



CITY OF MANITOWOC

WISCONSIN, USA
www.manitowoc.org

March 26, 2024

TO: Mayor and Common Council
FROM: Board of Public Works
SUBJECT: AGMT-24-04 with Automated Logic

Dear Mayor and Common Council:

At the March 20, 2024 Board of Public Works meeting, the Board met to approve entering into AGMT-24-04 with Automated Logic, to install an Automated Logic WebCTRL Building Automated System (BAS) for Manitowoc City Hall Module upgrades as outlined in "Exhibit A".

"Moved by City Attorney Nycz, seconded by Alderperson Czekala, to enter into the agreement. Ayes, 7. Nays, none."

Very Truly Yours,

Mackenzie Reed
Secretary Board of Public Works

CONTRACT

This contract is made and entered into this 19th 20th day of March, 2024, by and between Automated Logic (hereinafter "Contractor"), located at 954 Glory Road, Green Bay, WI 54304 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

WHEREAS, Automated Logic located at 954 Glory Road, Green Bay, WI 54304, intends to install an Automated Logic WebCTRL Building Automation System (BAS) for Manitowoc City Hall Module upgrades as outlined in "Exhibit A", Automated Logic Proposal.

WHEREAS, Automated Logic has the ability to perform the required work needed for module upgrades as required:

NOW, THEREFORE, in consideration of the mutual covenants and representations of the parties hereinafter set forth, the undersigned parties hereby agree as follows:

1. Recitals. The above recitals are deemed to be true and correct.
2. Scope of Work. The Contractor agrees to perform the following work and/or furnish the following labor and materials in accordance with the terms of this contract:

All work shall be performed in accordance with the City of Manitowoc's Standard Specifications for Public Works Construction.

See listing of tasks for this project. (Attached are "Exhibit A).

3. Contract Price. The City agrees to pay to the Contractor for the performance of this contract the sum not to exceed \$19,587.13.
4. Schedule. Contractor agrees to commence work under this Contract upon its execution and complete performance of this contract in accordance with the City of Manitowoc's Standard Specifications, which are made part of this Contract and are incorporated by reference. The contract completion date shall be July 1, 2024.
5. Liquidated Damages. **For every calendar day** of delay in the completion of the work beyond the time specified, unless extended by written agreement, there shall be deducted from the amount due under this Contract as fixed, agreed and liquidated damages, the sum of One-Hundred Dollars (\$100).
6. Payment Schedule. Requests for payment shall be made to the Director of Public Infrastructure. The Director of Public Infrastructure shall make a recommendation on the payment request and submit the same to the City's Board of Public Works when applicable. Contractor shall be entitled to payment within 30 days following approval by the Director of Public Infrastructure. The Contractor shall be required to submit a Lien Waiver prior to the City processing the final payment.

7. **Assignment and Subcontracting.** Contractor shall not be permitted to sign or subcontract any of the work hereunder without the prior written consent of the City.
8. **Insurance and Bonding.** Prior to commencing work hereunder, Contractor shall provide City, for approval by the City Attorney, a Certificate of Insurance showing proof of General Liability Insurance in amounts not less \$1,000,000.00 per person per occurrence, \$2,000,000.00 in the aggregate, property damage limits of not less than \$500,000.00 per occurrence, and shall carry the statutory amounts for worker's compensation insurance. Contractor shall include with the Certificate of Insurance two endorsements, one endorsement naming the City of Manitowoc as an additional insured, and a second endorsement giving City thirty (30) days prior notice of non-renewal, modification or cancellation.
9. **Applicable Statutes.** Any provisions of the Wisconsin Statutes, Federal Law or local ordinances applicable to the work performed hereunder are deemed to be incorporated by reference and made a part of this contract.
10. **Sales Tax Exemption.** The Contractor shall be required to comply with Chapter 77 of Wisconsin State Statutes and more specifically Section 77.54(9m) as it relates to the sales tax exemption for building materials that become part of a facility for a local unit of government. (This is also known as 2015 Wisconsin Act 126).
11. **Contract Notice.** Per Wisconsin State Statutes 62.15, a Class I notice has been executed and published for this work on March 19, 2024.
12. **Other Indebtedness to City.** It is understood and agreed by the parties hereto that whenever a contractor is for any reason indebted to the City of Manitowoc, the contractor consents that the City of Manitowoc through its officials shall and may, deduct and retain, any such balance out of the money or monies which may be due or become due to the contractor under this contract.
13. **Indemnify.** Contractor shall defend, indemnify and hold harmless the City of Manitowoc, its officials, officers, employees, representatives and agents against any and all liability, claims, costs, demands, losses, damages, expenses and attorney fees of any kind on account of any injury, damage, or death to any person or property that may arise directly or indirectly caused by or resulting from the work performed under this Contract where the injury, damage, or death is caused by negligence or willful misconduct on the part of the Contractor, subcontractor, officers, employees, or agents.
14. **Default.** In the event of default or breach in the performance of any of the obligations, covenants, representations or duties under the terms of this Contract by either party, the non-defaulting party shall forward written notice to the defaulting party outlining such default. The defaulting party shall cure such default within thirty (30) days of receiving written notice from non-defaulting party, except that the cure period may be extended to a reasonable time to cure any default that cannot reasonably be cured with the thirty (30) day period, provided that the defaulting party has commenced to cure within the thirty (30) day period and diligently pursues a cure at all times thereafter until the default is cured. The defaulting party shall be responsible for the payment to the non-defaulting

party of any outstanding fees, charges or expenses that were incurred by the non-defaulting party on behalf of the defaulting party.

15. **Permits.** No Permits are anticipated for this project.
16. **Termination.** Either party may terminate this Contact with ten (10) days written notice to the other party.
17. **Notice and Demands.** A notice, demand or other communication under this Contract by any party to the other party shall be sufficiently given or delivered and deemed delivered as of the date such notice is delivered to the party intended, if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally and addressed to or personally delivered to:

CITY:
City Clerk
900 Quay Street
Manitowoc, WI 54220

CONTRACTOR:
Automated Logic
954 Glory Road
Green Bay, WI 54304

Notice and demand given shall be effective only if and when received by the party intended and acknowledged by receipt. The above addresses may be changed at any time by any party by giving written notice in the manner provided above.

18. **Assignment.** This Contract is not assignable without prior written consent of City.
19. **Severability.** If any provision of this Contract is deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and such remainder would then continue to conform to the requirements of applicable laws.
20. **Amendments.** This Contract can only be amended or modified in writing and signed by the parties involved.
21. **Integration.** This Contract represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to matters covered hereunder.
22. **Survival of Provisions.** All indemnification and hold harmless obligations shall survive the expiration or termination of this Contract.
23. **Choice of Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Wisconsin. All actions or proceedings relating directly or indirectly, to this Contract, whether sounding in contract or tort, shall be litigated only in the circuit court located in Manitowoc County, Wisconsin. All parties to this Contract hereby subject themselves to the jurisdiction of the circuit court for Manitowoc County, Wisconsin.
24. **Heading.** The section titles have been inserted in this Contract primarily for convenience, and do not define, limit or construe the contents of such paragraphs. If headings conflict with the text, the text shall control.

25. **Remedies Cumulative.** All rights and remedies hereunder are cumulative, and not exclusive, and shall be in addition to all other rights and remedies provided by applicable law. Failure to exercise or delay in exercising any right or remedy hereunder shall not operate as a waiver thereof, nor excuse future performance. No waiver discharge or renunciation of any claim or right arising out of a breach of these terms and conditions shall be effective unless in a writing signed by the party so waiving. Any waiver of any breach shall be a waiver of that breach only and not of any other breach, whether prior to subsequent thereto.
26. **Construction.** All parties have contributed to the drafting of this Contract. In the event of a controversy, dispute or contest over the meaning, interpretation, validity of enforcement of this document or any of its terms or conditions, there shall be no inferences, presumption or conclusion drawn whatsoever against any party whatsoever by virtue of that party having drafted the document or any portion thereof.
27. **Authority.** The undersigned hereby represents and warrants that it has the authority to enter into this Contract. If the party entering into this Contract is not an individual, the person(s) signing on behalf of the entity represents and warrants that they have been duly authorized to bind the entity and sign this Contract on the entity's behalf.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract as of the day and year first above written.

SOLE PROPRIETORSHIP OR PARTNERSHIP

CORPORATION

Name of Proprietor or Partnership

Sole Proprietor or Partner (Seal)

Partner (Seal)

Partner (Seal)

Partner (Seal)

Partner (Seal)

Partner (Seal)

Steve
Name of Corporation
By: Steve Schneider
President
Attest:

Digitally signed by: Steve Schneider
DN: CN = Steve Schneider
Schneider email = steve.schneider@carrier.com
C = US
Date: 2024.03.19 12:35:12 -05'00'

Secretary
Notwithstanding anything to the contrary stated herein, the service provider retains ownership of its intellectual property and no license to service provider's intellectual property is granted except as necessary for the customer to use any deliverables and/or services provided hereunder. AL

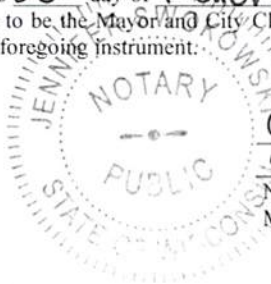
CITY OF MANITOWOC

By: Justin M. Nickels
Justin M. Nickels, Mayor

Attest: Mackenzie Reed
Mackenzie Reed, City Clerk/Deputy Treasurer

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me, this 20 day of March, 2024, the above named Justin M. Nickels and Mackenzie Reed, known to me to be the Mayor and City Clerk/Deputy Treasurer of the City of Manitowoc and acknowledge they executed the foregoing instrument.



Jennifer Suokowski
Jennifer Suokowski
Notary Public Manitowoc County, WI
My commission (expires)(is) 11-2024.

STATE OF WISCONSIN)
) ss.
BROWN COUNTY)

Personally came before me, this ____ day of _____, 2024, the above named Steve Schneider, Regional Sales Manager, for Automated Logic and acknowledge they executed the foregoing instrument.

Notary Public Brown County, WI
My commission (expires)(is) _____.

BUILDING AUTOMATION SYSTEM PROPOSAL

Manitowoc City Hall Module upgrades

Prepared For: Manitowoc City Hall
Attn: Halvor Halverson
Project Info: 900 Quay St
Manitowoc, WI 54220

Date: 2/12/2024
BidID: 24-01050
Prepared By: Scott Richard | Account Executive
M: (920) 246-7353
scott.richard@carrier.com

Terms: This proposal is subject to the attached TERMS AND CONDITIONS OF SALE AUTOMATED LOGIC CONTRACTING SERVICES, INC. dated 03/23/23

Project Description:

Automated Logic is pleased to provide this proposal for an Automated Logic WebCTRL Building Automation System (BAS) for Manitowoc City Hall Module upgrades per the scope listed below. Automated Logic will provide all necessary hardware, software, project management, engineering, programming, graphics, installation, point-to-point, startup/checkout, training, and warranty for a complete, turnkey system.

Project Cost

Table with 2 columns: Base Bid, \$19,587.00

Scope of Work

Module Upgrades

HW Boilers w HW Pumps

- SE6104a
Updated Programming, graphics and commissioning
Labor
All existing panels, transformers and devices are to be reused

VAV AHU w/ HW & CHW (Typical of 2)

- SE6166sp
Updated Programming, graphics and commissioning
(2) Labor
All existing panels, transformers and devices are to be reused

Chiller

- SE6104a
Updated Programming, graphics and commissioning
Labor
All existing panels, transformers and devices are to be reused

Labor - PM

NOTE: Any reused items found non-functional will be priced separately.

Clarifications:

- Interface*: Provide an integration to the factory provided controls. It is the unit manufacturer's responsibility to ensure the controls are operating per the sequence of operation prior to the start of the integration. The manufacturer must make available all points required for proper BAS control and monitoring via the single point integration interface.
- Any control valves, dampers, thermowells, flow meters, air flow monitors, and pressure taps listed above will be provided to the mechanical contractor for installation.
Provide all necessary low voltage control wiring per local installation code with Union Electricians.
- Provide (0) hours of onsite customer training.
- Provide (0) hours of onsite third-party commissioning assistance
- This proposal price is valid for (30) days
- Provide a (1) year warranty for the ALC furnished material and BAS.
- This proposal is based on labor during normal business hours.
- ALC will provide pricing to the owner for a comprehensive Service Agreement upon fully engineering system.
- This proposal is based on the attached contract terms.
- Construction Prevailing Wage Notice – Automated Logic does not employ laborers or mechanics subject to the prevailing wage requirements of the Davis-Bacon Act and similar state statutes. Automated Logic's job functions include design, programming, engineering, and verification of computerized automation systems, control modules and end devices, and performance of software modification. Any work to install equipment is performed by other companies in the construction and installation business. If applicable, Automated Logic will flow all construction prevailing wage requirements down to its subcontractors performing covered labor.

Exclusions:

- Liability for existing controls and equipment to remain.
- Manufacturer-Provided Controls for Packaged Units described above.
- Field control/power wiring for Manufacturer-provided controls unless noted above (Boilers, Chillers, VFDs, etc.)
- Furnish and installation of communication cards for third party equipment and/or devices
- Startup and commissioning of third-party controls and/or equipment
- Third party commissioning assistance unless mentioned above
- Variable Frequency Drives (VFD) or Variable Speed Drives (VSD) and installation of them unless otherwise noted
- Power Wiring (120v)
- Fire dampers, smoke dampers, combination fire/smoke dampers, or any associated actuators/interlock wiring.
- Cutting, patching, painting, demolition work, roofing work, hoisting charges, or access doors
- Fiscal responsibility for consequential & liquidated damages.
- Permits, fees, or performance and/or payment bonds.
- Testing & Balancing.
- Premium time.

BUILDING AUTOMATION SYSTEM PROPOSAL



Thank you for your consideration of Automated Logic for this project. We look forward to working with you and your team on this unique opportunity. Please feel free to contact me anytime with questions or for any clarifications or scope modifications.

Sincerely,

Scott Richard

Scott Richard

Account Executive

Automated Logic Contracting Services

Mobile: (920) 246-7353

scott.richard@carrier.com

www.automatedlogic.com

PROCEED AS INDICATED:

AUTOMATED LOGIC CONTRACTING SERVICES

CUSTOMER:

Name

Customer Name

Signature

Date

Signature

Date

Title

Title

Company Name

**TERMS AND CONDITIONS OF SALE
AUTOMATED LOGIC CONTRACTING SERVICES, INC.**

Dated 03/23/23

1. PAYMENT AND TAXES – Payment shall be made net 30 days from date of invoice. Automated Logic reserves the right to require cash payment or other alternative method of payment prior to shipment or completion of work if Automated Logic determines, in its sole discretion, that Customer or Customer's assignee's financial condition at any time does not justify continuance of the net 30 days payment term. In addition to the price, the Customer shall pay Automated Logic any taxes or government charges arising from this Agreement. If Customer claims any such taxes do not apply to transactions covered by this Agreement, Customer shall provide Automated Logic with acceptable tax exemption certificates. Payment for service agreements shall be due and payable in advance of services being rendered. Project down-payment required before commencement of work; \$50,000 - \$200,000 requires 30% / Above \$200,000 requires 20% of the total contract amount. All past due invoices will accrue interest at the lesser of 1% (one percent) per month or the maximum amount allowable by law.

2. SCOPE OF WORK/EXCLUSIONS – Repair to building construction, plastering, patching and painting are excluded. Customer agrees to provide Automated Logic with required field utilities (electricity, toilets, drinking water, receiving dock, project hoist, elevator service, etc.) without charge. Automated Logic agrees to keep the job site clean of debris arising out of its own operations. Customer shall not back charge Automated Logic for any costs or expenses without Automated Logic's written consent. Unless specifically noted in the statement of the scope of work or services undertaken by Automated Logic under this Agreement, Automated Logic's obligations under this agreement expressly exclude any work or service of any nature associated or connected with the identification, abatement, clean up, control, removal, or disposal of environment hazards or dangerous substances, to include but not be limited to asbestos or PCBs, discovered in or on the premises.

Certain exclusions apply to services where Automated Logic is providing covered repair labor and material cost under this agreement. Those exclusions regarding covered repair labor and material cost services include service calls due to failures resulting from Force Majeure Events (see Section 6 below), abuse or misuse of equipment, willful damage of equipment, alterations, modifications, and/or any damages as a result of negligence by others. Any language or provision of the Agreement elsewhere contained which may authorize or empower the Customer to change, modify, or alter the scope of work or services to be performed by Automated Logic shall not operate to compel Automated Logic to perform any work relating to Hazards without Automated Logic's express written consent. Services performed at customer's direction outside of the scope of this Agreement will be billed at our scheduled rates.

3. EXTRAS – Work and material in addition to or different from that stated herein, and changes in drawings, specifications or time of performance, shall be considered as extras, and shall entitle Automated Logic to an adjustment in the contract price and the delivery schedule.

4. EMERGENCY SERVICE WORK – If emergency service is performed at Customer's request and inspection does not reveal any defects for which Automated Logic is liable under this Agreement, Customer shall pay for such work at Automated Logic's prevailing time and material rate.

5. SHIPMENT/PARTIAL SHIPMENT/RETURNS – All product shipments shall be F.C.A. shipping point (Incoterms 2010), freight prepaid and allowed to the job site. Shipment dates quoted are approximate. Automated Logic does not guarantee a particular date for shipment or delivery. Automated Logic shall have the right to ship any portion of equipment, goods or other materials included in this Agreement and invoice Customer for such partial shipment. No goods will be accepted for return without prior written authorization. Returned goods may be subject to a restocking charge. Special order and non-stock items cannot be returned.

6. DELAYS – Automated Logic shall not be liable for any delay in the performance of the work resulting from or attributed to acts or circumstances beyond Automated Logic's control, including, but not limited to, acts of God or of the public, acts of government, acts of terrorism, fire, floods, epidemics, freight embargoes, unusually severe weather, riots, strikes or labor disputes, conditions of the premises, acts or omissions of the Customer, Owner or other contractors, or delays caused by suppliers or subcontractors ("Force Majeure Event(s)"). In the event Automated Logic is delayed in manufacturing, shipping, delivery or any other performance under this Agreement by a Force

Majeure Event and without the fault or negligence of Automated Logic, Automated Logic agrees to notify Customer in writing as soon as practicable of the causes of such delay, and Automated Logic shall further be entitled to an extension of the time equivalent to the duration of any such delay and a reasonable time in which to recover from said delay to resume performance. In the event any materials or equipment to be provided by Automated Logic under this Agreement becomes permanently unavailable as a result of a Force Majeure Event, Automated Logic shall be excused from furnishing said materials or equipment.

7. WARRANTY – Automated Logic warrants to Customer that the Work performed by Automated Logic hereunder will comply in all material respects with the attached Scope of Work or Statement of Services and will be free from material defects in workmanship. Automated Logic warrants that all equipment manufactured by Automated Logic Corporation and all Automated Logic equipment, parts or components supplied hereunder will be free from defects in material and workmanship. Automated Logic shall at its option repair or replace, F.C.A. point of sale (Incoterms 2010), any equipment, part or component sold by Automated Logic and determined to be defective within one (1) year from the date Customer has beneficial use. Automated Logic does not warrant products not manufactured by Automated Logic, but it does pass on to Customer any available manufacturer's warranty for such products. Automated Logic warrants that all services provided by Automated Logic hereunder shall be performed in a workmanlike manner. In the event any such service is determined to be defective within ninety (90) days of completion of that service, Automated Logic shall at its option re-perform or issue a credit for such service. Automated Logic's obligations as set forth herein shall be Customer's exclusive remedy. Automated Logic shall not be responsible for labor charges for removal or reinstallation of defective equipment, parts or components, for charges for transportation, handling and shipping, or for repairs or replacement of such equipment, parts or components required as a consequence of faulty installation when not installed by Automated Logic, misapplication, vandalism, abuse, exposure to chemicals, improper servicing, unauthorized alteration or improper operation by persons other than Automated Logic. THIS WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Customer's use of any software provided under this Agreement is licensed (if applicable) and governed by the applicable end user license agreement.

8. WORKING HOURS – All services performed under this Agreement, including major repairs, are to be provided during Automated Logic's normal working hours unless otherwise agreed in writing.

9. CHANGE ORDERS/ADDITIONAL WORK – Automated Logic will not perform additional work until such time as Automated Logic receives a change order, duly executed by each party, setting forth the scope and an agreed upon price for the additional work, as well as any appropriate adjustments to the delivery schedule. Additional work and/or materials supplied under any change order shall be subject to the terms of this Agreement.

10. CUSTOMER RESPONSIBILITIES – Customer shall: provide safe and reasonable access to the job site and equipment being serviced; provide a safe work environment; keep areas adjacent to equipment free of extraneous material; move any stock, fixtures, walls, partitions, ceilings, enclosures or such other property as may be necessary to perform the specified work; promptly notify Automated Logic of any unusual operating conditions; operate any equipment supplied hereunder properly and in accordance with instructions; and identify and label any asbestos containing material that may be present. The Customer will provide, in writing, prior to the start of a job, a signed statement regarding the absence or presence of asbestos for any job where the building or the equipment to be serviced is older than 1981. Should this document state that no asbestos is present, the Customer will also provide in writing the method used to determine the absence of asbestos. If online service via modem is being provided, the Customer shall provide and maintain, at Customer's cost, a voice grade dial-up telephone line or internet connection installed in a mutually agreed upon location.

11. LIMITATION OF LIABILITY – Under no circumstances shall Automated Logic be liable for any indirect, incidental, special or

consequential damages, including loss of revenue, loss of profit, loss of use of equipment or facilities, loss of data, or economic damages howsoever arising. Automated Logic shall be liable for damage to property, other than equipment provided under this Agreement, and to persons, to the extent that Automated Logic's negligent acts or omissions directly contributed to such injury or property damage. To the extent permitted by law, Automated Logic's aggregate liability for any reason, whether in contract, tort (including negligence) or otherwise, will be limited to the value of the payments received by Automated Logic under this Agreement. The aggregate liability shall not limit the liability of Automated Logic for any injury to, or death of a person, caused by its gross negligence.

12. CUSTOMER TERMINATION FOR DEFAULT – Customer shall have the right to terminate this Agreement for Automated Logic's default provided Automated Logic fails to cure such default within thirty (30) days after having been given prior written notice of the default. Upon early termination or expiration of this Agreement, Automated Logic shall have free access to enter Customer locations to disconnect and remove any and all Automated Logic-owned parts, tools and personal property. Additionally, Customer agrees to pay Automated Logic for all incurred but unamortized service costs performed by Automated Logic including overhead and a reasonable profit.

13. AUTOMATED LOGIC TERMINATION – Automated Logic reserves the right to discontinue its service or performance under this Agreement any time payments have not been made as agreed or if alterations, additions or repairs are made to equipment during the term of this Agreement by others without prior agreement between Customer and Automated Logic. Should Customer fail to make payment in accordance with the terms of this Agreement and such failure continues without cure for a period of five (5) days following Customer's receipt of written notice of such payment default, Automated Logic may terminate this Agreement without liability.

14. CLAIMS / ALC EMPLOYEES – Any lawsuits arising from the performance or nonperformance of this Agreement, whether based upon contract, negligence, strict liability or otherwise, shall be brought within one (1) year from the date the claim arose. In the event of any dispute arising out of or related in any way to this Agreement, Automated Logic shall be entitled to recover all costs and expenses incurred in enforcing its rights hereunder, whether based in contract, tort or otherwise, including but not limited to all costs and attorney's fees incurred in any such dispute. The Customer acknowledges that Automated Logic's employees are valuable assets to Automated Logic. During the Term of this Agreement or one hundred eighty (180) days from the effective date, whichever is greater, if Customer hires an Automated Logic employee who worked at the Customer's facility at any time, the Customer agrees to 1) pay Automated Logic an amount equal to twelve (12) months' salary for such employee, and 2) reimburse Automated Logic for all costs associated with any training Automated Logic provided to such employee.

15. GOVERNMENT PROCUREMENTS –

(a) **COMMERCIAL ITEMS** – The components, equipment and services provided by Automated Logic under this Agreement are "commercial items" as defined in Section 2.101 of the Federal Acquisition Regulations ("FAR"), and the prices of such components, equipment and services are based on Automated Logic's commercial pricing policies and practices (which do not consider any special requirements of U.S. Government cost principles, FAR Part 31, or any similar procurement regulations). As such, Automated Logic will not agree to provide or certify cost or pricing data, nor will Automated Logic agree to comply with the Cost Accounting Standards (CAS). In addition, no government procurement regulations, such as FARs or DFARs, shall apply to this Agreement except those regulations expressly accepted in writing by Automated Logic.

(b) **WHERE AUTOMATED LOGIC IS SUBCONTRACTOR** – Where Automated Logic is subcontractor, Automated Logic is agreeing to perform a private subcontract for the sale of a commercial item on a fixed-price basis to Customer (a private entity) and as such there shall be no Federal Acquisition Regulations (FARs), DFARS, CFRs, or any other government procurement regulations of any kind which apply to this Agreement, except those regulations expressly accepted in writing by Automated Logic. In addition, Automated Logic will not agree to provide or certify cost or pricing data nor will Automated Logic agree to comply with the Cost Accounting Standards (CAS). Automated Logic refers to FAR 52.244-6, "Subcontracts for Commercial Items and Commercial Components."

16. HAZARDOUS MATERIALS – If Automated Logic encounters any asbestos or other hazardous material while performing this Agreement, Automated Logic may suspend its work and remove its employees from the project, until such material and any hazards associated with it are abated. The time for Automated Logic's performance shall be extended accordingly, and Automated Logic shall be compensated for the delay.

17. OCCUPATIONAL SAFETY AND HEALTH – Automated Logic and Customer agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act ("OSHA") relating in any way to the performance of work under this Agreement, the project or the job site.

18. ENTIRE AGREEMENT, ASSIGNMENT and MODIFICATION – This Agreement contains the complete and exclusive statement of the agreement between Automated Logic and Customer and supersedes all previous or contemporaneous, oral or written, statements. Customer may assign this Agreement only with Automated Logic's prior written consent. No change, modification, amendment or waiver of any of the terms or conditions of this Agreement shall be binding upon the parties unless made in writing and duly executed by both parties hereto.

19. CUSTOMER CONSENT – Customer consents and agrees that Automated Logic may, from time to time, publicize Automated Logic related projects with Customer, including the value of such projects, in all forms and media for advertising, trade, and any other lawful purposes.

20. FOR WORK BEING PERFORMED IN CALIFORNIA – Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 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 26000, Sacramento, California 95826.

21. INTELLECTUAL PROPERTY – Notwithstanding anything to the contrary stated herein, Automated Logic retains ownership of its intellectual property and no license to Automated Logic's intellectual property is granted except as necessary for Customer to use any deliverables and/or services provided hereunder.

22. ANTI-DISCRIMINATION POLICY – The Automated Logic Fostering a Respectful and Safe Work Environment policy is incorporated into these terms via this link: <https://www.automatedlogic.com/en/company/work-for-us/>.

23. PRICE ADJUSTMENTS – The price of services performed under this Agreement is subject to change due to increases in material costs related to tariffs, import duties, trade policy, epidemics, commodity or material costs, supplier costs, labor costs, or related impacts or market conditions. Such change shall come into effect on thirty (30) days' prior written notice from Seller to Customer.

24. DATA PRIVACY – Each party will comply with applicable data privacy laws governing personal information collected and processed under this Agreement. Automated Logic processes personal data as described in our privacy notices at <https://www.automatedlogic.com/en/legal/privacy-notice/>.

25. STATE CONTRACTOR LICENSE NUMBERS – A list of Automated Logic's state contractor license, certificate, and registration numbers, which list is incorporated herein, is available via this link: <https://www.automatedlogic.com/en/support/contractor-licenses>.

26. ADDITIONAL TERMS AND CONDITIONS - CANNABIS INDUSTRY – If Customer is involved in the cannabis industry as a manufacturer, distributor, or otherwise in the United States, the additional terms and conditions available at <https://www.automatedlogic.com/en/support/additional-terms> which are incorporated herein, shall apply.

27. ADDITIONAL TERMS AND CONDITIONS – ABOUND – If this Agreement includes a subscription to the Abound platform, then the additional terms and conditions of the Abound Master SaaS Subscription Agreement available at <https://abound.carrier.com/en/worldwide/saas-agreement/> which are incorporated herein, shall apply.

28. ADDITIONAL TERMS AND CONDITIONS – WEBCTRL

CLOUD – If this Agreement includes a subscription to the WebCTRL Cloud platform, then the additional terms and conditions of the WebCTRL Master SaaS Subscription Agreement available at [HTTPS://WWW.SHAREDOCS.COM/HVAC/DOCS/1000/PUBLIC/04/WEBCTRL MASTER SAAS AGREEMENT DIRECT 09232022.PDF](https://www.sharedocs.com/hvac/docs/1000/public/04/webctrl-master-saas-agreement-direct-09232022.pdf) which are incorporated herein, shall apply.

29. REMOTE MONITORING –

(a) **DATA RIGHTS** - Customer hereby grants and agrees to grant to Automated Logic a worldwide, non-exclusive, non-terminable, irrevocable, perpetual, paid-up, royalty free license to any Source Data, with the right to sub-license to its affiliates and suppliers for (i) Automated Logic's performance of services pursuant to this Agreement, (ii) the improvement of Automated Logic services, and Automated Logic's Analytics Platform; (iii) improving product performance, operation, reliability, and maintainability; (iv) to create, compile, and/or use datasets and/or statistics for the purposes of benchmarking, development of best practices, product improvement; (v) the provision of services to third parties, (vi) research, statistical, and marketing purposes, and/or (vii) in support of Automated Logic agreements.

Source Data – shall mean data that is produced directly from a system, or device and received at a collection point or a central server (e.g. a Automated Logic's database, data lake, or third party cloud service).

Analytics Platform – shall mean server algorithms or web interface systems used to (i) interpret, convert, manipulate, or calculate data, (ii) perform data processing, and/or (iii) the delivery of data to Automated Logic, affiliates or suppliers of Automated Logic, and/or Customer.

(b) **RETURN OF DATA** - Customer understands and acknowledges that Automated Logic will collect Source Data that will be stored on and/or transmitted to Automated Logic's servers and to suppliers or affiliates that are contracted by Automated Logic and used to transmit, process, extract or store such Source Data for purposes of Automated Logic's performance of the service in accordance with this Agreement. Once such data and information has been stored and/or transmitted to Automated Logic's servers, Customer agrees that such data and information shall become part of Automated Logic's database and therefore subject to the license terms under section 28(a).

(c) **DATA DELIVERY** - During the term of the Agreement Customer shall (i) make reasonable efforts to ensure that the hardware remains powered on, (ii) avoid intentional action to impede, block or throttle collection and transmission of Source Data by Automated Logic, and (iii) avoid intentional action to disable, turn off, or remove the data collection hardware or software without Automated Logic's express written consent, which consent shall not be unreasonably withheld.

(d) **DATA SAFEGUARDS** - Automated Logic processes personal data as described in our privacy notice at Carrier.com. The parties will comply with applicable data privacy laws governing personal data processed in connection with this Agreement, including the California Consumer Privacy Act (CCPA) and the European General Data Protection Regulation (GDPR), and take all reasonable commercial and legal steps to protect personal data. If Customer provides Automated Logic with personal data, Customer will ensure that it has the legal right to do so, including notifying the individuals whose personal data it provides to Automated Logic. If a party collects or processes personal data from California residents under this Agreement, such party is a "Service Provider" under the CCPA and will not sell or exchange such personal data for anything of value.