

**Ballard Custom Elevators Inc.**  
**"Our Family Name Is Our Reputation"**  
**217 NE 8<sup>th</sup> Terrace Deerfield Beach, FL 33441**  
**Office 954-725-0296/FAX 954-428-7214**  
[ballardelevator@bellsouth.net](mailto:ballardelevator@bellsouth.net)

**CLIENT NAME:** Letty Giraud

**PHONE #:** 727-522-3637

**JOB LOCATION ADDRESS:** 6370 1<sup>st</sup> Street North  
St. Petersburg, FL 33702

**JOB NAME:** Mount Vernon Bldg

**Equipment to Be Maintained:**

<u>Unit</u>	<u>Quantity</u>	<u>Manufacturer</u>	<u>Type of Unit</u>	<u>Unit Capacity</u>	<u>Number of Stops</u>	<u>Start Date</u>
	1	US Elevator	Hydraulic	2000lbs	3	11/1/10

Ballard Custom Elevators Incorporated agrees to maintain your elevator equipment as outlined in this agreement. We will provide a maintenance program that conforms to the elevator safety codes.

#### **ELEVATOR MAINTENANCE AGREEMENT**

##### **Dependable Maintenance**

Ballard Custom Elevators will examine the elevator equipment for proper operation, lubrication, and make any adjustment that will cover the following component groups and related equipment to ensure continued peak performance for your elevator system:

- Controls and landing positioning systems
- Signal Fixtures
- Machines, drives, motors, governors, sheaves, and ropes
- Power units, pump valves, and jacks
- Car and hoistway door operating devices and door protection equipment
- Car frames, platforms, and counterweights
- Safety mechanisms
- Lubricate equipment for a smooth and efficient performance
- Re-lamp all signals as required (during regularly scheduled visits)
- Repair or replace worn components due to normal wear (please refer to "other considerations" section for items not covered.)
- Test equipment as outlined in the American National Standard Safety Code for Elevators and Escalators, ANSI A17.1, or current edition as of the date of this agreement
- We will perform governor and safety tests on traction elevators once per year and relief pressure tests on hydraulic elevators once per year.

**Customer agrees to pay for any costs of the inspector and inspection fees from local and or State, that is required.**

**Service Performed By Highly Factory Trained Ballard Custom Elevators Professionals**  
Ballard Custom Elevator's employees and elevator technicians will provide all maintenance courteously and dependably. Our elevator technicians receive ongoing training in general equipment development, and safety practices.

**With Assurance of the Ballard Custom Elevator Quality**

To help increase elevator performance and decrease downtime, our technicians utilize the latest industry methods and technology available to us. They will be equipped with the tools and knowledge to troubleshoot your unique system.

Behind our technicians is a team devoted to elevator excellence. Technicians are supported around the clock by a family of engineers and field experts. Our technical support facilities continuously research advancements in the industry and in your equipment.

Ballard Custom Elevators maintains a comprehensive parts inventory to support our field of operations. Replacement parts used in your elevator will be new or refurbished to meet the quality standards of our company.

**In a Timely and Responsive Manner**

We will visit your elevator on scheduled routine visits (1 month intervals). These visits will be performed during normal business hours Monday through Friday 8:00am to 4:45pm (except scheduled appointments). We respond to call backs during these hours at no extra charge. Call backs are defined as minor adjustments or repairs. Call backs outside of our normal business hours and any overtime work or testing that you request will be billed as followed:

- Call backs outside of normal business hours will be billed at standard overtime rate.
- You agree to pay for travel time for any overtime service.

When a malfunction to your elevator equipment occurs between visits, our technicians will respond promptly. You can reach us at our central dispatch at 954-725-0296 or 954-270-4125. A trained representative will handle your call quickly and professionally.

**At a Reasonable Cost**

The price for the services as stated in this agreement shall be Ninety Dollars, \$90.00 per month, or One Thousand and Eighty Dollars, \$1080.00 per year. Non-payment by you of any monies owed under this agreement shall result in the accrual of interest on the delinquent monies at the maximum rate allowable by law. Time is of the essence.

*TWO PK*  
This agreement is effective for ~~five~~ *TWO PK* years starting UPON SIGNED ACCEPTANCE and cannot be canceled. To ensure continuous service, this agreement will be automatically renewed for successive ~~five~~ *TWO PK* year periods, unless either party gives notice of its intention to cancel at least ninety days before the end of the initial ~~five~~ *TWO PK* year period, or ninety days before the end of any subsequent two year renewal period. Notice shall be sent by certified mail, return receipt requested. Unilateral termination of this agreement by you will result in substantial and significant loss and damage to Ballard Custom Elevators Inc. Since the extent of any such loss or damage cannot be accurately ascertained with any degree of certainty, both parties to agreement specifically acknowledge and agree that any unauthorized an unilateral termination hereof by you shall result in payment of liquidated damages to BALLARD CUSTOM ELEVATORS, INC. in the amount of 22% of the total contract price for the full term hereof.

## **Safety**

- You agree to instruct or warn passengers of the proper use of the equipment and to keep the equipment under continued surveillance by competent personnel to detect equipment malfunctions between elevator inspections.
- You agree to report immediately any condition that may indicate the need for correction before the next regular inspection.
- You agree to shut down the equipment immediately upon manifestation of any irregularities in operation or appearance of the equipment, notifies us at once, and keeps the equipment shut down until the completion of any repairs.
- You agree to give us verbal notice immediately and written notice within ten days after any occurrence or accident in or about the elevator.
- You agree to furnish us with legible copies of all accident reports pertaining to any claimed or actual accident or injury to persons or to property occurring in or near the elevator equipment.
- You agree to provide our personnel a safe place in which to work. We reserve the right to discontinue work in the building whenever, in our sole opinion, our personnel do not have a safe place in which to work.
- You agree to provide a suitable machine room including secured doors, waterproofing, lighting, ventilation, and heat to maintain the room at a temperature of 59 degrees F- minimum and 90 degrees F-maximum.
- You agree to maintain the elevator pit in a dry and clean condition at all times. Should water or other liquids become present, you will contract with others for removal and the proper handling of such liquids.

## **Other**

- You agree not to permit others to make alterations, additions, adjustment, or repairs, or replace any component or part of the equipment during the term of this agreement.
- You agree to accept our judgment as to the means and methods to be employed for any corrective work under this agreement.
- In the event of the sale, or lease, or other transfer of the elevator(s) or equipment described herein or the premises in which they are located, you agree to see that such successor is made aware of this agreement and assumes and agrees to be bound by the terms hereof for the balance of the agreement and subject to termination as herein provided or otherwise be liable for the full unpaid balance due for the full unexpired term of the agreement. You will not be discharged of your obligations on this agreement until you have provided us with a copy of a properly executed written assignee that is in our opinion financially responsible, and we issue to you a written confirmation of your discharge from the obligations of this agreement.

In consideration of the performance of the services and the furnishing of the materials as specified at the price stated in this agreement it is expressly understood that Ballard Custom Elevators, Inc. assumes no liability for accidents or injuries to persons or damage to property occurring on or near any part of the elevator system which is the subject of this agreement regardless of the cause of any such accident, bodily injury, or property damage, and regardless of any negligence upon the part of Ballard Custom Elevators, Inc., it's employees, officer, agents, subcontractors, or assigns, or that of any

other persons, entity, or entities. You and the owner of the elevator equipment do hereby further unconditionally agree to indemnify, defend, hold harmless, discharge, release, and forever acquit Ballard Custom Elevators, Inc., its officers, agents, and employees from and against any and all claims, demand, suits, and proceedings brought against Ballard Custom Elevators, Inc., or its officers, directors, employees, or agents of any nature whatsoever, including but not limited to claims and lawsuits for losses of any kind of property damage, personal injury, or death that are alleged to have arisen from or alleged to be connected with the presence, use, misuse, maintenance, installation, removal, manufacture design, operation or condition of the equipment, specifically including claims or losses alleged or proved to have arisen from the joint negligence or sole negligence of Ballard Custom Elevators, Inc. or its officers, directors, employees, or agents. The indemnification included in this paragraph shall include the indemnification of Ballard Custom Elevators, Inc.'s costs and attorney's fees.

You expressly agree to name Ballard Custom Elevators, Inc. as an additional name insured in your bodily injury liability and excess (umbrella) liability insurance policies. Such policies must insure Ballard Custom Elevators, Inc. for those accidents, bodily injury claims, and property damage claims referenced in the above paragraph. You hereby waive the right of subrogation against Ballard Custom Elevators, Inc.

It is understood that the elevator is owned by the customer and at all times, is under the complete control of the owner and customer who is responsible for its safe operation while in use.

#### **Other Considerations**

Items not covered:

- We do not cover cosmetic, construction, or ancillary components of the elevator system.
- This includes the finishing, repairing, or replacement of the cab enclosure, ceiling frames, panels, and/or fixtures, hoist way door panels, door frames, sills, car flooring, floor covering, lighting fixtures, ceiling light bulbs and tubes, main line power switches, breakers, feeders to controller, hydraulic elevator jack outer casing, buried piping, alignment of elevator guide rails, smoke and fire sensors, fire service reports, proprietary control equipment, communication devices, telephones, security systems not installed by us, batteries for emergency lighting and elevator cab lowering, air conditioners, heaters, ventilation fans, and all other items as set forth and excluded in this agreement.

#### **Annual Price Adjustments**

As the costs we incur for providing elevator service increase and decrease annually, we will adjust the price of your service accordingly on an annual basis. We will adjust your monthly price based on the percentage change in the average rate paid to elevator examiners. This rate consists of the hourly rate paid to examiners plus fringe benefits.

Pricing may also increase or decrease in the event the equipment is modified from its present state.

**Overdue Invoices**

A service charge of 1.5% per month, or the highest legal rate, whichever is less, shall apply to overdue accounts. If you do not pay any sum within sixty days from the billing date, we may choose to do one of the following:

- Suspend all service until all amounts due have been paid in full
- Declare all sums for the unexpired term of this agreement due immediately and terminate this agreement.

If Ballard Custom Elevators elects to suspend service, we shall not be responsible for damages or injuries to persons or property from the lack of service.

**Other Conditions**

With the passage of time, equipment technology and designs will change. We will not be required to make any changes or recommendations in the existing design or function of the units. We shall not be obligated to service or make renewals or repairs upon the equipment by reason of obsolescence, misuse of the equipment, another's negligence, loss of power, electrical fluctuation including brown outs, surges and spikes, blown fuses, tripped stop switches, theft, vandalism, explosion, fire, power failure, water damage, storm, lightning, nuisance calls, acts of civil or military authorities, strikes, lockouts, acts of God, or any other reason or cause beyond our control. In the event any component of the elevator becomes obsolete or outmoded, or is no longer produced by the original manufacturer, it shall be your obligation to replace the obsolete or outmoded component at your expense. We will not be obligated to install new attachments or parts upon the equipment as recommended or directed by insurance companies, and governmental agencies or authorities or any third party.

Should your system require any of the safety tests on the commencement date of this agreement, Ballard Custom Elevators, assumes no responsibility for the operation of the governor or safeties on traction elevator, or the hydraulic system in the hydraulic elevators under the terms of this agreement until the test has been made. We shall not be liable for damage to the building structure resulting from the performance of the safety tests. Should the respective system fail any of the required tests, it shall be your sole responsibility to make necessary repairs and to place the equipment in a condition that will be acceptable for coverage under the terms of this agreement.

In the event a third party is retained to enforce, construe, or defend any of the terms and conditions of this agreement or to collect any monies due hereunder, either with or without litigation, the prevailing party shall be entitled to recover all costs and reasonable attorney's fees.

You hereby waive trial by jury in any action against us and do further hereby consent that venue of any proceeding or lawsuit under this agreement shall be at our sole discretion.

In the event any portion of this agreement is deemed invalid or unenforceable by a court of law, public policy or statute, such finding shall not affect the validity or enforceability of any other portion of this agreement.

Our right under this agreement shall be cumulative and our failure to exercise any rights given hereunder shall not operate to forfeit or waive any of said rights and any extension, indulgence or change by us in the method, mode, or manner of payment or any of its other rights shall not be construed as a waiver of any of its rights under this agreement. In the event of litigation involving the collection of any sum due on this agreement, the prevailing party shall be entitled to an award of attorney's fees and costs at the trial and appellate levels.

**Acceptance**

Your acceptance of this agreement and its approval by an authorized manager of Ballard Custom Elevators will constitute exclusively and entirely the agreement for services herein described. All other prior representations or agreements, whether written or verbal, will be deemed to be merged herein and no other changes in, or additions to this agreement will be recognized unless made in writing and properly executed by both parties. Should your acceptance be in the form of a purchase order or other similar document, the provisions of this agreement will govern in the event of a conflict. This proposal is hereby accepted in its entirety and shall constitute the entire agreement as contemplated by you and us.

No agent, employee, or service technician shall have the authority to waive or modify any of the terms of this agreement without the written approval of an authorized manager of Ballard Custom Elevators, Inc.

**Accepted:****Ballard Custom Elevators, Incorporated**

By: Ryan Koby  
Signature of Ballard Custom Elevators Representative

Title: Regional Manager

Date: 10-8-10

**Name of Purchaser**

By: Ben Steward Pres  
Signature of Authorized Representative

Letty Giraud VP

Title: Pres + VP

Date: 10-8-10

**Please Complete The Following Information:**

6370 1<sup>st</sup> ST. N.

Physical Address

ST. PETERSBURG FL 33702

( )

City, State, Zip

TABS

Billing Name

7601 Dr MLK St N

Billing Address

St Petersburg FL 337

City, State, Zip

Contact Name

Contact Phone Number

**Return To:**

**Ballard Custom Elevators**

**217 NE 8<sup>th</sup> Terrace**

**Deerfield Beach, FL 33441**