requires Bay personnel to be on site will be charged on a time plus material basis, at Bay's then prevailing rates.

Once System has been powered up and System is programmed at Bay's monitoring center the Monthly Service Fees is payable.

HVAC System power/shut off is to be provided by mechanical and/or electrical contractors. Duct detectors shall be provided with a grade level reset switch. Bay will monitor only.

If during the installation process the AHJ deems a fire watch is necessary while the System is being installed or temporarily inoperable, User to provide and pay for this service.

Any painting and/or patching is not included unless expressly stated otherwise.

Additional fees that are not included in the contract are as follows: permit fees, additional off hour inspections or re-inspection due to other contracted parties failure to show and have equipment ready for inspection.

Bay shall install a fire alarm System based on the Codes and Standards that were in effect at the time the System was designed, based on the prescriptive requirements for the occupancy. Bay is not providing an engineering assessment. If an engineering assessment of risk hazards is required, the User should contact a Registered Fire Protection Engineer.

### If System Inspections are to be Performed:

Bay will perform system inspections during normal business hours, Monday-Friday 9-5. Inspections performed after normal business hours are available at a premium rate.

Depending on the type of inspection being performed, User understands it may cause a disruption in business. This includes the annual testing of Notification Appliances.

### If Sprinkler Inspections Service is Provided:

Bay will conduct the inspections in accordance with Title 19, California Code of Regulations, Chapter 5, and Article 4. Bay is not providing or will not provide design analysis of the premises sprinkler system through the inspection. If a design analysis is desired the User should contact a Registered Fire Protection Engineer. Subscriber is responsible for having a design analysis performed if there is a change of use to the occupancy and/or products that are stored or produced within the occupancy.

### If a New Owner Labor Agreement:

Bay tests and inspects up to one (1) hour only. Any additional work that has not been contracted will be done on a time plus materials basis at Bay's then prevailing rate.

### If a Takeover / Connect to User Owned Devices:

Bay to connect to and monitor or control User's owned equipment. Any work to be done on User owned equipment that exceeds one (1) hour will be on a time plus material basis at Bay's then prevailing rate including any repairs or modifications required to make System operational.

### Network & VoIP:

User shall provide and maintain operational an Ethernet Network connected CAT-5 or higher cable with a RJ-45 plug termination at location specified by Bay. If required, User will provide I.P. address, gateway address and submask. If the Internet or Wireless Transmission is used as a primary or secondary transmission path, User will provide, at your expense, the necessary telecommunications connections facilities and required standby power. The Internet, radio and cellular networks are maintained and serviced by the applicable service provider and are totally beyond Bay's control. Signal transmission connectivity and speed may vary due to traffic volumes, adverse weather, System outages and other circumstances beyond our control. Internet Connectivity can only be supported through a PC with Internet Explorer. Mac's or other Browsers are not compatible at this time.

**VoIP TELEPHONE SERVICE:** The use of VoIP telephone service may interfere with the ability of the System to transmit alarm signals to our monitoring facility. The User must notify Bay in advance if considering the use of a managed VoIP service in order to assure its ability to function. User understands that DSL, unmanaged VoIP, or other internet-based services not approved in advance by Bay may not be used.

### If a UL Certificate is Issued:

User understands and agrees that UL charges Bay an annual fee for their services. User will reimburse Bay for the fee. Bay will automatically renew agreement and certificate for same initial agreement term, unless notified thirty days in advance by User.

### Progress Billing:

User understands and agrees that if there is a User caused interruption (i.e. User construction delay, remodeling, prewire, no power available, etc.) in Bay's ability to start and finish the installation and Bay must return at a later date to complete the installation, Bay will progress bill for a portion of work completed. A return trip charge may be incurred.

### If an Addendum-Alteration Addition:

User understands and agrees that Bay will leave balance of System as listed per previous agreements.

### If Cancels Former Agreement-Alteration Addition:

Contract terms begin upon date System and/or Service is online.

## **SIGNS, DECALS AND SYSTEM COMMUNICATOR REMAIN THE PROPERTY OF BAY**

Bay Alarm Company – What Have You Got To Lose?



## Terms & Conditions

**1. LIMITED WARRANTY:** (a) **WHAT IS COVERED:** For one year parts and ninety (90) days labor; after we complete the installation, we will repair or replace any defective part of the System without charge to you. We can use new or used parts of the same quality. (b) **HOW TO GET SERVICE:** Call 1-800-470-1000. (c) **WHAT IS NOT COVERED:** Repair of the System is our only duty. This warranty does not include batteries or labor associated with the replacement of batteries. We make no other express warranty including any warranty of merchantability of the System or its fitness for any special purpose. All the implied warranties of merchantability or fitness for any special purpose are limited to the duration of this expressed limited warranty. We do not warrant that the System will always detect, or help prevent any fire, smoke, waterflow or other such event. We do not warrant that the System cannot be defeated or compromised or that it will always operate. This warranty does not cover repairs that are needed because of an accident, acts of God, your failure to properly use the System, or if someone other than us attempts to repair or change the System, or any other reason except a defect in the equipment. We are not liable for consequential or incidental damages. You agree that this is our only warranty and we have given you no other warranty for the System. (d) **STATE LAW:** Some states do not allow the exclusion or the limitation of consequential or incidental damages or a limitation on the duration of implied warranties, so the above limitations or exclusions may not apply to you. The warranty gives you specific legal rights and you may also have other rights which may vary from state to state.

**2. ADDITIONAL COSTS:** User agrees to pay Bay's standard rate for past due or carrying charges and collection costs if payments are not made on time or if installation charge is paid on a periodic payment plan or progress billing. A reconnect charge is to be paid by User if the System is disconnected because of a past due balance and User desires it reconnected. User will receive no credit if System is temporarily disconnected or out of service for any reason. Bay assumes no liability for failure to perform because of labor disputes, riots, floods, fires, acts of God or any catastrophe or condition beyond our control and is not required to perform work while any such condition exists. If it becomes necessary for Bay to institute legal proceedings to collect any charges as set forth herein, the unsuccessful party shall pay to the successful party reasonable attorney's fees and actual court cost wherein permitted by law. If User fails to pay any obligations under this agreement when due, upon ten (10) days' written notice, Bay may disconnect the System. A reconnection fee in addition to all past due amounts, will be required prior to reactivating System.

**3. BAY IS NOT AN INSURER, LIQUIDATED DAMAGES, LIMITATION OF LIABILITY:** For all Systems and services provided, User acknowledges that it is impractical and extremely difficult to fix the actual damages if any, which may proximately result from Bay's negligence, a failure by Bay to perform any of the obligations herein, including but not limited to, installation, monitoring, warranty repair, repair service or other services, or the failure of the System to properly operate with resulting loss to User because of, among other things a) The uncertain amount or value of User's property or the property of others kept on the premises which may be lost, destroyed, damaged or otherwise affected by occurrences which the System or service is designed to detect or avert; b) The uncertainty of the response time of any fire department, should they be notified as a result of a signal from or at premises; c) The inability to ascertain in advance what portion, if any, of any personal injury, death, or property loss would be proximately caused by Bay's failure to perform or by its equipment to operate; or d) The nature of the service to be performed by Bay. User understands and agrees that if Bay should be found liable for loss or damage due to failure of Bay to perform any of the obligations herein, including but not limited to installation, repair services, monitoring, fire inspections, or the failure of the System equipment in any respect whatsoever, or Bay's negligence then, Bay's liability shall be limited to a sum equal to the total of one half the annual payment or Fifteen Hundred Dollars (\$1,500.00), whichever is the lesser, as liquidated damages and not as a penalty and this liability shall be exclusive; and that the provisions of this paragraph shall apply if loss or damage, irrespective of cause or origin, results directly or indirectly to persons or property, from performance or nonperformance of the obligations imposed by this agreement, or from negligence of Bay, its agents, assigns or employees. User may obtain a limitation of liability from Bay for a higher limitation of liability in lieu of the liquidated damages set forth above by paying an additional fee to Bay. If User elects this option, a rider will be added to this agreement which will set forth the amount of the limitation of liability and the amount of the fee. Agreeing to the limitation of liability does not mean that Bay is an insurer.

**4. THIRD PARTY INDEMNIFICATION:** When User, in the ordinary course of business, has the property of others in its/his custody, or the System extends to protect property of others, User agrees to and shall indemnify, defend and hold harmless Bay, its employees and agents for and against all claims brought by parties, other than the parties to this agreement. This provision shall apply to all claims regardless of cause including Bay's performance or failure to perform and including defects in products, design, installation, monitoring, repair, service, operation or non-operation of the System whether based upon negligence, warranty, contribution, indemnification, strict or product liability on the part of Bay, its employees or agents, but this provision shall not apply to claims for loss or damage which occur while an employee or agent of Bay is on User's premises and are solely and directly caused by such employee or agent.

**5. SUBROGATION:** So far as it is permitted by User's property insurance coverage, User hereby releases, discharges and agrees to hold Bay harmless from any and all claims, liabilities, damages, losses or expenses, arising from or caused by any hazard covered by insurance in or on the User's premises whether said claims are made by User, his agents, or insurance company or other parties claiming under or through User. User agrees to indemnify Bay against, defend and hold Bay harmless from, any action for subrogation which may be brought against Bay by any insurer or insurance company or its agents or assigns including the payment of all damages, expenses, costs and attorney's fees. User shall notify his insurance carrier of the terms of this provision.

**6. USER DUTIES:** You will instruct all other persons who may use the System on its proper use. If a problem in the System occurs you will notify us. Authorities may not respond to an alarm, and/or you may be subject to a fine or penalty unless you have all necessary permits and licenses for the use of the System. You agree that we may disclose the information of the instructions to any governmental agency having jurisdiction over the use and operation of the System. You will notify us in writing of any change in your fire rating bureau or agency. User will give Bay access to all portions the premises necessary to conduct inspections and tests of the System.

**7. INSTALLATION:** User will permit Bay to install the System during Bay's normal business hours and will give Bay uninterrupted access to User's premises. User agrees to compensate Bay for any additional installation/service visits required as a result of cancellation, readiness or unavailability to Bay's current prevailing rate. User has approved the locations of where the control panel, audible devices and all protective devices will be installed. User has the affirmative duty to inform Bay, prior to beginning of installation, of every location at the premises where we should not (because of concealed obstructions or hazards such as pipes, wires or asbestos) enter or drill holes. Upon request, User will repair the premises (including fixing broken sprinkler system components) reasonably necessary to facilitate the installation and operation of the System. If asbestos or other health hazardous material is encountered during installation, Bay will cease work until User has, at User's sole expense, obtained clearance from a licensed asbestos removal or hazardous material contractor that continuation of work will not pose any danger to Bay's personnel. In no case shall Bay be liable for discovery or exposure of hidden asbestos or other hazardous material, and User shall indemnify and hold Bay and its employees harmless from any claims brought against Bay and/or its employees by third parties for damages, personal injury, death, emotional injury, whether actual or prospective allegedly caused by the presence, spread, ingestion or inhalation of any substance/vapor on or originating from User's premises. Bay is not responsible if the installation is delayed because of bad weather, labor disputes, unavailability of electrical power or telephone service, Acts of God or other reasons beyond Bay's control. After completion of the System, User and a Bay representative will inspect it. If something is missing or not properly installed you the User will notify Bay within ten (10) days, otherwise the System will have been accepted by User.

**8. CHARGES, TAXES, and RATE INCREASES:** All charges set forth herein are based upon existing federal, state and local taxes and utility charges, including telephone company charges, if any. Bay shall have the right at any time to increase the monthly charges provided herein, to reflect any additional taxes, fees or charges provided herein, or charges which hereafter may be imposed on Bay by any utility or governmental agency relating to the service(s) provided under the terms of this agreement and User agrees to pay the same. So that Bay may properly adjust its rates to meet changing service costs and notwithstanding the terms and conditions set forth herein after the expiration of one (1) year from the date of completion of installation and not more often than once each twelve (12) months, Bay may increase the monthly service charge by up to 1.5 times the current Bureau of Labor Statistics Consumer Price Index for all urban consumers (related areas) or if this index is discontinued a comparable index as measured from the date of this agreement to the effective date of the increase upon giving User notice in writing. The billing invoice setting forth the new charge shall be sufficient notice of the increase. Notwithstanding any other terms and conditions set forth in this agreement, so that Bay may properly adjust periodic charges to recover increases in its services costs which are not recovered by increase pursuant to paragraph above, at any time after the expiration of one (1) year from date of installation, Bay may increase the monthly service charge to an amount exceeding the charge provided in paragraph above upon giving the User notice in writing. The billing invoice setting forth the new charge shall be sufficient notice of the increase. If User is unwilling to pay such additional monthly charges imposed pursuant to this paragraph and Bay is unwilling to rescind the additional amount, User may terminate this agreement upon giving written notice to Bay within ten (10) days from the effective date of the increase. User's failure to notify Bay within said ten (10) days shall constitute User's consent to the increase pursuant to this paragraph.

**9. ASSIGNEES/SUBCONTRACTORS OF BAY:** Bay may transfer or assign this agreement to any other person or entity including any financial institution or alarm company. User may not transfer this agreement to someone else (including some-one who purchases or rents User's premises) unless Bay approves the transfer in writing. Bay may use subcontractors to provide installation, repairs, inspections, tests or monitoring services. This Agreement, and particularly paragraphs 3, 4 and 5, shall apply to the work or services Bay's assignees or subcontractors provide, and shall apply to them and protect Bay's assignees and subcontractors in the same manner as it applies to and protects Bay.

**10. MONITORING SERVICE:** When a signal from the System is received in Bay's Central Station, Bay will try to telephone the proper fire department or other emergency personnel and the first available person on the Emergency Notification List User gives us. You will notify us in writing of any changes in the instructions. . To avoid Unwanted Alarms, Bay may, where permitted or required by the Authority Having Jurisdiction, call User's premises first to determine if an actual emergency exists before Bay calls any authorities. If Bay has reason to believe that no actual emergency exists, Bay may choose not to place such notification calls. Bay may discontinue any part of this service if required to do so by governmental or insurance authorities. User acknowledges and agrees that both User and Bay are required to comply with all laws, rules and regulations regarding monitoring and alarm response enacted or adopted by the governmental authorities having jurisdiction over the System. User consents to the tape recording of all telephonic communications between Bay's Central Station and User's premises. Bay may charge User for non-emergency signals, use of premises keys or alarm response by Bay personnel. If Bay holds premises keys, it is hereby authorized to enter and make a visual inspection of the interior of the premises or protected area. User acknowledges that if Bay utilizes a digital communicator for the purpose of sending alarm signals from User's premises to Bay's Central Station, that the signals from User's System may be sent over a single phone line to Bay's Central Station and other telephone calls cannot be made when the System is activated including 911 emergency operator calls; and in the event User's telephone service is out of order, disconnected, placed on vacation or otherwise interrupted, signals from User's System will not be received in Bay's Central Station during any such interruption and the interruption will not be known to Bay. User further acknowledges and agrees that signals are sent over telephone company lines which are wholly beyond the control and jurisdiction of Bay and are maintained and serviced by the applicable telephone company. User agrees to pay all charges for all telephone services connecting User's protected premises and Bay. User acknowledges that if Wireless Transmission becomes inoperative for any reason, signals will not be received in Bay's Central Station. User acknowledges that Wireless Transmission may be impaired or interrupted by atmospheric conditions, including electrical storms, power failures or other conditions beyond the control of Bay.

**11. EXCESSIVE ALARMS:** In the event an excessive number of false alarms or service calls are caused by User or in the event User in any manner misuses or abuses the System, Bay may, in its sole discretion, deem same to be a material breach of contract on the part of User and, at its option, be excused from further performance upon the giving of ten (10) days written notice to User. Bay's excuse from performance shall not affect its right to recover damages from User. **User represents he fully understands that the equipment, because of its sensitivity and nature, is subject to the influence of external events which are not within the control of Bay and which may cause the alarm to activate.** In the event a fine, penalty or fee is assessed against Bay or User by any governmental or municipal agency as a result of any alarm originating from User's premises, User agrees to be responsible for payment of all assessments and/or reimburse Bay for Bay assessments. Any or all such alarms shall not excuse any of the obligations of User as set forth in the agreement.

**12. DISCONNECT POLICY:** User hereby authorizes Bay to manually or automatically disconnect System if so ordered by a public official or regulation or for nuisance or electrical reasons or if Bay is unable to notify User at emergency numbers listed or if User declines or fails to arrive at premises within thirty (30) minutes after notification. User agrees to hold Bay harmless and to indemnify Bay for any damage, loss, or liability which may result from the turning off of the System.

**13. CONTROL COMMUNICATOR:** The control communicator is owned by Bay. User acknowledges and agrees that Bay reserves the right to access the digital control communicator by way of remote programming in order to perform diagnostics, change and/or update information, or disconnect service upon the termination or expiration of this agreement.

**14. RENEWAL; ENTIRE AGREEMENT:** It is understood and agreed by and between the parties hereto, that if there is any conflict between this agreement and User's purchase order or any other document or Bay literature, this agreement will govern, whether such purchase order or other document is prior or subsequent to this agreement unless expressly superseded or replaced by a subsequent agreement. In the event any provisions or parts of this agreement shall be unenforceable, the parties understand and agree that the remaining provisions and parts shall continue in full force and effect. There are no verbal understandings changing or modifying this agreement. If User cancels agreement before installation begins, User agrees to pay an administrative charge of 50% of the installation charge. We retain ownership in the System until the sales price is paid in full. If you fail to make any payment for the purchase of the System you empower us and will permit us to disconnect and remove the System or any part of it from your premises. In addition we may pursue any rights and remedies we may have as a secured creditor under the Uniform Commercial Code or pursue any other rights we may have under the law. Removal or disconnection of the System shall not be deemed a waiver of our rights to collect damages, and we shall be under no obligation to restore your premises to its original condition if we terminate the installation or remove the System or any part of it.

**15. GOVERNING LAW:** 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; and the parties rely only upon the contents of this agreement in executing it. This agreement can only be modified in writing signed by the parties or their duly authorized agent. No waiver or breach of any term or condition of this agreement shall be construed to be a waiver of any succeeding breach. User agrees that this agreement is performed in the state of California and shall be governed by the laws of California. User agrees that any and all legal proceedings will have Contra Costa County California as the exclusive place of venue.

**16. LEGAL WAIVERS; JUDICIAL REFERENCE:** Both parties hereby agree that no suit or action that relates in any way to this agreement (whether based upon contract, negligence or otherwise) shall be brought against the other more than one (1) year after the accrual of the cause of action therefore. Both parties agree that no lawsuit or any other legal proceeding connected with this Agreement shall be brought or filed more than one (1) year after the incident giving rise to the claim occurred. Any controversy, dispute, or claim between the parties arising out of or relating to this Agreement, (other than actions brought by Bay in small claims court to collect amounts due under this Agreement) will be settled by a reference proceeding in Contra Costa County California, in accordance with the provisions of Sections 638, et seq and 641 through 645.1, and of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any controversy, dispute, or claim concerning this Agreement, including whether such controversy, dispute, or claim is subject to the reference proceeding. The referee shall be appointed to sit as a temporary Judge with all of the powers of a temporary Judge authorized by law. In the event that the enabling legislation, which provides for the appointment of a referee is repealed and no successor statute is enacted, any dispute between the parties that would otherwise be determined by a reference procedure herein, will be resolved and determined by binding arbitration. That arbitration will be conducted by a retired Judge of the Superior Court in accordance with Section 1280 to 1294.2 of the California Code of Civil Procedure, as amended from time to time.

**17. IMAGING:** User agrees that Bay may save and store all agreements and other documents executed by User in an electronic media and all such agreements and other documents shall be deemed to be, and may be used by Bay as, originals and shall be given the same force and effect as the paper-form original.

**18. DEFAULT BY USER; EXPIRATION; TERMINATION:** If any proceeding in bankruptcy, receivership, or insolvency shall be commenced by or against User or his property, or if User makes an assignment for the benefit of creditors, User and Trustee or Assignee appointed to take charge of User's assets shall elect within thirty (30) days to assume or reject this agreement. If assumed, the party assuming this agreement shall within sixty (60) days thereafter: (1) cure all defaults including payment of all amounts due, and (2) provide to Bay adequate assurances of the future performances. Bay shall have the right to terminate this agreement. If User defaults or cancels this agreement, or this agreement is terminated in whole or in part for any reason other than Bay's default, Bay shall be entitled to collect and User shall pay to Bay: (i) all amounts due to Bay for services performed and equipment provided through the termination date of the agreement, and (ii) all amounts to which Bay is entitled by law for the unexpired term of the agreement, including loss of profits. Thirty day written cancellation required. At the expiration or termination of this agreement for any reason, Bay is authorized to enter onto the premises of User and remove Bay's identification signs, decals, equipment and reprogram or otherwise modify the control communicator so that it will no longer communicate signals to Bay's Central Station.

**19. BAY'S LICENSES: CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTOR'S STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR (4) YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN TEN (10) YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 2600, SACRAMENTO, CA 95826.**

## **PLEASE READ ENTIRE AGREEMENT**