

**CONTRACT BETWEEN
The Portland Housing Authority
AND
Securitas Security Services USA, Inc.**

INTRODUCTION

This contract by and between the Portland Housing Authority (hereinafter "HA"), and Securitas Security Services USA, Inc., (hereinafter "the Contractor") is hereby entered into this 22nd day of April, 2016.

Services pursuant to this contract shall begin on the 1st day of May, 2016, and shall end on the 30th day of April, 2017, unless otherwise extended, modified, terminated or renewed by the parties as provided for within this contract. This contract can be cancelled with a thirty (30) day written notice by either the HA or the Contractor. Unless otherwise detailed herein, all references to "days" shall be calendar days (in the case that the last day referenced falls on a Saturday, Sunday or legal holiday, then the period of time shall be automatically extended to include the next work day). Also, whenever the term "herein" is referred to, such refers to this contract form, the appendices and all listed attachments.

1.0 Definitions:

- 1.1 **Housing Authority (HA):** Any reference herein or within any Appendix to the "Housing Authority" shall be interpreted to mean the same as the HA.
- 1.2 **Contracting Officer (CO):** The HA Contracting Officer, typically the HA Executive Director, but may be another person delegated such authority by the ED.
- 1.3 **Executive Director (ED):** The HA Executive Director.
- 1.4 **Solicitation for Quotes (SFQ):** A competitive solicitation process conducted by the HA wherein award was completed to the top-rated responsive and responsible proposer.

2.0 Services and Payment:

- 2.1 **Scope of Services:** The services provided pursuant to this contract generally consist of those services for the HA as described herein and within the Appendices. See Appendix 3 for Scope of Services details. Said services shall be provided on the dates and times determined by the HA at the designated HA community and facilities. In addition, the HA shall retain the right to implement and/or enforce any item issued as a part of SFQ.
- 2.2 **Provisions of any and all Work (Task Orders):** The Contractor shall not begin any additional work (other than that already detailed herein) without the authorization of the HA representative.
- 2.3 **Cost/Value of Services:**
 - 2.3.1 **Contract Value:** The current total Not-To-Exceed (NTE) value of this contract is:

\$36 per day

The Contractor exceeds the NTE amount at his/her own risk. The Contractor is under no obligation to provide additional services that would cause the Contractor's fees to exceed the NTE amount without prior revision of this amount by written change order.

2.4 Time Performance: The Contractor will complete each assigned task as detailed within Appendix 3 Scope of Services.

2.5 Billing Method:

2.6.1 To receive payment for services rendered pursuant to this contract the Contractor shall submit a fully completed invoice for work previously performed to:

**Portland Housing Authority
Attn: Accounts Payable
14 Baxter Blvd
Portland, ME 04101**

2.6.2 At a minimum, the invoice shall detail the following information:

2.6.2.1 Unique invoice number;

2.6.2.2 Contractor's name, address and telephone number;

2.6.2.3 Date of invoice and/or billing period;

2.6.2.4 Applicable Contract No. C001;

2.6.2.5 Applicable Purchase Order No.;

2.6.2.6 Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site, and at the approved rate (may be submitted in the form of a report);

2.6.2.7 Task Order, approved by the HA Executive Director; and

2.6.2.8 Total dollar amount being billed.

2.6.3 The HA will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until the Contractor complies with the applicable provisions of this contract.

3.0 HA's Obligations: Pursuant to this contract, the HA agrees to provide the specific services detailed herein and also shall be responsible for the following:

3.1 The HA agrees to not provide to the Contractor any Task Order assigning work to the Contractor without the prior written approval of the ED.

4.0 Contractor's Obligations: Pursuant to this contract, the Contractor agrees to provide the specific services detailed herein and also shall be responsible for the following:

- 4.1 **Supervision and Oversight:** The Contractor shall be solely responsible for providing supervision and oversight to all of the Contractor's personnel that are assigned to the HA properties pursuant to this contract.
- 4.2 **Qualified Personnel:** The Contractor warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term "qualified personnel" shall mean those personnel that have been investigated, tested and trained in the manner described within this contract and, as proposed by the Contractor within its proposal or as provided by the Contractor during the Contractor's normal conduct of business.
- 4.3 **Compliance with Federal and State Laws:** All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.
- 4.4 **Insurance Requirements:**
 - 4.4.1 The complete indemnity requirements are detailed within Section 11.19 herein.
 - 4.4.2 In this regard, the Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:
 - 4.4.2.1 Policy of General Liability Insurance, \$1,000,000 per occurrence, \$1,000,000 aggregate together with damage to premises and fire damage of \$50,000 and medical expenses for any one person of \$5,000 with a deductible not greater than \$1,000. The HA shall be named upon the certificate issued as an "additional insured," together with providing a copy of the corresponding endorsement evidencing the same.
 - 4.4.2.2 Policy of Professional Liability Insurance or Errors & Omissions coverage, minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000 with a deductible of not greater than \$1,000;
 - 4.4.2.3 Automobile Liability coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this contract, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000 with a deductible not greater than \$1,000.
 - 4.4.2.4 Worker's compensation coverage evidencing carrier and coverage amount.
 - 4.4.2.5 The Contractor shall provide to the HA with current certificate(s)/endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the HA as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof.

4.4.2.6 Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the HA:

**Trevor Nugent
Director of Public Housing
Portland Housing Authority
14 Baxter Blvd
Portland, ME 04101**

4.5 **Licensing:** The Contractor shall also provide to the HA a copy of the required State of Maine Business License. Failure to maintain this license in a current status during the term(s) of this contract shall constitute a material breach thereof.

4.6 **Financial Viability and Regulatory Compliance:**

4.6.1 The Contractor warrants and represents that its corporate entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.

4.6.2 The Contractor agrees to promptly disclose to the HA any IRS liens or insurance or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. The failure by the Contractor to disclose such issue to the HA in writing within 5 days of such notification received will constitute a material breach of this contract.

4.6.3 The Contractor further agrees to promptly disclose to the HA any change of more than 50% of its ownership and/or any declaration of bankruptcy that the Contractor may undergo during the term(s) of this contract. The failure of the Contractor to disclose any change of more than 50% of its ownership and/or its declaration of bankruptcy within 5 days of said actions shall constitute a material breach of this contract.

4.6.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to HA within the time periods required herein.

5.0 **Modification:** This contract shall not be modified, revised, amended or extended except by written addendum, executed by both parties.

6.0 **Severability:** The invalidity of any provision of this contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision herein.

7.0 **Applicable Laws:**

7.1 **Compliance with Federal and State Laws:** All work performed by the Contractor, pursuant to this contract, shall be done in accordance with all applicable Federal, State and local laws, regulations, codes and ordinances.

7.2 Jurisdiction of Law: The laws of the State of Maine shall govern the validity, construction and effect of this contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or federal regulations. This contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Cumberland County, Maine is the appropriate forum for any action relating to this contract. Should any party hereto retain counsel for the purpose of initiating litigation or arbitration to enforce, prevent the breach of any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys fees and costs incurred by such prevailing party. This contract may be signed in counterparts.

8.0 Notices, Invoices and Reports:

8.1 All notices, reports and/or invoices submitted to the HA by the Contractor pursuant to this contract shall be in writing and delivered to the attention of the following person representing the HA:

**Trevor Nugent
Director of Public Housing
Portland Housing Authority
14 Baxter Blvd
Portland, ME 04101**

or if appropriate, faxed to: **207-761-5886**

8.2 All notices submitted to the Contractor pursuant to this contract shall be in writing and mailed to the attention of:

**Michael Burrows
Branch Manager
Securitas Security Services USA, Inc.
550 Forest Ave
Portland, ME 04101**

or, if appropriate, shall be faxed to: **207-773-3144.**

9.0 Disputed Billings (Charges):

9.1 Procedures: In addition to the procedures detailed within Clause No. 7 of Appendix No. 1, Form HUD-5370-C, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, in the event that the HA disputes any portion of its billing(s), the HA shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

9.1.1 The HA's representative shall, within 30 days after the HA's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.

9.1.2 If such dispute cannot be resolved by the contractor's response, within 10 days after such notification is given, the CO and the contractor's

representative shall meet to discuss the matter and attempt to arrive at a resolution.

9.1.3 If the CO and the contractor's representative are unable to resolve the dispute through such discussion within 10 days, the HA shall, within 10 days thereafter, either:

9.1.3.1 pay the disputed charges and reserve the right to submit the matter to the Maine Court Annexed Arbitration program if the disputed amount does not exceed \$40,000 or to the appropriate district court in the State of Maine;

9.1.3.2 not pay the disputed charge and submit the matter to the Maine Court Annexed Arbitration program if the disputed amount does not exceed \$40,000 or to the appropriate district court in the State of Maine;

9.1.3.3 not pay the disputed charge and allow the Contractor to submit the matter either to the Maine Court Annexed Arbitration program if the disputed amount does not exceed \$40,000 or to the appropriate district court in the State of Maine.

9.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the HA, the HA shall pay the HA's receipt of the decision. If the decision is in favor of the HA, the contractor will either:

9.1.4.1 clear the amount which is ordered from the HA account; or

9.1.4.2 repay to the HA the amount ordered;

Either option shall be completed within 10 days after the contractor's receipt of the arbitrator's decision.

10.0 **24 CFR 85.36(i), Procurement:** Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the HA and the Contractor each agree to comply with the following provisions:

10.1 Remedies for Contractor Breach: Pertaining to contract-related issues, it is the responsibility of both the HA and the contractor to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the HA or the contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the HA has the right to issue unilateral addendums to this contract, but the contractor does not have the same right). The other party shall, within 10 days, respond in writing to the other party (however, the HA shall retain the right to, if conditions warrant, require the contractor to respond in a shorter period of time). Further, the HA shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

10.1.1 If the contractor is in material breach of the contract, the HA may promptly invoke the termination clause detailed within Section No. 3 of Appendix No. 1, Form HUD-5370-C, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*,

which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

- 10.1.2 Prior to termination, the HA may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. The HA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have ten 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HA's alleged incorrect action(s).
- 10.1.3 After termination, if the contractor does not agree with the HA's justification for the termination, the contractor shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HA's alleged incorrect action(s).
- 10.2 **Termination For Cause and Convenience:** As detailed within Clause No. 3 of Attachment G-1, Form HUD-5370-C, *General Conditions for Non-Construction Contracts, Section I—(Within or without Maintenance Work)*, attached hereto.
- 10.3 **Reporting:** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 10.4 **Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 10.5 **Copy Rights/Rights in Data:** In addition to the requirements contained within Clause No. 5 of Attachment G-1, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, the HA has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:
 - 10.5.1 Except as provided elsewhere in this clause, the HA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.

- 10.5.2** The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
- 10.5.3** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants the HA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the HA.
- 10.5.4** The contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the HA a license of the same scope as identified in the preceding paragraph.
- 10.5.5** The HA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the HA may either return the data to the contractor, or cancel or ignore the markings.
- 10.5.6** The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.
- 10.5.7** Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees the HA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.
- 10.5.8** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the HA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any HA location to which such

computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.

- 10.6 Access to Records:** Both parties hereby guarantee access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 10.7 Record Retention:** Both parties hereby guarantee retention of all required records for three records after grantees or subgrantees make final payments and all other pending matters are closed.
- 10.8 Clean Air Act:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- 10.9 Energy Policy and Conservation Act:** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency.
- 11.0 Additional Considerations:**
 - 11.1 Right of Joinder Pursuant to NRS 332.195:**
 - 11.1.1** Any political subdivision within the State of Maine may be granted the privilege of joining the awarded contract, only at the option of the Contractor. If the Contractor so grants such a privilege, the terms and conditions of the SFQ documents, including the ensuing contract, may be passed on to the joining political subdivision by the Contractor.
 - 11.1.2** The Contractor shall retain the unilateral right to allow or disallow any political subdivision the privilege of joining the awarded contract. In the event the Contractor allows another political subdivision to join the HA contract, it is expressly understood that the HA shall in no way be liable for the joining political subdivision obligations to the Contractor in any manner whatsoever.
 - 11.2 Non-Escalation:** Unless otherwise specified within the SFQ documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.
 - 11.3 Funding Restrictions and Order Quantities:** The HA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the HA, if:

- 12.3.1 funding is not available;
 - 12.3.2 legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
 - 12.3.3 the HA's requirements in good faith change after award of the contract.
- 11.4 Unless otherwise stated in the SFQ documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this SFQ, whether or not they are known to either the HA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the Contractor and any costs that were submitted by the Contractor in response to the SFQ shall reflect all costs required by the Contractor to procure and provide such necessary permits.
- 11.5 **Taxes:** All persons doing business with the HA are hereby made aware that the HA is exempt from paying Maine State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 11.6 **Government Standards:** It is the responsibility of the proposer to ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NOSHA) and environmental control (EPA and Maine Pollution Regulations) and any other enacted ordinance, code, law or regulation. The Contractor shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 11.7 **Work on HA Property:** If the Contractor's work under the contract involves operations by the Contractor on HA premises, the Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the HA's negligence, shall indemnify the HA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors.
- 11.8 **Official, Agent and Employees of the HA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the HA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 11.9 **Subcontractors:** Unless otherwise stated within the SFQ documents, the Contractor may not use any subcontractors to accomplish any portion of the services described within the SFQ documents or the contract without the prior written permission of the CO.
- 11.10 **Salaries and Expenses Relating to the Contractors Employees:** Unless otherwise stated within the SFQ documents, the Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The Contractor further agrees to comply with all Federal, State and local wage and

hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.

- 11.11 Attorney's Fees:** In the event that litigation is commenced by one party hereto against the other in connection with the enforcement of any provision of this agreement, the prevailing party shall be paid by the losing party all court costs and other expenses of such litigation, including reasonable attorneys' fees. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
- 11.12 Independent Contractor:** Unless otherwise stated within the SFQ documents or the contract, the Contractor is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 11.13 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 11.14 Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 11.15 Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor.
- 11.16 Limitation of Liability:** In no event shall the HA be liable to the Contractor for any indirect, incidental, consequential or exemplary damages.
- 11.17 Indemnification:**
- 11.17.1** The Contractor shall indemnify, defend, and hold the HA (and its officers, employees, and agents) harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character, which are caused by, arise out of, or occur due to any failure of the Contractor to (1) abide by any of the applicable professional standards within its industry, or (2) comply with the terms, conditions, or covenants that are contained in this contract, (3) comply with the any state law, ordinance, or decree; or (4) ensure that the any subcontractors abide by the terms of this provision and this contract; provided, however, that Contractor will not be required to indemnify the HA against any loss or damage which was specifically caused by the HA providing inaccurate information to the Contractor, failing to provide necessary and requested information to the Contractor, or refusal to abide by any recommendation of the Contractor.
- 11.17.2** In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the HA, its officers, employees, and agents, against any and all claims, suits or actions which may be brought against them, or

any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the Contractor has indemnified the HA. If the Contractor shall fail to do so, the HA shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor including attorney's fees and court costs.

11.17.3 Any money due to the Contractor under and by virtue of this contract, which the HA believes must be withheld from the Contractor to protect the HA, may be retained by the HA so long as it is reasonably necessary to ensure the HA's protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the HA provided, however, neither the Corporation's payments shall not be withheld, and its surety shall be released, if the Contractor is able to demonstrate that it has adequate liability and property damage insurance to protect the HA from any potential claims.

11.17.4 The Contractor shall provide that any contractual arrangement with a subcontractor shall be in conformance with the terms of this Contract including the terms of this indemnity provision. The Contractor guarantees that it will promptly handle and rectify any and all claims for materials, supplies and labor, or any other claims that may be made against it or any of its subcontractors in connection with the contract.

12.20 Lobbying Certification: By execution of this contract with the HA the Contractor thereby certifies, to the best of his or her knowledge and belief, that:

12.20.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement.

12.20.2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.

12.20.3 The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

12.21 Additional Federally Required Orders/Directives: Both parties agree that they will comply with the following laws and directives, where applicable:

- 12.21.1 Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 12.21.2 Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The HA hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).
- 12.21.3 Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the HA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 12.21.4 The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 12.21.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- 12.21.6 HUD Information Bulletin 909-23 which is the following:
 - 12.21.6.1 Notice of Assistance Regarding Patent and Copyright Infringement;
 - 12.21.6.2 Clean Air and Water Certification; and,
 - 12.21.6.3 Energy Policy and Conversation Act.
- 12.21.7 That the funds that are provided by the HA and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Contractor.
- 12.21.8 That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.
- 12.21.9 The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable not is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have

been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either part.

- 13.0 Section 3 Clause:** As detailed within 24 CFR 135.38, *Section 3 clause*, the following required clauses are hereby included as a part of this contract.
- 13.1** The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 - 13.2** The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
 - 13.3** The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
 - 13.4** The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
 - 13.5** The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
 - 13.6** Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
 - 13.7** With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act

(25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

14.0 Appendices:

14.1 The following noted documents are placed under each of the noted appendix and are a part of this contract:

14.1.1 **Appendix No. 1:** form HUD-5370-C, *General Condition for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, aka Attachment G-1 of the SFQ document;

14.1.2 **Appendix No. 2:** Specific documentation pertaining to Section 3 that pertains to this contract.

14.1.3 **Appendix No. 3:** Scope of Services, as agreed upon by negotiation between the HA and the contractor;

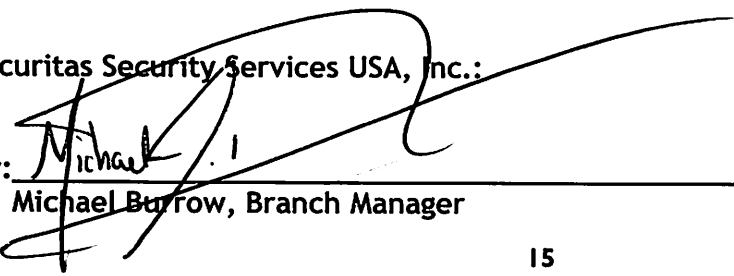
14.1.4 **Appendix No. 4:** The proposed fee(s) submitted by this contractor in response to the SFQ, or any negotiated fee(s) that resulted thereto, which fee(s) shall apply to each procurement that ensues from this contract;

14.1.5 Included by reference is any document or clause issued as a part of SFQ that the HA may choose to include at any time during the performance of this contract or any options exercised thereto by the HA. Further, any document that may be referenced herein that has not been listed above is hereby incorporated herein by reference, and a copy of each such document is available from the HA upon written request for such from the contractor.

14.2 Please note that, in the case of any discrepancy between this contract and any of the above noted appendices, the requirement(s) detailed within the body of this contract shall take first precedence, then the requirement(s) detailed within each appendix shall take precedence in the order that they are listed above (meaning, the requirement(s) detailed within the lower listed item may not overrule any requirement(s) detailed within a higher listed item).

15.0 **CERTIFICATIONS:** The undersigned representative of each party hereby acknowledges by signature below that they have reviewed the foregoing and understand and agree to abide by their respective obligations as defined herein:

Securitas Security Services USA, Inc.:

By: 
Michael Burrow, Branch Manager

Date: April 25, 2016

Portland Housing Authority:

By: 
Mark Adelson, Executive Director

Date: 4/26/16



Local Company Office Information

Street: 550 Forest Avenue SUITE 102
City, State, Zip: Portland, ME 04101
Phone: 207-773-3332 Fax: 207-773-6920
Office ID #: 08500

Contract #:
SECURITY SERVICES AGREEMENT ("Agreement") between
Portland Housing Authority - Franklin Towers ("Client")
and Securitas Security Services USA, Inc. ("Company") is dated as of
April 25, 2016, 2016 ("Effective Date"), and the parties agree as follows:

Client Service Address

Name: Portland Housing Authority - Franklin Towers
Street: 14 Baxter BLVD
City, State, Zip: Portland, ME 04101
Contact Name/Title: Trevor Nugent
Phone: 207-761-5886 Fax:

Client Billing and Notification Address

Name: Portland Housing Authority - Franklin Towers
Street: 14 Baxter BLVD
City, State, Zip: Portland, ME 04101
Contact Name/Title: Trevor Nugent Director of Public Housing
Phone: 207-761-5886 Fax:

For services ("Services") provided by Company, Client will pay the Service Fee below, plus all applicable (i) sales, use and similar taxes, (ii) interest, and (iii) penalties. Services are as specified (i) in any agreed-upon post orders or scope of work (collectively, "Scope of Work"), and (ii) below.

- On-Site Guarding (HPW:) Remote Guarding Mobile Guarding (Patrol) Mobile Guarding (Alarm Response)

Description of Services/Equipment: This document does not change the terms of agreement as established on April 25, 2016 with the Porthland Housing Authority at Franklin Towers or HUD.

See scope of service Appendix 3.

Service Fee (billed weekly): \$252.00

If no Service Fee is indicated, the Service Fee will be considered any rates or fees to be paid by Client for Services, including, without limitation, hourly rates, fees for vehicles and equipment, etc. The Service Fee does not include coverage for labor disputes, civil disorder, national disaster, or other similar emergency situations. Also, higher overtime rates will apply to the following: all work according to applicable laws and regulations; extended shifts or hours performed at the request of Client; additional personnel or hours requested by Client with less than 72 hours' notice, but only for the first 72 hours; additional personnel or hours requested by Client for special occasions or temporary or short durations; and work on New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday After Thanksgiving, and Christmas Day.

Additional Information: See additional documents "Contract between The Portland Housing Authority & Securitas Security Services USA, Inc." dated April 25, 2016.

TERMS AND CONDITIONS

- 1. DEFINITIONS: "In writing" or "written document" means any written communication which has been signed by a person authorized to represent the party, including, without limitation, printed documents, facsimiles, e-mails and other electronic means of communication; "Loss" means all suits, claims, losses, damages and expenses (including, without limitation, investigative costs, reasonable attorneys' fees and costs of suit) arising from all events or circumstances related to or in connection with the same general condition; "Site" means all premises where Services are performed under this Agreement; "Remote Guarding" means guarding and related services conducted from a remote location using electronic security equipment, including, without limitation, video and voice communication equipment.
2. TERM & TERMINATION: (a) This Agreement will commence upon the Effective Date and continue until terminated by either party. Either party may terminate this Agreement at any time, without cause or penalty, upon 30 days' prior written notice to the other party. "Good cause" for Company will include, without limitation, the following: (i) any material or persistent minor breach by Client of this Agreement; (ii) cancellation of or material change to any of Company's insurance coverage relevant to this Agreement; (iii) a change in applicable laws or regulations that has a material effect on, or causes a material change to, the Services; (iv) any act or omission of Client which, in Company's reasonable opinion, brings or may bring Company's business or reputation into disrepute; or (v) Client or the Services becoming subject to economic or trade sanctions. Client will be responsible for payment for all Services rendered through the termination date.
(b) If Services include Remote Guarding, instead of Client's rights of termination in Section 2(a), Client may only terminate this Agreement upon 90 days' prior written notice to Company. Company's rights of termination in Section 2(a) remain unchanged.
(c) If Client terminates this Agreement for any reason, Client will pay for any unamortized costs related to any equipment used in connection with Services.
3. SCOPE OF SERVICES; PERSONNEL: (a) Company will only provide Services specified in this Agreement or the Scope of Work, which is incorporated into this Agreement by reference. Company will not be obligated to perform, and will bear no responsibility for, any Services or duties performed that are not expressly specified in this Agreement. Company does not accept overall responsibility for security at the Site, and Company is not engaged as a security consultant.
(b) Company may use contractors or vendors to provide some or all of the Services. If Company (or a contractor or vendor of Company) provides or installs any equipment in connection with the Services, all the equipment is for Company's use only. Company is not selling or leasing any of the equipment to Client; the equipment will always be Company property. Company will be provided with reasonable time and access to remove all its equipment upon termination of this Agreement.
(c) Company is an independent contractor, and nothing in this Agreement creates a partnership or relationship of principal/agent or employer/employee. Personnel providing the Services are employees of Company or its contractors (Company may use contractors to provide some or all of the Services). Company may change such personnel at any time. Client may reasonably request changes in such personnel for lawful reasons. If Company makes Client's requested changes, Client will be solely responsible for, and will defend and indemnify Company against, any Loss arising from such changes.
(d) If Client employs, directly or indirectly, any Company employee formerly assigned to the Site within one year from the last date on which the Company employee was employed by Company, Client will reimburse Company \$2,500 per Company employee for costs in connection with recruitment, screening, training, etc.

(e) If Services include Remote Guarding, (i) neither Company nor its contractors will be responsible for any interruption or failure of power; (ii) neither Company nor its contractors will be responsible for any faulty, failed, interrupted, circumvented, or compromised data transmissions; (iii) Client is responsible for the design, installation, repair and maintenance of its own monitoring equipment and systems ("Monitoring System"); (iv) Company may, without penalty, modify, terminate or suspend Remote Guarding, shut down Client's Monitoring System, lock Client's panel, or render any monitoring equipment incapable of sending signals (1) if permitted, requested, or required to do so by any governmental authority, standards setting entity, or insurance interest, or (2) in Company's reasonable discretion; (v) Client is responsible for (1) providing and maintaining adequate lighting for all video equipment, and (2) ensuring Client's personnel and Monitoring System comply with all laws applicable to the use of video equipment; (vi) any Remote Guarding failure not caused by the negligence of Company or its contractors will not release Client from its obligations to pay any fees for Services; and (vii) any software, hardware, firmware, shareware, codes, information and documentation ("Proprietary Information") associated with Remote Guarding are, and will remain, the property of Company or its contractors, as applicable, and any developments to the Proprietary Information will be the intellectual property of Company or its contractors, as applicable. Further, Client, on behalf of itself, its employees, agents and guests, grants consent to Company and its contractors to (i) intercept, record, retrieve, review, copy, disclose and use the contents of all transmissions received as part of Remote Guarding, and (ii) represent themselves as a security agent of Client and notify government agencies of suspicious or suspected criminal activities at the Site.

4. PAYMENT: (a) Invoices are payable 30 days from the date of the invoice, without any setoff, to the remittance address on the invoice. Client's failure to pay any amount when due will be a material breach by Client. A late charge of 1.5% per month will be added to balances not paid within 30 days of the date of the invoice. Client must notify Company in writing of any dispute regarding the amount of an invoice within 30 days from the invoice date; otherwise all disputes will be deemed waived. Client will bear all costs associated with Company receiving payments due for Services rendered under this Agreement. If Company must institute suit or collection services to collect amounts owed to Company, Client will pay Company's attorneys' fees and other costs of suit or collection.

(b) In the event of payment delay, Company may suspend the performance of Services upon 10 days' prior written notice. Suspension will not release Client from any of its obligations under this Agreement. In case of non-payment based on Client liquidity problems, Company may condition continued performance on immediate cash payment for Services rendered (invoiced or not) or to be rendered.

(c) Company may raise the Service Fee upon 30 days' prior written notice to account for any increases in (i) health care, benefit, or insurance costs, (ii) labor or fuel costs, (iii) costs arising from changes to laws, regulations, or insurance premiums, (iv) SUI or similar taxes, (v) contractor's rates, or (vi) any other taxes, fees, costs or charges related to the Services.

5. LIABILITY LIMITATION; INDEMNIFICATION: (a) The Service Fee is based upon the value of Services provided, not the value of the interests or property protected. Accordingly, Company makes no representation or warranty, express or implied, that the Services will produce a result or prevent any loss or damage. *Client agrees that the limitations of liability and Client's defense/indemnity obligations in Sections 5(c)-5(h) apply regardless of whether the Loss is alleged to arise, directly or indirectly, in whole or in part, from the negligence (active or passive) or misconduct of Company, its employees or agents, including that related to the hiring, training, supervision or retention of Company's employees or agents, and Sections 5(c) - 5(h) apply in favor of Company's contractors and vendors.*

(b) Company will defend and indemnify Client against any Loss arising from the Services only to the extent the Loss is caused by the negligence of Company, its employees or agents while acting within the scope of their duties and authority. Client will defend and indemnify Company against any Loss in connection with this Agreement only to the extent the Loss is caused by the negligence of Client, its employees or agents.

~~(c) Notwithstanding Section 5(b), in no event will the total liability of Company and its insurers for any Loss exceed \$2,500.~~ *5000*

~~(d) Notwithstanding Section 5(b), Client will defend and indemnify Company against any Loss to the extent the Loss exceeds \$2,500.~~

(e) Notwithstanding anything to the contrary in this Agreement, in no event will Company or its insurers be liable for any (i) environmental Loss, (ii) punitive, special, exemplary, liquidated, indirect, or consequential Loss (including, without limitation, loss of profits or business), (iii) violent or armed action, or hi-jacking, (iv) Loss arising from any remote or on-site cyber activity or event, (v) injuries or deaths arising from any conditions of the Site, or (vi) Loss arising from or related to any circumstance beyond Company's reasonable control (including, without limitation, any failure on the part of Company's contractors or vendors, any act of God or war, etc.).

(f) Notwithstanding anything to the contrary in this Agreement, in no event will either party or its insurers be liable to the other party for any Loss arising from or related to an act of terrorism. The parties intend for this waiver to "flow down" to their respective contractors.

(g) Notwithstanding anything to the contrary in this Agreement, if Company employees operate any vehicle other than one supplied by Company, Client will maintain insurance for the vehicle and the insurance will be primary, and Client will defend and indemnify Company against any Loss arising out of Company's use of the vehicle.

(h) Notwithstanding anything to the contrary in this Agreement, in no event will Company be responsible for any theft or other loss of property (including, without limitation, electronic data) not directly attributable to proven security officer thefts. In the event of allegation of security officer thefts, Client waives all right of recovery unless Company is notified of the allegations within 10 days, Client fully cooperates with Company in the investigation of the facts, Client presses formal charges, and a conviction is obtained; however, if all the foregoing conditions are satisfied, all applicable limitations of liability in this Agreement still apply.

(i) Written notice of any Loss arising out of or relating to this Agreement must be received by Company within 30 days following the date of the occurrence giving rise to such Loss. No action to recover any Loss will be instituted or maintained against Company unless such notice is received by Company. No action to recover any Loss will be instituted or maintained against Company unless the action is instituted no later than 12 months following the date of the occurrence from which the Loss arises.

(j) The Services are solely for the benefit of Client; neither this Agreement nor any Services confer any rights on any other party as a third-party beneficiary.

6. INSURANCE: Client will maintain insurance to protect Client against loss or damage to its premises, business and property, and others' property on Client's premises. Client (on behalf of itself and its insurers) waives all rights of subrogation against Company, its contractors and vendors, and their respective employees, agents and insurers. If Company provides any insurance coverage (additional insured or otherwise) for Client or any others, such insurance coverage will only cover Client and the others for liability specifically assumed by Company in this Agreement. As security for Client's defense and indemnity obligations in this Agreement, Client will name Company as an additional insured under Client's relevant insurance policies, and Client will provide Company with a certificate of insurance evidencing such coverage upon request.

7. FORCE MAJEURE: The following circumstances will be considered as grounds for relief if they delay or impede the performance of this Agreement: any circumstance beyond the reasonable control of a party such as fire, war, mobilization or military call up of a comparable scope, requisition, seizure, currency restrictions, insurrection and civil commotion, hi-jacking or an act of terrorism, shortage of transport, general shortage of materials or personnel, industrial disputes and defects or delays in deliveries by contractors caused by any such circumstance as referred to in this Section. The party desiring relief under this Section will inform the other party by written notice without delay on the occurrence and on the cessation of such circumstance. If grounds for relief prevent Client from fulfilling its obligations, Client will reimburse Company for costs incurred in securing and protecting the Site. Client will also reimburse Company for costs incurred for personnel, contractors and equipment which, with the consent of Client, are held in readiness to resume the Services.

8. CLIENT'S COMMITMENT: Client represents that it (i) is not, and will never be, subject to economic or trade sanctions, and (ii) will at all times cooperate with Company to allow Company to provide the Services under the best possible conditions; such cooperation includes, without limitation, Client providing (i) a safe, healthy working environment for Company personnel in accordance with applicable laws and regulations, (ii) all relevant information, access and assistance that Company reasonably requires to perform the Services without interruption, including, without limitation, suitable office space and utilities, and (iii) prompt notice of anything that may affect Company's safety, risk or obligations under this Agreement or which may lead to an increase in Company's costs of providing the Services. Any breach of this representation will be a material breach by Client.

9. SEVERABILITY: If any provision of this Agreement is held to be unenforceable, it will be modified to be enforceable to the maximum extent permitted under applicable law and all other terms will remain in full force. If the unenforceable provision cannot be so modified, it will be excluded from this Agreement, and all other terms of this Agreement will remain in full force.

10. PRECEDENCE: In the event that the different parts of this Agreement are conflicting, the written documents forming part of this Agreement will prevail in the following order: (i) this Agreement; (ii) the Scope of Work; and (iii) any other written documentation attached hereto.

11. NOTICES: All official notices will be in writing and made by overnight mail or certified mail, addressed to the other party at its address set forth in this Agreement or at such other address as the other party may have designated in writing.

12. ASSIGNMENT: Neither party will assign this Agreement without the other party's prior written consent, which will not be unreasonably withheld. However, upon 30 days' prior written notice to the other party, either party may assign this Agreement at any time to any of its affiliates, subsidiaries or successors.

13. LAW & JURISDICTION: (a) This Agreement will be governed by the law of the State in which the applicable Services are performed. The parties hereby submit to the jurisdiction of the courts of such State. All terms in this Agreement are only intended to apply to the maximum extent permitted by applicable law.

(b) Company will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require Company to take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

14. ENTIRE AGREEMENT: This Agreement and anything attached to or incorporated into them, constitute the entire agreement between the parties. Any representations, promises or agreements not embodied in this Agreement will not be enforceable. No Client contracts, purchase orders, work orders, or similar documents, regardless of when dated, will modify this Agreement. All changes to this Agreement will only be binding on a party if approved in writing by an authorized representative of that party.

Portland Housing Authority
Client
By: Trevor Nugent
Authorized Representative

Printed Name/Title: Trevor Nugent - Director of Public Housing

Securitas Security Services USA, Inc.
By: Michael J Burrows
Authorized Representative

Printed Name/Title: Michael J Burrows - Branch Manager

CLIENT'S ATTENTION IS DIRECTED TO SECTION 5 - LIABILITY LIMITATION; INDEMNIFICATION