

MAINTENANCE SERVICE AGREEMENT – LABOR ONLY

FLORIDASOUND

This Maintenance Service Agreement ("Agreement") is entered into as of the ____ day of ____, 2002 between ____, (the "Client"), whose address is ____, and Florida Sound Engineering Company ("Florida Sound"), whose address is 2061 Emerson Street, Suite B, Jacksonville, Florida 32207.

WHEREAS Florida Sound desires to provide certain maintenance and repair services, and the Client desires to retain Florida Sound for the provision of such services, all as provided below;

NOW, THEREFORE, the parties agree to the following terms and conditions in exchange for their mutual promises and covenants.

1. SERVICES

Florida Sound will provide all labor necessary to maintain the sound system described in Attachment "A," subject to the limitations provided below under the Section title "Excluded Equipment," (the "System") in its present state of repair, except for ordinary wear and tear. Florida Sound will use all reasonable efforts to respond quickly to any System failures, but all service calls will be handled during Florida Sound's regular business hours. The Client may request priority service outside of Florida Sound's regular business hours, but Florida Sound will charge at its then current hourly rate for such priority services.

2. INITIAL MAINTENANCE AND TESTING

Florida Sound will provide an initial maintenance and testing inspection of the System at a time mutually agreeable to Florida Sound and the Client as soon as possible after signing this Agreement. If any repairs are required to bring the System into proper working order, the Client will pay Florida Sound its current hourly rates for such repair work. If the Client refuses to pay Florida Sound its current hourly rate to bring the System into proper working order pursuant to the preceding sentence, Florida Sound may terminate this Agreement and collect from the Client Florida Sound's current hourly rate for the initial maintenance and testing inspection of the System. If the Client does pay Florida Sound to bring the System into proper working order, there will be no charge for the initial maintenance and testing inspection of the System, except for fees provided for below.

3. ANNUAL INSPECTION

Florida Sound will perform a preventative maintenance inspection and testing of the System at least annually for the term of this Agreement. All necessary labor to repair any damage to the System discovered as a result of the annual maintenance and testing will be provided by Florida Sound at no additional charge under this Agreement, except as provided above for the initial maintenance and testing or as provided elsewhere in this Agreement.

4. PRICING

Monthly The Client will pay to Florida sound a monthly service charge of \$_____. Florida Sound will bill the Client at the beginning of each month.

or

Yearly The Client will pay to Florida sound a yearly service charge of \$_____. Florida Sound
(Discounted) will bill the Client at the beginning of the yearly term.

Payment of all invoices shall be due upon receipt. All invoices shall be paid to Florida Sound Engineering Company at the address provided above, unless the Client is notified of another name and/or address to which to make payment. All balances outstanding thirty (30) days after the issuance of an invoice shall bear interest at a rate of eighteen percent (18%) per annum, compounded monthly. The Client may add additional equipment to the System under this Agreement at the then prevailing monthly or annual maintenance charge for such additional

equipment. Florida sound must consent in writing to the addition of such equipment to the System, which consent shall not be unreasonably withheld.

5. TERM

The term of this Agreement shall be from the date first written above until the date that is twelve (12) calendar months after the date first written above. This Agreement shall be automatically renewed for successive twelve (12) month terms, after the initial twelve (12) month term, unless either party elects to terminate this Agreement by providing written notice to the other party at least thirty (30) days prior to the expiration of the initial or any subsequent term.

6. EXCLUDED ITEMS

The following items are not included in the monthly or annual service fee set forth above, and will be charged to the Client as a separate expense or, if applicable, charged at Florida Sound's then prevailing hourly rate:

- A. All labor for maintenance and repair for any equipment that is not part of the System;
- B. All labor for the movement, removal, reconfiguration, or other changes to any portion of the System;
- C. Any cost, including labor, to repair or replace equipment due to defective manufacturing (the determination of whether equipment failure is due to a manufacturing defect shall be made in the sole discretion of Florida Sound);
- D. All charges by any third parties in connection with the services Florida Sound provides under this Agreement, including utilities and other contractors;
- E. Any parts, equipment, or supplies necessary to maintain or repair the System;**
- F. All state and local taxes or fees imposed with respect to the services provided under this Agreement; and
- G. Any cost, including labor, necessary to repair equipment due to improper use or storage of the system.

7. EQUIPMENT ON LOAN

Florida Sound from time to time may loan the Client equipment that belongs to Florida Sound ("Loaner Equipment"), and install Loaner Equipment in the System, so that the System may remain operational while components of the System are being repaired or replaced. Florida Sound makes no commitment to provide Loaner Equipment, is not responsible for keeping the System operational while components are being repaired or replaced, and may decide in its sole discretion whether or not to provide Loaner Equipment, the length of time Loaner Equipment will be provided, and the nature of Loaner Equipment. Ownership of and title to Loaner Equipment shall at all times remain with Florida Sound. The Client agrees to indemnify Florida Sound for any damage or loss occurring to Loaner Equipment, and any direct or consequential damages resulting from a failure of Loaner Equipment, including claims by third parties for consequential or direct damages, during the period after Florida Sound installs Loaner Equipment in the System and before Florida Sound removes Loaner Equipment from the System. The Client agrees that it will not hold Florida Sound liable for any damages that may occur to the System, or any consequential damages resulting from a failure in the System or Loaner Equipment, that result from or relate to Loaner Equipment. Florida Sound will remove Loaner Equipment at the request of the Client, and Florida Sound may choose to remove Loaner Equipment at any time in its discretion. The Client acknowledges that Florida Sound provides Loaner Equipment as a gratuitous benefit to customers when Florida Sound is reasonably able to do so, and the Client has no right to or expectation of receiving Loaner Equipment.

8. INCREASES IN SERVICE CHARGE

Florida Sound may increase the monthly and annual service charge set forth above after the initial twelve (12) month term of this Agreement by providing the Client with written notice of such rate increase at least forty-five (45) days prior to the first month for which such increased rate shall be effective. The Client shall have the right to cancel this Agreement if it finds the new rate unacceptable by notifying Florida Sound in writing of the client's intention to cancel the Agreement at least fifteen (15) days prior to the first month for which the increased rate will be effective.

9. DEFAULT OR TERMINATION

In the event (i) Client fails to pay any amount due, (ii) Client fails to comply with any of the terms or conditions hereof, (iii) Client makes an assignment for the benefit of creditors, (iv) an order for relief is entered against Client under any bankruptcy proceeding, (v) a receiver or trustee is appointed for all or substantially all of

the assets of Client, (vi) there is a dissolution or termination of the existence of Client, or (vii) unauthorized personnel make any changes to, repair, or replace any portion of the System, Florida Sound may, in addition to any other remedies that may be available, terminate all services subscribed for under this Agreement, after which Florida Sound shall have no further responsibility under this Agreement in regards to the services furnished under this Agreement.

10. FLORIDA SOUND IS NOT AN INSURER; LIMITATION OF LIABILITY

- A. The Client understands and agrees that Florida Sound is not an insurer, and that insurance, if any, covering personal injury and property loss or damage to, or resulting from, the System shall be obtained by Client; that the payments provided herein are based solely on the value of the maintenance and repair services to be performed and are unrelated to the value of the System; that Florida Sound makes no guaranty or warranty, including any implied warranty of merchantability or fitness for a particular purpose; or that the System will be adequate for the Client's purposes. The Client acknowledges that it is impractical to fix the actual damages, if any, which may proximately result from the failure of Florida Sound to perform any of the obligations or services covered by this Agreement, including, but not limited to, maintenance and repair services, or from the failure of the System to operate properly with resulting loss to Client because, among other things: (i) Florida Sound does not operate, possess, or control the use of the System, (ii) the System may be extensively damaged by improper use or storage, (iii) the cause of damage to the System may be difficult or impossible to determine, (iv) Florida Sound's services provided under this Agreement are not intended to, and are not capable of, preventing damage to the System as a result of improper use or storage, (v) the inability to ascertain what portion, if any, of any loss will be proximately caused by Florida Sound's failure to perform its obligations under this Agreement, and (vi) the uncertain nature of any occurrences that may result from the improper functioning from the System.
- B. The Client understands and agrees that if Florida Sound should be found liable for loss or damage because of the failure of the System to perform properly or the failure of Florida Sound to perform any of its obligations or to provide any of the services subscribed for under this Agreement, or any services provided in connection with services provided under this Agreement, **Florida Sound's liability shall not exceed a sum equal to six (6) times the monthly service charge or half (½) the annual service charge, as applicable, set forth above**, and this liability shall be exclusive; and that the provisions of this Section shall apply if loss or damage, irrespective of cause or origin, results directly or indirectly, to persons or property, from the performance or non-performance of the obligation imposed by this Agreement, or for negligence, active or otherwise, of Florida Sound, its agents, assigns, or employees. Florida Sound will not be liable for any indirect, consequential, or incidental losses, including, but not limited to, any loss of profits.
- C. If the Client wishes Florida Sound to assume a greater liability than is set forth in this Section, the Client may obtain from Florida Sound an increased limited liability by paying an additional annual service charge to Florida Sound. If the Client elects to exercise this option, a rider shall be attached to this Agreement setting forth the terms, conditions, and amount of limited liability and the additional annual charge. Such rider and the additional obligation shall in no way be interpreted to hold the company as an insurer. The client may also obtain additional liability protection from the client's insurance carrier. The Client shall be responsible for all loss of or damage to the System due to fire, theft, wind, water, flooding, or other similar causes.

11. ASSIGNMENT BY CLIENT

This Agreement may not be assigned by the Client without the written consent of Florida Sound. The Client acknowledges that the sale or transfer of the Client's premises or the System shall not relieve the Client of its duties and obligations under this Agreement unless Florida Sound agrees to release the Client from such duties and obligations.

12. ASSIGNMENT OR SUB-CONTRACTING BY FLORIDA SOUND

Florida Sound shall have the right to assign this Agreement in whole or in part to any other person, firm, or corporation and shall have the further right to sub-contract any maintenance, repair, or other services that it is obligated to perform under or in connection with this Agreement. The Client acknowledges that this Agreement is applicable to any assignees and/or sub-contractors of Florida Sound.

13. VENUE; WAIVER OF JURY TRIAL

The parties agree that venue shall lie in Duval County, Florida should litigation arise under any provision of this Agreement. By entering into this Agreement, Florida Sound and Client agree that neither Florida Sound nor Client, nor any assignee, successor, heir, or legal representative of Florida Sound or Client (all of whom are hereinafter referred to as the "Parties") shall seek a jury trial in any lawsuit, proceeding, counterclaim, or any other litigation or other dispute resolution procedure based upon or arising out of this Agreement, any related agreement or instrument, the dealings or the relationship between or among the Parties, or any action in which a jury trial has been waived. The provisions of this Section have been fully negotiated by the Parties and shall be subject to no exceptions. Florida Sound has in no way agreed with or represented to any of the other Parties that the provisions of this Section will not be fully enforced in all instances. Client's agreement in this Section is a material part of the consideration to Florida Sound in making this Agreement.

14. EVENTS BEYOND THE CONTROL OF FLORIDA SOUND

Florida Sound assumes no liability for delay or for interruption of any services to be provided under or in connection with this Agreement due to strikes, riots, floods, storms, earthquakes, fire, power failures, insurrection, interruption or unavailability of electrical service, act of God, or for any other cause beyond the control of Florida Sound, and will not be required to provide services to the Client while interruption of services due to any such cause may continue. Florida Sound assumes no liability for delay of service due to non-cooperation of the Client or its agents in providing access to the area of its premises necessary to maintain or repair the System.

15. HEADINGS

Section titles used in this Agreement are for reference only and are not to be construed as governing the construction of the provisions of this Agreement.

16. ENTIRE AGREEMENT; MODIFICATIONS; WAIVER

This written Agreement is intended by the Parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof. This Agreement supersedes all prior representations, understandings, or agreements of the Parties, written or oral, and shall constitute the sole terms or conditions of the sale of services. This Agreement can be modified only in writing, signed by the Parties or duly authorized agent. No Waiver of a breach of any term or condition shall be construed to be a waiver of any succeeding breach.

17. NOTICES

All notices required to be given under this Agreement shall be addressed to Florida Sound Engineering Company, Attention: General Manager at the address provided above and to the Client at the address provided above, or such other addresses as either party may from time to time designate by written notice to the other. Notice shall be deemed to have been given of the date such notice has been mailed by certified mail, return receipt requested, with the United States Postal Service.

18. SEVERABILITY

In the event any provision of this Agreement is determined by a court to be invalid, the Parties agree that such invalidity shall not affect the remaining portions of this Agreement.

19. MANUFACTURER WARRANTIES

Any component of the System that is or was at the time of initial installation the subject of a warranty by the manufacturer of that component ("Covered Equipment") shall remain subject to the manufacturer's warranty and shall not be covered under this Agreement. The cost of any labor necessary to repair Covered Equipment and the cost of shipping Covered Equipment shall not be provided under this Agreement, and the Client's sole recourse to recover the cost of such labor shall be under the manufacturer's warranty or the Client's third party insurance provider.

20. EXCLUDED EQUIPMENT

The System shall consist solely of equipment that Florida Sound both (i) sells to the Client and (ii) installs on the premises of the Client. Any other equipment, regardless of whether such equipment is attached to, installed with, or an integral part of the overall sound system on the premises of the Client, including but not limited to equipment that the Client installs, equipment installed by a third party, or equipment the Client purchases from a third party and that is installed by Florida Sound, shall not be a part of the System, and this Agreement does not

provide for maintenance, testing, and repair services to such excluded equipment; unless a rider is attached to this Agreement in which (i) reference is made to this Section, (ii) Florida Sound recognizes that certain identified equipment was not sold and installed by Florida Sound, and (iii) Florida Sound specifically agrees to service such identified equipment.

21. EXCLUDED SERVICES

The services that Florida Sound will provide under this Agreement are only the maintenance and repair to be performed directly on the System and that are necessary to keep the System in proper working order. Florida Sound is not obligated to provide any additional ancillary services, including, but not limited to, painting, carpentry, wall repair, woodwork, structural improvements or reinforcements, conduit, or any services relating to the delivery of electricity to the System, and all such excluded services shall be the sole obligation of the Client, regardless of whether the need for such services relates to or rises from Florida Sound's provision of services under this Agreement.

22. CHOICE OF LAW

This Agreement shall be governed under the laws of the State of Florida without regard to its choice of law rules.

23. COSTS AND EXPENSES; ATTORNEYS' FEES

In the event any Party hereto fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other Party in enforcing or establishing its rights hereunder, including, without limitation, reasonable attorneys' fees, whether suit be brought or not, and whether incurred in trial or appellate proceedings.

24. GUARANTEE

THE PERSON SIGNING ON BEHALF OF THE CLIENT ALSO SIGNS IN THAT PERSON'S PERSONAL CAPACITY AS GUARANTOR OF THE OBLIGATIONS OF THE CLIENT UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE CLIENT'S OBLIGATIONS TO MAKE THE SERVICE CHARGE PROVIDED FOR ABOVE.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day written above.

FLORIDA SOUND ENGINEERING CO., INC.

X _____

By: Robert Cole

Its: President

X _____

(Name of Client)

By: _____

Its: _____

GUARANTOR

X _____

Name: _____

ATTACHMENT "A"

DESCRIPTION OF SOUND SYSTEM

AMENDMENT TO MAINTENANCE SERVICE AGREEMENT

This Amendment to Maintenance Service Agreement ("Agreement") is entered into as of the ____ day of ____, 2002 between ____, (the "Client") and Florida Sound Engineering Company ("Florida Sound").

WHEREAS the Client and Florida Sound entered into a Maintenance Service Agreement dated ____, 2002 (the "Agreement");

WHEREAS the Client and Florida Sound desire to provide additional terms to the Agreement;

NOW, THEREFORE, the parties agree to the following terms and conditions in exchange for their mutual promises and covenants.

I. Section I of the Agreement is hereby amended and restated to read as follows:

1. SERVICES

Florida Sound will provide all labor necessary to maintain the sound system described in Attachment "A," and limited as provided below under the Section title "Excluded Equipment," (the "System") in its present state of repair, except for ordinary wear and tear. Florida Sound will use all reasonable efforts to respond quickly to any System failures, but all service calls will be handled during Florida Sound's regular business hours of 8:00am and 5:00pm, Monday through Friday, or between the hours of ____ and ____ on _____. The Client may request priority service outside of these hours, but Florida Sound will charge at its then current hourly rate for such priority services.

IN WITNESS WHEREOF, the parties have executed this Amendment to Maintenance Service Agreement effective as of the date written above.

FLORIDA SOUND ENGINEERING CO., INC.

X _____

By: Robert Cole

Its: President

X _____

(Name of Client)

By: _____

Its: _____

GUARANTOR

X _____

Name: _____