

SECURITY ALARM SYSTEMS

Overview

ADT Security Services, Inc. has the National Contract for Security Systems:

- Monitoring of Fire and Security
- Full Service Alarm Service & Repair

Fire Alarms are excluded from the Service & Repair Contract, however ADT can provide service for these units.

Monitoring fees :

Regular or Super K stores with Opening/Closing signals	\$24.00 per month
Regular or Super K stores w/o Opening/Closing signals	\$21.00 per month

Service & Repair Contract

Full service, wherein we pay a flat fee for service	\$1,200.00 per year
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Both Monitoring & Full Service are invoiced and paid directly by KRC, Monthly 30 days in advance.

Security Alarm Contacts

ADT Service Requests	800-428-7124
ADT National Accounts Representative - Linda Stakel	440-717-5651
ADT Service Representative at KRC- Chad Shultz	248-463-3165
KRC Support - Brenda Meyer	248-463-1325

LIGHTING MAINTENANCE

Overview

The majority of the salesroom lighting is by fluorescent fixtures that are operated by one or two ballasts which serve two to four lamps per fixture. If a fixture is unlit, the problem could be either one of the lamps burned out, or the ballast has failed. The ballast in our sales area lighting has a five (5) year warranty from date of manufacture. Lamps have no individual warranty, but General Electric warrants that no more than 10% will fail between group relampings. If you are having major lamp failures, consult your Facilities Manager for assistance.

Group Relamping

Because fluorescent lamps have a rather predictable life we "Group Relamp" store with:

- Eight (8) foot lamps every two years
- Four (4) foot lamps every three years.

The relamping contractor will notify the store, by mail, about 30 days prior to the Relamping; and by phone to schedule an exact date with the store forty-eight (48) hours in advance. The relamping is done at night, and requires two to three nights to complete. The relamping contractor will also replace any ballast that is burned out.

Relamping Contacts

National Maintenance - Central, Great Lakes & West -	800-735-6444
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**United States Lighting Service – East -
KRC Support - Gina Reiley**

**800-321-3556
248-463-5197**

Lighting service between group relampings - "Quarterly Lamp & Ballast Program"

We have three (3) National Contractors to service stores quarterly for burned out ballasts and lamps. However, stores can replace lamps in fixtures that are not lit. Lamps should be ordered through the Electronic List Book (ELB). The lighting service contractors can furnish lamps and ballasts off of their truck. However it is economically preferred that the stores have sufficient lamps in-stock (the Contractor's are often limited in the supplies they can carry).

Quarterly Lamp & Ballast Contacts

**Superior Light and Sign Company -
KS, OK, TX, MO, AR, LA & MN**

800-994-5267

National Maintenance -

WA, OR, CA, NV, UT, CA, AZ, NM,
WY, MT, ID, ND, SD, NE, IA, WI, IN,
KY, WV, IL, IN, MI & OH

800-735-6444

Allied Building Service -

ME, VT, NH, MA, CT, RI, NY, DE,
MD, PA, NC, SC, GA, AL, MS, TN, FL

800-836-0779

KRC Support - Gina Reiley

248-463-5197

Lamp Recycling

We currently use GE ECO lamps in most states. These lamps can be placed in ordinary landfills in those states, due to their very low mercury content. The states which do not permit ECO lamps to be placed in ordinary landfills are: CA, MN, VT, ME, MA, NH, CT, FL, AND RI.

Lamps measuring less than 4 foot long	\$0.17 per lamp
T-8 lamps between 4 foot and six foot long	\$0.23 per lamp
T-8 lamps between 8 foot long	\$0.40 per lamp
T-12 lamps between 4 foot and six foot long	\$0.23 per lamp
T-12 lamps between 8 foot long	\$0.40 per lamp
HID, Metal Halide & HPS lamps	\$0.68 per lamp
\$160.00 minimum pickup charge for pickup less than 400 lamps	

Lamp Recycling Contacts

**Cleanlites Recycling, Inc. - Mike Kimmel
KRC Support - Gina Reiley**

**888-676-0044
248-463-5197**

KITCHEN EXHAUST SYSTEM CLEANING

Overview

As a Fire Prevention measure every open operating store with a grill and fryer needs to have the excess grease cleaned off the exhaust fan and from the exhaust ductwork. We have a new National Contract to clean the exhaust fans and ducts in the restaurants/cafes once (1) per year, every six (6) months for the Fryer Ducts.

Cleaning Grill/Fryer (semi-annually)	\$250.00 per duct per service
Cleaning Pizza Oven Duct (annually)	\$275.00 per duct per service

Cleaning Bakery Oven Duct (annually)	\$275.00 per duct per service
Cleaning of any additional cooking hoods (annually)	\$275.00 per duct per service
Installation of additional duct access doors	\$ 50.00 per door

Grease Duct Cleaning Contractor

United Technologies Service - Dennis Berry
KRC Support - Brenda Meyer

888-302-2432
248-463-1325

WASTE HAULING MANAGEMENT

Municipal

Some stores receive waste hauling service directly from the city. The cost of this may be charged as part of a tax from the city, it may be invoiced to the store, or it may be invoiced along with the water and sewer billing. Any waste hauling issues for those stores must be taken up with the city.

Private Hauler

Most stores receive waste hauling by a subcontractor of Weyerhaeuser/Oakleaf, for which the billing goes from Oakleaf directly to KRC. Some stores are on a scheduled pickup, while others call for each pickup. Our contract with Weyerhaeuser requires waste pickup within 24 hours of phoned in request. Requests for pickup, delivery of special open tops, or problems with pickup must be pursued through Oakleaf Waste Management

Waste Hauling Contacts

Weyerhaeuser/Oakleaf Waste Management
KRC Support - Brenda Meyer

888-625-5323
248-463-1325

CARDBOARD RECYCLING

Overview

We have a national contract with Weyerhaeuser/Oakleaf to pick up all of our cardboard for recycling. We receive payment of monthly Credits from Weyerhaeuser directly to KRC Accounts Receivable. The Credits payments show up in the Waste Paper and Grease Sales account. The market for cardboard varies each month, so Credits change each month, and are different for each of nine market regions of the country. Some stores are on scheduled pickups, while others must call Weyerhaeuser/Oakleaf to request each pickup. Weyerhaeuser/Oakleaf is committed to respond to pickup requests within 48 hours. Stores must have at least 10 bales to request a pickup.

Cardboard Recycling Contacts

Weyerhaeuser/Oakleaf Waste Management
KRC Support - Brenda Meyer

888-625-5323
248-463-1325

SHOPPING CART SERVICE

Overview

In an effort to eliminate potential liability we have National Contracts with Americana Shopping Carts, Inc. and Jim 'n E Enterprises, Inc. for annual service to the shopping carts. As carts are used by customers and accidents happen, there is an advantage in lawsuits of being able to

show that we have regular maintenance. The pricing of our current contracts are a flat fee for each cart in use, which includes all necessary parts, labor, welding, frame straightening, and power washing. .

Americana Shopping Carts, Inc. Fees

- Full Service Maintenance (parts, labor, welding, touch up painting, frame straightening and de-stringing, etc.) - \$2.45 per Cart
- Power Washing - \$0.45 per Cart
- Seat Belt Replacement - \$0.75 per additional Seat Belt (50% required)

Jim 'n E Enterprises, Inc.

- Full Service Maintenance (parts, labor, welding, touch up painting, frame straightening and de-stringing, etc.) - \$1.95 per Cart
- Power Washing - \$0.80 per Cart
- Seat Belt Replacement - \$1.50 per additional Seat Belt (50% required)

Shopping Cart Service Contacts:

Americana Shopping Carts – All States Except Illinois & Indiana
Jim'N E Enterprises, Inc. – Illinois and Indiana Only -
KRC Support – Gina Reiley

800-833-7555 x228
630-830-7272
248-463-5197

New:

Fire Sprinklers Inspection & Service and Fire Extinguishers

Overview

We will soon be entering into a National Program with **Fire Materials Group, LLC (FMG)** for a comprehensive Fire Sprinklers Inspection & Service and Fire Extinguishers Inspection and Service which includes periodic inspection of the Fire Alarms, Fire Sprinklers, Hand Held Extinguishers and the Kitchen Hood Extinguishing Systems (also know as the Ansul System). Fire Alarms, Fire Sprinklers, Hand Held Extinguishers will be inspected yearly and the Kitchen Hood Extinguishing Systems semi-annually (unless more frequent dictated by local Fire Marshal).

Inspections

Annual Fire Sprinkler Inspection	\$675 per inspection
Quarterly Fire Sprinkler Inspection	\$200 per inspection
Semi-Annual Inspection Kitchen Fire Suppression System	\$120 per inspection
Annual Inspection Alarm Panel and Devices	\$250 per inspection
Annual Inspection Fire Extinguishers	\$300 per inspection of up to 73 extinguishers

Labor

Standard (Monday-Friday 8:00 am – 5:00 pm)	\$75.00 per hour
Overtime (Monday-Friday after 5:00 pm, Saturdays, Sundays)	\$125.00 per hour
Premium Overtime (Federal and State Holidays)	\$125.00 per hour

Materials Mark-Up

Mark-Up on cost of materials	15%
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Fire Sprinklers Inspection & Service and Fire Extinguishers Contacts

Fire Materials Group, LLC (FMG)	480-753-5444
KRC Support - Brenda Meyer	248-463-1325

KMRT 0000018110

2004 NATIONAL PROGRAMS OVERVIEW

Design & Construction, Facilities, Maintenance Department

Mission Statement:

Maintain several National Service Programs with the objective of mitigating risk to the corporation and delivering a consistent and standard service level across the store base while providing a lower overall average cost per store. This is achieved by leveraging the total spend of our collective store base in negotiations with one or more suppliers; effective contract negotiation and administration; streamlining of business processes, and providing service to outlying stores with the same expertise that is available in metropolitan areas.

2004 National Programs

Program specific information can be accessed by selecting from the list below:

SECURITY ALARM SYSTEMS

LIGHTING MAINTENANCE

KITCHEN EXHAUST SYSTEM CLEANING

WASTE HAULING MANAGEMENT

CARDBOARD RECYCLING

SHOPPING CART SERVICE

FIRE PROTECTION



Contacts

Dave Blosser

Paul Losin

Brenda Meyer

Gina Reiley

Director, National Programs

Director, National Energy Programs

National Programs Coordinator

National Programs Coordinator

(248) 614-0763

(248) 463-3166

(248) 463-1325

(248) 463-5197

2004 NATIONAL PROGRAMS OVERVIEW

Design & Construction, Facilities, Maintenance Department
- Continued -

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ADT Service Requests

ADT National Accounts Representative - Linda Stakel

ADT Service Representative at KRC- Chad Shultz

KRC Support - Brenda Meyer

800-428-7124

440-717-5651

248-463-3165

248-463-1325

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2004 NATIONAL PROGRAMS OVERVIEW

Design & Construction, Facilities, Maintenance Department
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Relamping Contacts

National Maintenance - Central, Great Lakes, West & South East -	800-735-6444
United States Lighting Service, Inc. - North East -	800-321-3556
KRC Support - Gina Reiley	248-463-5197

Lighting service between group relampings - "Quarterly Lamp & Ballast Program"

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Quarterly Lamp & Ballast Contacts

National Maintenance -	800-735-6444
WA, OR, CA, NV, UT, CO, AZ, NM, TN, VA, SC, NC, WY, MT, ID, ND, SD, NE, IA, WI, GA, IN, LA, MS, KY, WV, IL, KS, MN, MO, OK, AL, AR, FL, TX, MI & OH	

United States Lighting Service, Inc. - North East -	800-321-3556
ME, VT, NH, MA, CT, RI, NY, DE, MD, PA, & NJ	

KRC Support - Gina Reiley	248-463-5197
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<u>Pricing:</u>	<u>Regions 1, 2, 3 & 4</u>	<u>Regions 5, 6 & 7</u>
Cleaning of one grill/fryer (semi-annual):	\$265.63	\$280.00
Cleaning of one pizza oven duct (annual):	\$265.63	\$280.00
Cleaning of bakery oven duct (annual):	\$265.63	\$280.00
Cleaning of any additional cooking hoods (annually):	\$265.63	\$280.00
Replace of worn or defective Exhaust Fan Belts (as required):	\$19.63	\$19.63
Region 1 – Duffy	Region 2 – Brumley	Region 3 – Pugh
Region 5 – Farrell	Region 6 – Carr	Region 4 – Hicks
	Region 7 – Puerto Rico (Duffy)	

Grease Duct Cleaning Contractor

United Technologies Service - Ron Vergakis
KRC Support - Brenda Meyer

888-302-2432
248-463-1325

WASTE HAULING MANAGEMENT

Municipal

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SHOPPING CART SERVICE

Overview

In an effort to eliminate potential liability we have National Contracts with Americana Shopping Carts, Inc. and Quality Smart Cart Service, Inc. for annual service to the shopping carts. As carts are used by customers and accidents happen, there is an advantage in lawsuits of being able to show that we have regular maintenance. The pricing of our current contracts are a flat fee for each cart in use, which includes all necessary parts, labor, welding, frame straightening, and power washing.

Shopping Cart Service Contacts:

Americana Shopping Carts

– N.E., West, W. Central regions & off shore

800-833-7555 x228

Quality Smart Cart Service, Inc.

– S.E., Mideast and Great Lakes regions

219-938-7710

KRC Support – Gina Reiley

248-463-5197

Pricing varies by region; please call Gina for pricing when necessary.

2004 NATIONAL PROGRAMS OVERVIEW

Design & Construction, Facilities, Maintenance Department
- Continued -

Fire Sprinklers Inspection & Service and Fire Extinguishers

Overview

We will soon be entering into a National Program with **Fire Materials Group, LLC (FMG)** for a comprehensive Fire Sprinklers Inspection & Service and Fire Extinguishers Inspection and Service which includes periodic inspection of the Fire Alarms, Fire Sprinklers, Hand Held Extinguishers and the Kitchen Hood Extinguishing Systems (also know as the Ansul System). Fire Alarms, Fire Sprinklers, Hand Held Extinguishers will be inspected yearly and the Kitchen Hood Extinguishing Systems semi-annually (unless more frequent dictated by local Fire Marshal).

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Materials Mark-Up

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Fire Sprinklers Inspection & Service and Fire Extinguishers Contacts

Fire Materials Group, LLC (FMG)	480-753-5444
KRC Support - Brenda Meyer	248-463-1325

KMRT 0000018117

*******IMPORTANT*******

Facility Management Reminder

September 27, 2004

RE: *Snow Removal Arrangements – Landscaping Protection*

Ladies and Gentlemen:

If you have not already done so, NOW is the time to make arrangements for snowplowing and snow removal where necessary for the coming winter.

Action Required by Store Managers

Gross Lease Stores- Landlord is Responsible

Make sure you know who the Landlord has under contract or agreement to plow and remove snow. Know who to contact and how to contact when snowplowing or snow removal is necessary. Use the Landlord Snow Removal form to send to your stores to find out who the Landlord's contractors is when this applies.

Stores with Semi-Gross and Net Leases

Obtain competitive bids on Contractor's Proposal form, in the stores that are not contracted for Snow Removal.

- Snow should be plowed where accumulations or fall reach two inches (2") or where drifts interfere with parking lot traffic. Snowplowing and removal, when necessary, should be done after 11:00 PM and before 8:00 AM. In the event snow accumulates after the store opens, the contractor shall keep the main driveways and approaches clear.
- Arrangements should be made for salting when necessary, but salting should be kept to a minimum because it can damage landscaping, concrete and pavement. Request bid to for salt to be installed by application. **In cases where there is a concrete parking lot, calcium chloride should be bid and used.**
- Arrangements are to be made to mark the corners of planters, curbs, etc. so they will not be damaged by snowplowing equipment. Usually flags on stakes 3 or 4 feet high will do the job.
- Discuss with the contractor areas to which snow will be plowed prior to snowplowing. Usually first to the perimeter of the parking lot and then wind rowed in line with light standards, not to exceed 10% of the lot.
- Have the snow hauled away only when it interferes with store operations.

NOTE (1) At Net Lease and Semi-Gross stores, Kmart is usually responsible for landscape maintenance. Therefore, it is your responsibility to mark planters, curbs, etc. and make your Snow Contractor responsible for any damage done by his equipment. When spring arrives, it is your responsibility to make sure planters and greenbelts are kept up properly including replacement of any dead plants.

NOTE (2) At some "Net" or "Semi-Gross" Lease stores, the landlord arranges for snow removal and Kmart pays a pro rata share based on square feet of store area to other landlord stores on the site. If you are not sure who is responsible, consult your "Exterior Maintenance Data Sheet".

Use the attached Snow Removal Proposal to contract for any stores that do not presently have a contractor lined up or needs to find a new contractor. **Obtain a Certificate of Insurance from the successful contractor.**

If you have any questions, please don't hesitate to contact your Facility Manager.

KMART CORPORATION
SNOW PLOWING BIDDING INSTRUCTIONS
October, 2004

Kmart # _____
Address _____

Contractor Name _____

You are invited to submit your proposal for the snow plowing for the noted store to Store Manager, _____ The proposal is to be sent to the writer and is due by _____ p.m. (Eastern Daylight Time) on _____. Any proposals received after the date and time specified will not be accepted and will be promptly returned to the bidder unopened.

In the submission of its bid, the Contractor shall take into consideration the possibility of labor disturbances, boycotts or similar obstructive action by any person or persons. Any additional time and costs incurred as a result thereof shall be borne by the contractor if the obstructive action could have been reasonably foreseen and provided for by the Contractor.

Your bid must be based on the following listed documents which are enclosed with this bid instruction letter.

1. Service Agreement
2. Terms and Conditions (on back of proposal)
3. Itemization of materials, labor & taxes (if applicable)
4. Sample of insurance certificate

Kmart's goal is to obtain quality Facility service at the most cost effective price.

USE OF MINORITY SUBCONTRACTORS AND SUPPLIERS

Kmart encourages the contractor to use the services and/or goods of minority subcontractors and suppliers (51% minority-owned -- American Indian, Asian, Black, Hispanic, Oriental or other identified minority). Contractors submitting bids should actively seek out the participation of minority subcontractors and suppliers. The use of minority subcontractors and suppliers will be considered by Kmart in the awarding of bids. In the submission of bids, each Contractor should separately identify in its proposal the use of minority subcontractors and suppliers and the percentage of the total bid price that will be performed by minority subcontractors. Contractors are encouraged to contact state and local trade associations and organizations to obtain a list of minority subcontractors and/or suppliers. This information shall be submitted to Kmart with the request for final payment.

AFFIRMATIVE ACTION

The contractor agrees that no person with responsibilities in the operation of the contract will discriminate with respect to any subcontractor, employee of applicant for participation in this project because of race, creed, color, national origin, sex or age.

Re: Kmart #

Bidding Instructions
Page 2

MANNER IN BID SUBMISSION- PROPOSAL GUARANTEE

Proposals must be submitted on forms furnished by Kmart Corporation in triplicate and must be delivered in a sealed envelope, plainly marked as to the title of the project and date of bid opening.

The proposal must contain the full name and address of the bidder and person signing the proposal on behalf of the bidder. Inclusion of all applicable unit costs is a requirement for the scope of work defined. Each bidder agrees that by filing his proposal in consideration of the Kmart Corporation receiving and considering such proposal, said proposal shall be firm and binding upon each bidder until proposal is accepted by Kmart Corporation or for a period not to exceed sixty (60) days from the date set for the opening of proposals, whichever period shall be shorter.

SCOPE - TIME OF COMPLETION

The cost and time of completion of the work will be a basic consideration of the contract. It will be necessary that the bidder satisfy the Kmart Corporation of his ability to complete the work within the industry standard time limits.

1. Contractor will visit the site and verify with management the Kmart Demised areas to be plowed.
2. All planters, curbs and permanent structures should be marked and identified to prevent damage. The contractor will be responsible for damage to any permanent structures, including sign and light poles, fire hydrants, building structure, sidewalks if there is evidence of negligence.
3. Contractor to have sufficient equipment to mobilize as required and provide service due to a mechanical breakdown during plowing
4. **Snow should be plowed where accumulations or fall reach two inches (2") or where drifts interfere with parking lot traffic. Snowplowing and removal, when necessary, should be done after 11:00 PM and before 8:00 AM. In the event snow accumulates after the store opens, the contractor shall keep the main driveways and approaches clear.**
5. Salting is to be done when necessary and by industry standards, but salting should be kept to a minimum as it can damage landscaping, concrete and pavement. Salting to be installed by application sufficient to prevent icing of driveways and customer access areas.
6. In cases where there is a concrete parking lot, Calcium Magnesium Acetate or other approved alternate chemical agent should be bid and used if accepted. The most cost effective de-icer should be utilized in geographical region being bid.
7. **Snow will be plowed first to the perimeter of the parking lot and then wind rowed in line with light standards, not to exceed 10% of the lot.**
8. **The snow is to be hauled away only when it interferes with store operations and approved by management.**
9. **A certificate of Insurance is required per the General Conditions and proof of coverage is to be provided with bid. Upon award of contract, the contractor is to provide a policy naming Kmart Corporation as additionally insured.**
10. A service ticket is to be signed by a member of store management the same day of the occurrence. A copy of the signed ticket is to be submitted with the invoice to the store.
11. Snow removal is to include entire parking lot, sidewalks and drives as discussed with management.

Re: Kmart #
Bidding Instructions
Page 3

PERMITS

It will be the Contractor's responsibility to ensure the work is completed in full accordance with all rules, regulations, and ordinances of the State, County, and City Departments that apply and all applicable National Codes. The Contractor shall obtain and supply Kmart with copies of the Building Permit and the Certificate of Compliance/Occupancy upon completion of the project as required. The cost of the permit shall be included as part of the base bid for this project

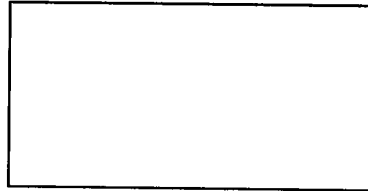
Very Truly Yours,

**Kmart Manager
Kmart Corporation**

Cc: _____ District Manager

**Snow Removal Information
Landlord Agreement**

Landlord Please return to Store Manager



Store Stamp

1. Snowplowing and snow removal will be performed by (Contractor):

Phone: _____

2. Planters, curbs, etc. have been marked with flags and/or stakes or some other method.

Yes

No

3. Landscaping was in: Good ____ Fair ____ Poor ____ condition at the start of the season.

4. I need assistance in obtaining snowplowing or snow removal (state the problem).

Store Manager: Send copy to your District Manager

Note to District Manager

Failure to have snow removal arrangements confirmed can cause future problems and budget overruns.

SAMPLE SNOW PLOWING QUESTIONS & ANSWERS TO CONTRACTOR

STORE MANAGER QUESTIONS TO CONTRACTOR

1. **Store Manager:** Make sure you ask the contractor how many properties the vendor plows and where your store will be in their priority. If you do not like the answer, do not use them. In some cases, they charge a little more for the priority service.
2. **Store Manager:** If manager is available at time of plowing or salt application, the contractor is to have a signed receipt that work was performed. If not, during the day, contractor is to come back and have it signed.
3. **Store Manager:** The contractor is to provide a certificate of insurance meeting Kmart requirements, with his bid. Once a contract is awarded, a certificate is to be provided making Kmart as additionally named insured.
4. **Store Manager:** Snow removal should include the sidewalks, unless the store specifically wants to do it. You should request a cost credit if you elect to do it. Make this and make it clear to all contractors at the time of the proposal request.
5. **Store Manager:** Make sure that all curbs, fire hydrants, planters are clearly marked. This in the bid. I should be done by October 15th, or before the ground is frozen.
6. **Store Manager:** Contractor to have equipment to load and remove excessive snow and have approved location to dump it arranged in advance.
7. **Store Manager:** If you have a store with concrete pavement, you may need to use Calcium Magnesium Acetate chemicals to prevent damage. There are other alternate chemicals and allow the contractor to provide a D.O.T (Department) of Transportation) spec or equivalent showing that it is an approved equal. Also, get cost of chemicals they are recommending.

QUESTIONS FROM CONTRACTOR

1. **Contractor:** We do not provide a per application price for salt.
Response: Contractor can take the square footage of the parking lot and multiply an industry standard quantity, per sq. ft. for a typical application, for calculating a total application cost.
2. **Contractor:** We only bid on depth of snow 2-4" x \$ and/or "X 4-8" x \$.
3. **Response:** Bid 2-4 inches - If snowfall exceeds 4 inches, separate charges will be applicable. The probability of accumulation exceeding 4" while the contractor is at the site, is very remote. This may occur in extreme cases; however pricing will be locked as to avoid disputes. **Contractor:** We can plow but there may be blowing and drifting snow. How, how is that going to be handled?
Response: Get a cost for an hourly rate for a quick move. If snow is not drifting in areas where it effects operation or traffic flow, do not be concerned.
4. **Contractor:** We may want to apply application of salt early to prevent freezing before the snow starts to fall.
Response: Call the store management team to verify and have a ticket signed. This may happen occasionally when the temperatures and weather conditions may indicate a storm system is coming and will help melting and removal of snow early.

Kmart Minimum Insurance Requirement

SAMPLE

PRODUCER Name of Insurance Company Any Street City, St Zip Code		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. COMPANIES AFFORDING COVERAGE COMPANY A COMPANY B COMPANY C COMPANY D			
INSURED Name of Contractor Any Street City, St Zip Code					
COVERAGES THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTORS PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS-COMP/OP AGG. PERSONAL & ADV. INJURY EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one person) MED. EXPENSE (Any one person)
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY				COMBINED SINGLE \$1,000,000 LIMIT BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE AGGREGATE
	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS State Req. EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
	OTHER: EMPLOYEE FIDELITY/COMMERCIAL CRIME EACH OCCURRENCE \$100,000				
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS Kmart Corporation is named as an additional insured with respect to General Liability, Automobile Liability, Umbrella/Excess Liability, and Employee Fidelity/Commercial Crime.					
CERTIFICATE HOLDER Kmart Corporation 3100 West Big Beaver Road Troy, MI 48084-3163		CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAME TO THE LEFT. BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.			
		AUTHORIZED REPRESENTATIVE			

Sample Revised 1/17/03

KMRT 0000018124

Kmart Corporation
Kmart Resource Center
3100 West Big Beaver Road
Troy, MI 48084-3163

Date _____

Contractor's Questionnaire Form - Confidential Information

1. Name of firm _____
Address _____
Telephone _____

2. Operating as (include date)

Individual _____	Started business _____	Where _____
Partnership _____	Started business _____	Where _____
Corporation _____	Incorporated _____	Where _____

3. Officers or partners and respective former connections

4. Principal type of construction/service provided

Industrial _____
Commercial _____
Residential _____

5. Geographic extent of operations

6. Trades normally handled with your own labor

Wrecking - _____	Excavating _____	Concrete _____	Masonry _____	-Steel Erection _____
Carpentry _____	Roofing _____	Sheet Metal _____	DryWall _____	-Air Conditioning _____
Glazing - _____	Painting _____	Plumbing- _____	Heating _____	- Sprinklering- _____
Electrical _____	- Ventilating _____	- Store Fixtures _____	- Snow Removal- _____	

7. Labor Policy

Union _____ Merit shop _____

8. Customary form of contract

Lump sum _____ Cost plus fee _____

9. Work under construction (name, address and phone number of owner and approximate cost)

10. Work completed in last six months (name, address & phone number of owner & approximate cost)

11. References(include name of officer, address and phone number)

12. Business volume

Last year _____ Annual capacity \$ _____

13. Did your firm ever fail to complete a contract? _____ If so, when and where?

14. Did any officer of the company ever fail to complete a contract? _____
If so, when and where? _____

15. Are you generally required to furnish a performance and payment bond? _____

16. Has your company or any related entity filed for bankruptcy in the last seven years? _____

17. Insurance carried regularly

	Limits	Amounts
Workers'Comp.	\$	\$
Public Liability	\$	\$
Property Damage	\$	\$
Insurance Company Name	Agent and Phone Number	

18. Financial data (attach copy of latest financial statement)

Working capital \$ _____ Discount bill _____

Payments Prompt _____ Fair _____ Slow _____

Authorized Dunn and Bradstreet rating _____

Dunn and Bradstreet number _____

Banks _____

Remarks _____

19. This company is _____ % minority owned, identified as follows:

American Indian _____ Black American _____ Eskimo/Aleuts American _____

Spanish American _____ Hasidic Jew _____ Oriental/Asian American _____

Hawaiian American _____ Female _____ Hispanic American _____

Other (please specify) _____ (The signatory of this questionnaire guarantees the truth and accuracy of all statements and answers to questions made herein.)

Company Name _____

Officer's Signature _____

KMRT 0000018127

*******IMPORTANT*******

Facility Management Reminder

September 27, 2005

RE: *Snow Removal Arrangements – Landscaping Protection*

Ladies and Gentlemen:

If you have not already done so, NOW is the time to make arrangements for snowplowing and snow removal where necessary for the coming winter.

Action Required by Store Coaches

Gross Lease Stores- Landlord is Responsible

Make sure you know who the Landlord has under contract or agreement to plow and remove snow. Know who to contact and how to contact when snowplowing or snow removal is necessary. Use the Landlord Snow Removal form to send to your stores to find out who the Landlord's contractors is when this applies.

Stores with Semi-Gross and Net Leases

Obtain competitive bids on Contractor's Proposal form, in the stores that are not contracted for Snow Removal.

- Snow should be plowed where accumulations or fall reach two inches (2") or where drifts interfere with parking lot traffic. Snowplowing and removal, when necessary, should be done after 11:00 PM and before 8:00 AM. In the event snow accumulates after the store opens, the contractor shall keep the main driveways and approaches clear.
- Arrangements should be made for salting when necessary, but salting should be kept to a minimum because it can damage landscaping, concrete and pavement. Request bid to for salt to be installed by application. **In cases where there is a concrete parking lot, calcium chloride should be bid and used.**
- Arrangements are to be made to mark the corners of planters, curbs, etc. so they will not be damaged by snowplowing equipment. Usually flags on stakes 3 or 4 feet high will do the job.
- Discuss with the contractor areas to which snow will be plowed prior to snowplowing. Usually first to the perimeter of the parking lot and then wind rowed in line with light standards, not to exceed 10% of the lot.
- Have the snow hauled away only when it interferes with store operations.

NOTE (1) At Net Lease and Semi-Gross stores, Kmart is usually responsible for landscape maintenance. Therefore, it is your responsibility to mark planters, curbs, etc. and make your Snow Contractor responsible for any damage done by his equipment. When spring arrives, it is your responsibility to make sure planters and greenbelts are kept up properly including replacement of any dead plants.

NOTE (2) At some "Net" or "Semi-Gross" Lease stores, the landlord arranges for snow removal and Kmart pays a pro rata share based on square feet of store area to other landlord stores on the site. If you are not sure who is responsible, consult your "Exterior Maintenance Data Sheet".

Use the attached Snow Removal Proposal to contract for any stores that do not presently have a contractor lined up or needs to find a new contractor. **Obtain a Certificate of Insurance from the successful contractor.**

If you have any questions, please don't hesitate to contact your Facility Manager.

*******IMPORTANT*******

Facility Management Reminder

September, 2006

RE: *Snow Removal Arrangements – Landscaping Protection*

Ladies and Gentlemen:

If you have not already done so, NOW is the time to make arrangements for snowplowing and snow removal where necessary for the 2006/2007 winter.

Action Required by Store Managers:

Gross Lease Stores - Landlord is Responsible

Make sure you know who the Landlord has under contract or agreement to plow and remove snow. Know who to contact and how to contact when snowplowing or snow removal is necessary. Use the document titled, "Snow Removal Information Form For Landlord Snowplowing" to send to your stores to find out who the Landlord's contractor is when this applies.

Stores with Semi-Gross and Net Leases

Obtain competitive bids using the document titled, "Snow Plowing Bidding Instructions" for stores that are not contracted for Snow Removal. This document contains a Contractor's Bid Letter, Work Scope and Proposal. Snow removal contractors should use this Proposal form when submitting their bids.

- Snow should be plowed where accumulations or fall reach two inches (2") or where drifts interfere with parking lot traffic. Snowplowing and removal, when necessary, should be done after 11:00 PM and before 8:00 AM. In the event snow accumulates after the store opens the contractor shall keep the main driveways and approaches clear.
- Arrangements should be made for salting when necessary, but salting should be kept to a minimum because it can damage landscaping, concrete and pavement. Request a bid for salt to be installed by application. **In cases where there is a concrete parking lot, calcium chloride should be bid and used.**
- Arrangements are to be made to mark the corners of planters, curbs, etc. so they will not be damaged by snowplowing equipment. Usually flags on stakes 3 or 4 feet high will do the job.
- Discuss with the contractor areas to which snow will be plowed prior to snowplowing. Usually, first is the perimeter of the parking lot and then wind-rowed in line with light standards, not to exceed 10% of the lot.
- Have the snow hauled away only when it interferes with store operations.

NOTE (1) At Net Lease and Semi-Gross stores, Kmart is usually responsible for landscape maintenance. Therefore, it is your responsibility to mark planters, curbs, etc. and make your Snow Plowing Contractor responsible for any damage sustained by his equipment. When spring arrives, it is your responsibility to make sure planters and greenbelts are kept up properly including replacement of any dead plants.

NOTE (2) At some "Net" or "Semi-Gross" Lease stores, the Landlord arranges for snow removal and Kmart pays a pro-rata share based on the square feet of the store area to other Landlord stores on the site. If you are not sure who is responsible, consult your "Exterior Maintenance Data Sheet".

Use the Snow Plow Bidding Instructions document, which includes a bid letter, work scope and proposal to solicit proposals for any stores that do not presently have a contractor lined up or needs to find a new contractor. Be sure to obtain a **Certificate of Insurance from the successful contractor.**

Facility Management Reminder – Snow Removal Arrangements, Landscaping Protection

KMRT 0000018130

If you have any questions, please don't hesitate to contact your District Facility Manager.

Facility Management Reminder – Snow Removal Arrangements, Landscaping Protection

KMRT 0000018131

*******IMPORTANT*******

Facility Management Reminder

September, 2006

RE: *Snow Removal Arrangements – Landscaping Protection*

Ladies and Gentlemen:

If you have not already done so, NOW is the time to make arrangements for snowplowing and snow removal where necessary for the 2006/2007 winter.

Action Required by Store Managers:

Gross Lease Stores- Landlord is Responsible

Make sure you know who the Landlord has under contract or agreement to plow and remove snow. Know who to contact and how to contact when snowplowing or snow removal is necessary. Use the document titled, "Snow Removal Information Form For Landlord Snowplowing" to send to your stores to find out who the Landlord's contractor is when this applies.

Stores with Semi-Gross and Net Leases

Obtain competitive bids using the document titled, "Snow Plowing Bidding Instructions" for stores that are not contracted for Snow Removal. This document contains a Contractor's Bid Letter, Work Scope and Proposal. Snow removal contractors should use this Proposal form when submitting their bids.

- Snow should be plowed where accumulations or fall reach two inches (2") or where drifts interfere with parking lot traffic. Snowplowing and removal, when necessary, should be done after 11:00 PM and before 8:00 AM. In the event snow accumulates after the store opens the contractor shall keep the main driveways and approaches clear.
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Use the Snow Plow Bidding Instructions document, which includes a bid letter, work scope and proposal to solicit proposals for any stores that do not presently have a contractor lined up or needs to find a new contractor. Be sure to obtain a **Certificate of Insurance from the successful contractor.**

If you have any questions, please don't hesitate to contact your District Facility Manager.

Facility Management Reminder – Snow Removal Arrangements, Landscaping Protection

KMRT 0000018134

Facility Management General Memo #53-00

October 12, 2000

RE: ***Snow Removal Arrangements – Landscaping Protection***

Ladies and Gentlemen:

If you have not already done so, NOW is the time to make arrangements for snowplowing and snow removal where necessary for the coming winter.

Action Required by Facility Managers

Gross Lease Stores

Make sure you know who the Landlord has under contract or agreement to plow and remove snow. Know who to contact and how to contact when snowplowing or snow removal is necessary.

Stores with Semi-Gross and Net Leases

Obtain competitive bids in the stores that are not contracted for Snow Removal.

- Snow should be plowed where accumulations or fall reach two inches (2") or where drifts interfere with parking lot traffic. Snowplowing and removal, when necessary, should be done after 11:00 PM and before 8:00 AM. In the event snow accumulates after the store opens, the contractor shall keep the main driveways and approaches clear.
- Arrangements should be made for salting when necessary, but salting should be kept to a minimum because it can damage landscaping, concrete and pavement.
- Arrangements are to be made to mark the corners of planters, curbs, etc. so they will not be damaged by snowplowing equipment. Usually flags on stakes 3 or 4 feet high will do the job.
- Discuss with the contractor areas to which snow will be plowed prior to snowplowing. Usually first to the perimeter of the parking lot and then wind rowed in line with light standards, not to exceed 10% of the lot.
- Have the snow hauled away only when it interferes with store operations.

NOTE (1) At Net Lease and Semi-Gross stores, Kmart is usually responsible for landscape maintenance. Therefore, it is your responsibility to mark planters, curbs, etc. and make your Snow Contractor responsible for any damage done by his equipment. When Spring arrives, it is your responsibility to make sure planters and greenbelts are kept up properly including replacement of any dead plants.

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Use the attached Snow Removal Proposal to contract for any stores that do not presently have a contractor lined up or needs to find a new contractor. Use the Landlord Snow Removal form to send to your stores to find out who the Landlord's contractors is when this applies.

If you have any questions, please don't hesitate to contact me.

Tom Buser
Facility Services
248/643-1212

bsm

c: File

KMRT 0000018137

*******IMPORTANT*******

Facility Management Reminder

August , 2003

RE: *Snow Removal Arrangements – Landscaping Protection*

Ladies and Gentlemen:

If you have not already done so, NOW is the time to make arrangements for snowplowing and snow removal where necessary for the coming winter.

Action Required by Store Managers

Gross Lease Stores

Make sure you know who the Landlord has under contract or agreement to plow and remove snow. Know who to contact and how to contact when snowplowing or snow removal is necessary.

Stores with Semi-Gross and Net Leases

Obtain competitive bids on Contractor's Proposal form, in the stores that are not contracted for Snow Removal.

- Snow should be plowed where accumulations or fall reach two inches (2") or where drifts interfere with parking lot traffic. Snowplowing and removal, when necessary, should be done after 11:00 PM and before 8:00 AM. In the event snow accumulates after the store opens, the contractor shall keep the main driveways and approaches clear.
- Arrangements should be made for salting when necessary, but salting should be kept to a minimum because it can damage landscaping, concrete and pavement. Request bid to for salt to be installed by application.
- Arrangements are to be made to mark the corners of planters, curbs, etc. so they will not be damaged by snowplowing equipment. Usually flags on stakes 3 or 4 feet high will do the job.
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- Have the snow hauled away only when it interferes with store operations.

NOTE (1) At Net Lease and Semi-Gross stores, Kmart is usually responsible for landscape maintenance. Therefore, it is your responsibility to mark planters, curbs, etc. and make your Snow Contractor responsible for any damage done by his equipment. When Spring arrives, it is your responsibility to make sure planters and greenbelts are kept up properly including replacement of any dead plants.

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Use the attached Snow Removal Proposal to contract for any stores that do not presently have a contractor lined up or needs to fine a new contractor. **Obtain a Certificate of Insurance from the successful contractor.** Use the Landlord Snow Removal form to send to your stores to find out who the Landlord's contractors is when this applies.

If you have any questions, please don't hesitate to contact your Facility Manager.

SEND IN AUGUST

KMRT 0000018138

KMRT 0000018139

From: Belda, Jorge
To: Slimp, Tim
CC: Buser, Tom; Griffith, Patrick; York, James; Fitzgerald, Rick
Sent: 5/29/2001 1:59:17 PM
Subject: FW: Exterior Services

Hi, Tim! Did I miss something? I don't remember hearing about this. DM's are contacting me with questions and I don't know anything about this other than what is on the message below, which I got by way of the DM. Could you please advise any additional details on this program?

Thanks,

Jorge

-----Original Message-----

From: Morales, Ben
Sent: Friday, May 25, 2001 12:32 PM
To: Belda, Jorge
Subject: FW: Exterior Services

Does this pertain to us?

Thanks

-----Original Message-----

From: Slimp, Tim
Sent: Friday, May 25, 2001 2:02 PM
To: Regional Management; District Managers
Subject: Exterior Services

As you may be aware, we have been working on programs that will assist in reducing cost and simplifying facilities-related work at the store. We have been working on and are ready to proceed with the new **EXTERIOR MAINTENANCE SERVICES** program.

Through a very stringent process, we have selected a vendor to work with the stores to assist in reducing exterior maintenance expense. The stores will now have the same capability of calling an identical toll-free number, or email address, to place all types of service calls and receive identical quality of service. In addition, the Store Managers, DM's, RM's, and selected management personnel will be able to track status, costs, details, and all other information regarding the service call. A database is also being built to store and track all service needs that can be instantly accessed and utilized in the future.

Beginning immediately, **GLOBAL PROPERTY SERVICES, Inc.** will contact each individual store manager to introduce themselves, provide and obtain information, and will work with you on reducing your exterior maintenance expenses.

The Call Center for Global Services, Inc. is **800-663-6355**. All stores should be able to access the Call Center toll-free.

If mutual agreement is obtained between the store manager and Global Property Services, Inc. that their services can better support your store needs and /or reduce cost then a termination notice must be issued to the existing service provider and sent out immediately.

Should there be any questions in this regard, please feel free to contact this office.

Timothy V. Slimp
" Play To Win "
Facility Services
734-354-7840

**Kmart National Contracting Program
Exterior Common Area Maintenance**

Exterior common area maintenance includes Landscaping, parking lot sweeping, parking lot lighting repair, parking lot security guard services, minor pavement repair and snow removal services.

Several different vendors for each store location now render these services as contracted by the individual Store Team Manager (STM). With 2115 store locations, the type of services being rendered is not consistent. The pricing is whatever the STM has the time to bid and/or negotiate, which is not the STM's expertise. In the effort to reduce our expenses, consolidation of contractors has shown to reduce the expense and provide for more consistent standards of service.

Facility Services has been working with a contractor that specializes in the management of exterior maintenance services, Global Property Services, Inc. With the cooperation of Rod Brumley, Regional Vice President, we have a report by this contractor that shows that they were able to negotiate with the store's existing contractor to better prices with Kmart's standard specifications.

Landscaping services reported a 7.7% saving compared to the previous year
Parking lot sweeping reported a 5.7% saving compared to the previous year
Snow removal services reported a 6.1% saving compared to the previous year

The actual year to date expense for parking lot expense is \$17,067,226 (as of 12/31/01). If we use 6.7% as an average of the landscaping saving and the parking lot sweeping saving, the saving of a national contractor should be \$1,143,500 a year.

The actual year to date expense for snow removal expense is \$4,676,291 (as of 12/31/01). If we use the 6.1% saving, the saving of a national contractor should be \$285,250 a year (depending on weather conditions).

Our national contractors are able to negotiate better prices with the same contractors the STM has used in the past. The contractor must show net savings to Kmart, but allow sufficient funding for their overhead expense and profit. In return, Kmart receives better pricing and one less task for the STM to handle, allowing more time for merchandising the store.

KMRT 0000018143

SERVICES AGREEMENT

Agreement entered into this ____ day of September, 2003 (the "Effective Date") by and between Kmart Corporation, having its principal place of business at 3100 West Big Beaver Road, Troy, Michigan 48084 ("Kmart"), and Horn Murdock Cole ("HMC"), having its principal place of business at 3001 West Big Beaver Road, Suite 210, Troy, Michigan 48084 ("Contractor").

In consideration of the mutual covenants, terms, and conditions herein contained, the parties agree as follows:

1. The services, products, software, equipment, and other materials provided to Kmart by Contractor (collectively, the "Services") are described, and must be provided at the times and in the manner set forth in, Exhibit A attached hereto and incorporated herein by this reference.
2. This Agreement is binding on the parties upon full signing hereof. The term of the Agreement commences on the Effective Date and, subject to early termination pursuant to Paragraph 3, remains in effect for the number of months set forth in Exhibit A. The term may be extended or renewed for an additional term only by written agreement of the parties. If the term of the Agreement expires without being formally renewed or extended, but both parties continue to perform as set forth in this Agreement, then this Agreement will continue in effect on a month-to-month basis until terminated by either party on thirty days prior written notice.
3. This Agreement may be terminated at any time without cause by either party with 30 days prior notice to the other party. This Agreement may also be immediately terminated by either party if the other party breaches or fails to perform any of its obligations in any material respect, attempts to assign or otherwise transfer its rights, obligations, or duties under this Agreement, or if the other party becomes insolvent or proceedings are instituted by or against it under any provision of any federal or state bankruptcy or insolvency laws. Upon termination, there is nothing due from Kmart to Contractor beyond any fees due at the date of termination, and both parties are relieved of any further obligations contained in this Agreement except for those that by their nature survive or may require performance after termination (e.g., indemnity). Contractor must remove all of its material, software, and/or equipment from the Kmart premises within three (3) days of the date of termination.
4. Contractor is responsible for and does represent that it will comply with all federal, state, and local laws, rules, and regulations applicable to this Agreement or to the performance thereof.
5. To the fullest extent permitted by law: Contractor must reimburse, indemnify, defend, and hold harmless Kmart, its subsidiaries and affiliates and each of

its subsidiary's and affiliate's present, former, and future shareholders, employees, officers, and directors from and against all loss, damage, expense (including attorney's fees and expenses), and penalty, and any claim or action therefor by or on behalf of any person, (collectively, "Loss") arising out of or in connection with Contractor's performance or failure of performance of this Agreement including, without limitation, Loss arising out of or occurring in connection with: (i) any acts or omissions by Contractor or its employees or agents, including, without limitation, personal injury and death claims; (ii) all claims of Contractor's employees, agents, and subcontractors, whether for injury, death, compensation, social security, pension, unemployment compensation, etc.; (iii) the provision, ownership, installation, operation, maintenance, use, or repair of any of the Services; and (iv) all third-party claims alleging that any of the Services infringes any patent, copyright, trademark, or other proprietary right or constitutes a misuse of any trade secret information. Contractor will not be relieved of the foregoing indemnity and related obligations by allegations or any claim that Kmart was negligent; but Contractor is not liable to the extent any injury or damage is finally judicially determined by a court of competent jurisdiction to have been proximately caused by the sole negligence or willful act of Kmart. Kmart agrees to timely advise Contractor of any suit, claim, or proceeding, and to reasonably cooperate with Contractor in the defense or settlement of such suit, claim, or proceeding, but Contractor will have sole control thereof. If an injunction is obtained against Kmart's use of any of the Services, in whole or in part, Contractor must promptly at Kmart's option either: (i) procure right to continue using the Services enjoined from use or replace or modify them so that Contractor's use or possession is not subject to any such injunction, or (ii) refund to Kmart all amounts paid to Contractor for the Services. If this indemnification provision is construed by a court of competent jurisdiction to require indemnification over and above that permitted by applicable law or public policy, the parties intend that the Agreement be judicially modified to afford Kmart the maximum indemnification allowed.

6. Contractor must, during the performance of this Agreement, maintain the following insurance coverages as indicated or as required by law, whichever is greater, with insurers in good standing, possessing an A.M. Best rating of not less than A, Financial size X., and authorized to do business under the laws of the State(s) and/or Countr(y/ies) where performance occurs:
 - (a) Commercial General Liability written on an occurrence coverage form, naming Kmart as an additional insured, including, without limitation, Bodily Injury and Property Damage Liability, Products and Completed Operations Liability, Contractual Liability, and Personal and Advertising Liability. The minimum limits are Two Million Dollars (\$2,000,000) per each occurrence, Two Million Dollars (\$2,000,000) aggregate (Products and Completed Operations), and Two Million Dollars (\$2,000,000) general aggregate;

- (b) Automobile Liability covering all non-owned, leased, or rented vehicles with property damage and bodily injury coverage with minimum limits of One Million Dollars (\$1,000,000) per person, One Million Dollars (\$1,000,000) per accident, and One Million Dollars (\$1,000,000) annual aggregate;
- (c) Workers' Compensation and Employers' Liability with statutory coverage for Workers' Compensation and minimum limits of One Million Dollars (\$1,000,000) per accident, One Million Dollars (\$1,000,000) disease (each employee), and One Million Dollars (\$1,000,000) disease (policy limit) for Employers' Liability; and
- (d) Umbrella/Excess Liability with minimum limits of Three Million Dollars (\$3,000,000) each occurrence and aggregate.

Contractor must tender to Kmart certificates of insurance evidencing the coverages required to be maintained by Contractor. The certificates must provide that no change or cancellation of insurance will be made without thirty (30) days prior written notice to Kmart. The insurance evidenced by the certificate must be primary over any and all other collectible insurance.

- 7. Contractor is an independent contractor in the performance of this Agreement, and nothing contained in this Agreement may be construed to create or constitute a joint venture, partnership, agency, franchise, lease, or any other arrangement other than as expressly granted in this Agreement. Contractor is responsible for its own operation. Contractor must exercise control over its employees, agents, representatives, subcontractors, and suppliers and is solely responsible for the verification of identity and employment eligibility, for the payment of any wages, salaries, or other remuneration of its employees, agents, representatives, subcontractors, and suppliers, and for the payment of any payroll taxes, contributions for unemployment or workers compensation, social security, pensions, or annuities that are imposed as a result of the employment of Contractor's employees, agents, representatives, subcontractors, and suppliers. Contractor must not pledge credit, incur any obligation or liability, hire any employee, nor purchase any merchandise or services in the name of Kmart or any subsidiary or affiliate thereof. Unless otherwise provided in this Agreement, all costs, charges, and expenses incurred in connection with Contractor's performance of this Agreement must be borne by Contractor.
- 8. Neither party may assign or otherwise transfer its rights, obligations, and/or duties under this Agreement without the prior written consent of the other party, given at the other party's sole option; but Kmart may assign this Agreement to a subsidiary or affiliate upon notice to Contractor. Any prohibited assignment is void.

9. Contractor hereby assigns, conveys, and transfers all right, title, and interest in and to the Services, which include all related work product of Contractor and its employees, to Kmart. Contractor understands that all Services produced, developed or otherwise created by Contractor or its employees hereunder are the exclusive property of Kmart. Consistent with this understanding, Contractor must not use the Services for the benefit of any party other than Kmart.
10. Contractor warrants that all creators and/or contributors to the Services, including but not limited to, all persons engaged by Contractor to make any contributions to the Services, were, at the time of the Services' creation, bona-fide employees of Contractor who made their contributions to the Services within the scope of their employment as work for hire or that Contractor has obtained and possesses a written assignment of the copyright, title, and interest from all the creators or contributors not otherwise considered bona-fide employees. Contractor must maintain an agreement with each of its employees consistent with the obligations set forth in Paragraphs 9, 10, and 11 and is responsible for enforcing such agreements. Contractor must provide a copy of such agreement at the request of Kmart.
11. Contractor agrees that all information (including the provisions of this Agreement) of or relating to Kmart, regardless of the manner or medium in which it is furnished to or otherwise obtained by Contractor or any Contractor representative, is provided to and received by Contractor in confidence. Contractor must at all times preserve and protect the confidentiality of this information and any other proprietary and non-public Kmart information that Contractor or any Contractor representative becomes aware of or acquires during the performance of this Agreement (collectively, the "Confidential Information"). Without limiting the generality of the foregoing, Contractor must not divulge to or discuss with third parties any trade secret; system, program, or any other matter on which Contractor is working hereunder; other program, system, or work product belonging to Kmart which are disclosed on Contractor; or information regarding Kmart and any agreements or contracts which Kmart has with other companies or firms. Contractor must take all necessary steps to ensure that the Confidential Information is not disclosed to, or used by any person, firm, or entity, except Contractor's own employees and agents, and then only to the extent necessary to permit Contractor to perform this Agreement. The confidentiality obligations set forth above do not apply to information (i) available to the public through no fault of Contractor; (ii) released by Kmart to any third party on a non-confidential basis without restrictions on disclosure; and (iii) to the extent disclosure of the information is required under any valid court or governmental order and Contractor provides Kmart immediate notice thereof so that Kmart will have an opportunity to contest disclosure or seek an appropriate protective order. The confidentiality and non-disclosure obligations contained in this Agreement survive and continue after termination of this Agreement for any reason and bind Contractor's legal representatives, successors, and assigns.

12. Contractor acknowledges Kmart of Michigan, Inc.'s ("KMI's") exclusive right, title, and interest in and to all trademarks, trade names, service marks, logos, assignees, program and event names, identifications, and other proprietary rights and privileges that it licenses to Kmart with the right to sublicense (the "Kmart Marks"). This Agreement and its various provisions are not a license or assignment of any right, title, or interest in the Kmart Marks by KMI or Kmart to Contractor. Contractor must not, in any manner, represent that it has any ownership in the Kmart Marks. Contractor must not do or cause to be done anything that impairs Kmart's exclusive license in the Kmart Marks. Contractor must not use, print, or duplicate the Kmart Marks unless Contractor has obtained prior written approval from Kmart and KMI. Any permitted use by Contractor of the Kmart Marks is limited to the term of this Agreement. Upon termination, Contractor must immediately cease all use of the Kmart Marks. Contractor must not assign or attempt to assign any rights with regard to the Kmart Marks that arise under this Agreement and any such attempted assignment is void.
13. Except with respect to damages arising from Paragraphs 5, 9, 10, 11, and 12 herein, neither party is liable to the other party for incidental, consequential, punitive, or exemplary damages arising in connection with this Agreement or the performance, omission of performance, or termination hereof including, without limitation, lost sales and profits and other business interruption damages, even if the party has been advised of the possibility of such damages and without regard to the nature of the claim or the underlying theory or cause of action (whether in contract, tort, or otherwise).
14. Contractor represents and warrants that: (i) its performance under this Agreement will at all times conform to the highest professional and ethical standards; (ii) due care and its commercially reasonable efforts will be utilized by Contractor in the performance of this Agreement; (iii) it is under no obligation or restriction that would conflict with the Services required to be furnished by Contractor and its other obligations under this Agreement, or that otherwise would in any manner prevent the full performance by Contractor of the terms, conditions, and requirements of this Agreement (Contractor must immediately disclose to Kmart any actual or potential conflict of interest that may arise during the Contractor's performance of this Agreement); and (iv) the Services are Year 2000 Compliant. For purposes hereof, "Year 2000 Compliant" means that all Services, individually and collectively, accurately process date and time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology used in combination with the Services properly exchanges date/time data with the Services. The foregoing warranties are in lieu of all other warranties, express or implied, including but not limited to warranties of merchantability and fitness for a particular purpose. In the event Contractor breaches any of