

# Gold Maintenance Agreement

TK-430-2385

**Purchaser:** City of Key West  
633 Palm Avenue  
Key West, FL 33040  
Hereinafter referred to as "Purchaser", "you", and "your".

**Location:** City of Key West  
633 Palm Avenue  
Key West, FL 33040

**By:** ThyssenKrupp Elevator Corporation  
7481 NW 66 Street  
Miami, FL 33166  
Telephone: (786)336-5352  
Fax: (305)592-1221  
E-Mail: john.fernandez@thyssenkrupp.com  
Internet: www.thyssenkruppelevator.com

Hereinafter referred to as "ThyssenKrupp Elevator Corporation", "ThyssenKrupp Elevator", "we", "us" and "our".

## GOLD MAINTENANCE AGREEMENT

ThyssenKrupp Elevator agrees to maintain Purchaser's elevator equipment described below in accordance with this agreement. We will endeavor to provide a comprehensive maintenance program designed to protect your investment and maximize the performance, safety, and life span of the elevator equipment to be maintained.

### *Equipment To Be Maintained*

Building Name	Unit Quantity	Manufacturer	Type of Unit	Application of Unit	Unit ID or Serial #
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ThyssenKrupp Elevator  
Americas Business Unit



ThyssenKrupp

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## Preventative Maintenance Program

We will service your equipment described in this agreement on a regularly scheduled basis. These service visits will be performed during normal business working days and hours, which are defined as Monday through Friday, 8:00 AM to 4:30 PM (except scheduled holidays). All work performed before or after normal business working days and hours shall be considered "Overtime".

ThyssenKrupp Elevator will perform the following services:

- Examine your elevator equipment for optimum operation. Our examination, lubrication and adjustment will cover the following components of your elevator system:
  - Control and landing positioning systems
  - Signal fixtures
  - Machines, drives, motors, governors, sheaves, and wire ropes
  - Power units, pumps, valves, and jacks
  - Car and hoistway door operating devices and door protection equipment
  - Loadweighers, car frames and platforms, and counterweights
  - Safety mechanisms
- Lubricate equipment for smooth and efficient performance
- Adjust elevator parts and components to maximize performance and safe operation

## Full Coverage Parts Repair and Replacement

ThyssenKrupp Elevator will provide full coverage parts repair and/or replacement for all components worn due to normal wear, unless specifically excluded in the "Items Not Covered" or "Other Conditions" provisions herein. We maintain a comprehensive parts inventory to support our field operations. All replacement parts used in your equipment will be new or refurbished to meet the quality standards of ThyssenKrupp Elevator. Most specialized parts are available within 24 hours, seven days a week. We will relamp all signals as required (during regularly scheduled visits).

## Maintenance Control Program

ThyssenKrupp Elevator performs service in accordance with our written Maintenance Control Program. This program meets or exceeds any and all requirements of ASME A 17.1-2007 Code, Section 8.6. The Maintenance Control Program includes ThyssenKrupp Elevator's Maintenance Tasks & Records documentation which shall be used to record all work performed on the equipment and is provided with each controller. We do not perform any tests unless such tests are specifically listed as included elsewhere in this agreement.

## Quality Assurance

To help increase elevator performance and decrease downtime, our technicians utilize the latest industry methods and technology available to us for your specific brand of elevator. They will be equipped with our tools, documentation and knowledge to troubleshoot your unique system, as well as access to a comprehensive parts replacement inventory system.

Behind our technicians is a team devoted to elevator excellence. Technicians are supported around the clock by a team of engineers and field support experts. Our North American technical support facilities continuously research advancements in the industry and in your equipment. Also, our internal quality control program ensures optimum and reliable operation of your elevator equipment.

To assure that quality standards are being maintained, we may conduct periodic field quality audit surveys. Your dedicated ThyssenKrupp Elevator representative will be available to discuss your elevator needs with you in all aspects of service and modernization. In addition, you may receive recommendations for upgrades that will also provide you with budget options designed to enhance the appearance, performance and safety of or meet Code requirements for your equipment over time.

## Service Requests during Normal Working Days and Hours

Service requests are defined as any request for dispatch of our technician to the location of the equipment covered in this agreement from one or more of the following: you or your representative, the building or building's representative, emergency personnel, passengers through the elevator's communication device and/or from VISTA Remote Monitoring through the elevator's communication line. Service requests include minor adjustments and response to emergency entrapments that can be accomplished in two hours or less (excluding travel time) and do not include regularly scheduled maintenance visits.

We will respond to service requests during normal business working days and hours, as defined above, at no additional charge.

## Overtime Service Requests

On all overtime service requests, you will be responsible for all labor costs including travel time, travel expenses, and time spent on the job. Such costs will be invoiced at our standard overtime billing rates. Overtime service requests are performed before or after normal business working days and hours.

## VIEW® (Check box if included)

VIEW is ThyssenKrupp Elevator's customer oriented, online service activity reporting system. VIEW allows building owners and managers to monitor our maintenance and service call activity. VIEW can be accessed via the Internet any time, day or night. You can "VIEW" service tickets associated with a single elevator serviced under this agreement, for all the elevators at the location serviced under this agreement, or across an entire portfolio of elevator equipment that is serviced by ThyssenKrupp Elevator. Special considerations regarding VIEW are set forth below.



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**VISTA®** (Check box if included)

VISTA Remote Monitoring is ThyssenKrupp Elevator's exclusive service for monitoring the status and performance of your elevator(s). VISTA monitors compatible equipment 24 hours per day, 7 days per week, and 365 days per year. Constantly monitoring performance data on your equipment provides ThyssenKrupp Elevator the ability to respond to operational irregularities quickly and more efficiently. With VISTA, we can often dispatch a service technician to your location before any interruption in elevator service occurs. Service visits based on VISTA data will be made during normal business hours on normal business days.

**SoundNet®** (Check box if included)

SoundNet is ThyssenKrupp Elevator's 24-hour telephone monitoring and emergency call service. Our representatives are trained to handle elevator calls and they can assess the situation and quickly dispatch a technician when necessary. If needed, they can stay on the line to reassure a stranded passenger that help is on the way. SoundNet maintains digital recordings and computerized records of the time, date, and location of calls received and action taken for the benefit of passengers and building owners. Special considerations regarding SoundNet are set forth below.

**Periodic Safety Testing** (Check box if included)

ThyssenKrupp Elevator will test your equipment in accordance with those annual periodic testing requirements as outlined in the American National Safety Code for Elevators and Escalators, ANSI A 17.1, which are in effect at the time this agreement is executed. In the event that the state, city or local governing authority in which the equipment is located has adopted different requirements, ThyssenKrupp Elevator will test your equipment in accordance with those annual periodic testing requirements in effect at the time this agreement is executed. You agree to pay for any costs of the inspector and/or inspection fees.

**Product Information.** You agree to provide ThyssenKrupp Elevator with current wiring diagrams that reflect all changes, parts catalogs, and maintenance instructions for the equipment covered by this agreement (exception: we will supply all of the above for new ThyssenKrupp elevators at no additional cost). You agree to authorize us to produce single copies of any programmable device(s) used in the equipment for the purpose of archival back-up of the software embodied therein. These items will remain your property.

**Safety.** You agree to instruct or warn passengers in the proper use of the equipment and to keep the equipment under continued surveillance by competent personnel to detect irregularities between elevator examinations. You agree to immediately report any condition that may indicate the need for correction before the next regular examination. You agree to immediately shut down the equipment upon manifestation of any irregularities in either the operation or the appearance of the equipment, to immediately notify us, and to keep the equipment shut down until the completion of any repairs. You agree to give us immediate verbal notice and written notice within ten (10) days after any occurrence or accident in or about the elevator. You agree to provide our personnel with a safe place to work. You agree to provide a suitable machine room, including secured doors, waterproofing, lighting, ventilation, and appropriate air temperature control to maintain that room at a temperature between 50°F and 90°F. You also agree to maintain the elevator pit in a dry 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. We reserve the right to discontinue work in the building whenever, in our sole opinion, our personnel do not have a safe place to work. You also agree that if ThyssenKrupp Elevator's inspection of a piece of equipment serviced under this agreement reveals an operational problem which, in ThyssenKrupp Elevator's sole judgment, jeopardizes the safety of the riding public, ThyssenKrupp Elevator may shut down the equipment until such time as the operational problem is resolved. In that event, ThyssenKrupp Elevator will immediately advise you in writing of such action, the reason for such action, and whether any proposed solution is covered by the terms of this agreement.

**Other.** You agree not to permit others to make alterations, additions, adjustments, 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 employed by us for any corrective work under this agreement. Since ThyssenKrupp Elevator's top priority is the satisfaction of its customers, if you should have any concern(s) with the means and methods used to maintain or repair the equipment covered under this agreement, you agree to provide us with written notice of that concern and give us thirty (30) days to respond either in writing or commence action to appropriately resolve it.

In the event of the sale, lease or other transfer of the ownership or management of the premises in which the elevator(s) or equipment described herein are located, you agree to see that such transferee is made aware of this agreement and agrees to assume and/or be bound by the conditions hereof for the balance of the unexpired term of this agreement. Should the transferee fail to assume this agreement, you shall remain liable for all unpaid amounts, including those owed for the balance of the current unexpired term of this agreement.

**Items Not Covered.** We do not cover cosmetic, construction, or ancillary components of the elevator system, including the finishing, repairing, or replacement of the cab enclosure, ceiling frames, panels, and/or fixtures, hoistway door panels, door frames, swing door hinges and closing devices, sills, car flooring, floor covering, lighting fixtures, ceiling light bulbs and tubes, main line power switches, breaker(s), feeders to controller, below ground or unexposed hydraulic elevator system, including but not limited to, jack cylinder, piston, PVC or other protective material; below ground or unexposed piping, alignment of elevator guide rails, smoke and fire sensors, fire service reports, all communication and entertainment devices, security systems not installed by us, batteries for emergency lighting and emergency lowering, air conditioners, heaters, ventilation fans, pit pumps and all other items as set forth and excluded in this agreement.

**Other Conditions.** With the passage of time, equipment technology and designs will change. If any part or component of your equipment covered under this agreement cannot, in our sole opinion, be safely repaired and is no longer stocked and readily available from either the original equipment manufacturer or an aftermarket source, that part or component shall be considered obsolete. You will be responsible for all charges associated with replacing that obsolete part or component as well as all charges required to ensure that the remainder of the equipment is functionally compatible with that replacement part or component. In addition, we will not be required to make any changes or recommendations in the existing design or function of the unit(s) nor will we be obligated to install new attachments or parts upon the equipment as recommended or directed by insurance companies, governmental agencies or authorities, or any other third party. Moreover, we shall not be obligated to service, renew, replace and/or repair the equipment due to any one or more of the following: anyone's abuse, misuse and/or vandalism of the equipment; anyone's negligence in connection with the use or operation of the equipment; any loss of power, power fluctuations, power failure, or power surges that in any way affect the operation of the equipment; fire, smoke, explosions, water, storms, wind, lightning, acts of civil or military authorities, strikes, lockouts, other labor disputes, theft, riot, civil commotion, war, malicious mischief, acts of God, or any other reason or cause beyond our control that affects the use or operation of the equipment. You expressly agree to release and



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discharge us and our employees for any and all claims and/or losses (including personal injury, death and property damage, specifically including damage to the property which is the subject matter of this agreement) associated therewith or caused thereby. ThyssenKrupp Elevator shall also automatically receive an extension of time commensurate with any delay in performance caused by or related to the aforementioned and you expressly agree to release and discharge ThyssenKrupp Elevator from any and all claims for consequential, special or indirect damages arising out of the performance of this agreement. In no event shall ThyssenKrupp Elevator's liability for damages arising out of this agreement exceed the remaining unpaid installments of the current, unexpired term of this agreement.

Should your system require any of the safety tests on the commencement date of this agreement, ThyssenKrupp Elevator assumes no responsibility for the day-to-day operation of the governor or safeties on traction elevators, or the hydraulic system on hydraulic elevators under the terms of this agreement until the test has been completed and the equipment passed. Should the respective system fail any of those tests, it shall be your sole responsibility to make necessary repairs and place the equipment in a condition that we deem acceptable for further coverage under the terms of this agreement. We shall not be liable for any damage to the building structure or the elevator resulting from the performance of any safety tests we perform at any time under this agreement. If during the initial firefighter's service test, that feature is found to be inoperable, you shall be responsible for all costs associated with necessary repair(s) to bring the elevator(s) into compliance with the applicable elevator codes in your local jurisdiction.

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. You agree that this agreement and the rights and duties of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Florida. You further agree that venue for any action, whether at law or equity, arising out of this agreement shall properly be Miami-Dade County, Florida. You consent to the jurisdiction of the courts, both state and federal, of Miami-Dade County, Florida for any action arising out of this agreement.

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 rights 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.

**Price.** The price for the services as stated in this agreement shall be **One Thousand Sixty-Six and 9/100 dollars (\$ 1,066.09)** per month, payable monthly in advance.

**Term.** This agreement is effective for one (1) year starting upon signed acceptance and is non-cancelable.

**Annual Price Adjustments.** Since our costs to provide you with the service set forth in this agreement may increase, we reserve the right to adjust the price of our service under this agreement accordingly. In the event this occurs, we will adjust your monthly price based on the percentage change in the average rate paid to elevator examiners. This rate paid to elevator examiners consists of the hourly rate paid to examiners plus fringe benefits and union welfare granted in place of or in addition to the hourly rate. Fringe benefits include pensions, vacations, paid holidays, group insurance, sickness and accident insurance, and hospital insurance. We also reserve the right to make additional adjustment to the price of our service under this agreement and/or enact surcharges as needed to account for increased fuel prices when such increases exceed the Consumer Price Index (CPI) current rate. We also reserve the exclusive right to make additional adjustment to the price of our service under this agreement in the event that the equipment covered by this agreement is modified from its present state.

**Early Payment Discount.** You may elect to pay in advance for twelve (12) months of service described in this agreement. Such a pre-payment entitles you to a 3% discount from the annual price in effect at the time of payment.

**Overdue Invoices.** A service charge of 1½% per month, or the highest legal rate, whichever is more, shall apply to all overdue accounts you have with ThyssenKrupp Elevator that are in any way related to your equipment described in this agreement. If you do not pay any sum due to ThyssenKrupp Elevator related to your equipment described in this agreement, regardless of whether it is billed pursuant to this agreement or any other with us, within sixty (60) days from the billing date, we may also choose to do one or more of the following: 1) suspend all service until all amounts due have been paid in full, and/or 2) declare all sums for the unexpired term of this agreement due immediately as liquidated damages and terminate our obligations under this agreement. If ThyssenKrupp Elevator elects to suspend service, we shall not be responsible for personal injury, death, damage to property (including damage to the equipment that is the subject matter of this agreement) or losses of any other type or kind that is in any way related to the ThyssenKrupp Elevator's suspension of service. Upon resumption of service, you will be responsible for payment to ThyssenKrupp Elevator for all costs we incur that result from our suspension of service and to remedy any damage caused to your equipment during that time. Time is of the essence.

**Acceptance.** Your acceptance of this agreement and its approval by an authorized manager of ThyssenKrupp Elevator will constitute exclusively and entirely the agreement for the 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, even 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. This proposal is submitted for acceptance within one-hundred twenty (120) days from the Date Submitted by the ThyssenKrupp Elevator representative indicated below.

No agent or employee shall have the authority to waive or modify any of the terms of this agreement without the prior written approval of an authorized ThyssenKrupp Elevator manager.



# Gold Maintenance Agreement

ThyssenKrupp Elevator Corporation:	City of Key West	ThyssenKrupp Elevator Corporation Approval:
By: _____ (Signature of ThyssenKrupp Elevator Representative)	By: <u>J. K. Scholl</u> (Signature of Authorized Individual)	By: _____ (Signature of Authorized Individual)
<u>John Fernandez</u> <u>Service Sales Rep.</u> <u>(786)336-5352</u>	<u>J. K. SCHOLL</u> (Print or Type Name)	_____ (Print or Type Name)
	<u>CITY MANAGER</u> (Print or Type Title)	_____ (Print or Type Title)
<u>March 02, 2011</u> (Date Submitted)	<u>03 MAR 2011</u> (Date of Approval)	_____ (Date of Approval)

## Special Considerations

### VIEW®

ThyssenKrupp Elevator agrees to provide a user name and password to Purchaser via ThyssenKrupp Elevator's Internet website, www.tke-view.com, for your access to maintenance and service call activity. Purchaser's Internet availability equipment (including hardware and software) and Internet connection shall be provided by others. You acknowledge that data reported prior to January 1, 2004 may not be all-inclusive of work actually performed. Additionally, you acknowledge that any work performed by repair, modernization, and/or construction personnel may not be included or accessible in VIEW until ThyssenKrupp Elevator's PDA system for time reporting is fully deployed to all field employees. Requests for additional information and maintenance and service call activity tickets which are not generated by electronic means shall be made to your local ThyssenKrupp Elevator branch office as shown on page 1 of this agreement. ThyssenKrupp Elevator reserves the right to restrict access to this information if Purchaser's account has an outstanding unpaid balance greater than 30 days and/or if you have provided written notification of your intent to cancel our agreement and/or in the event of anticipated, pending or instigated litigation by either party.

### SoundNet®

Through its SoundNet communication center, ThyssenKrupp Elevator will provide 24-hour telephone monitoring on all elevator(s) maintained under the monitoring agreement, provided such elevators are equipped with operational telephone equipment capable of placing a call to SoundNet's call center. SoundNet will receive incoming emergency telephone calls from the elevator(s) and forward same to Purchaser's designated emergency contacts. It shall be Purchaser's responsibility to submit an executed Contact Data Sheet (attached as Exhibit 1 hereto) to enable this service, and to advise ThyssenKrupp Elevator immediately in writing of any changes to the emergency contacts during the term of service. Purchaser understands that no revision to emergency contacts will be made without ThyssenKrupp Elevator first receiving such request in writing.

SoundNet service does not include maintenance service for Customer's telephone equipment. Customer retains possession and control of its telephone equipment and is responsible for ensuring uninterrupted operation of the telephones so that they are capable of placing a call to SoundNet's call center. SoundNet service cannot be provided without a telephone located within the elevator(s) described in this agreement that has the calling capability described above.

ThyssenKrupp Elevator shall not be held responsible or liable for any claim, injury, delay, death or detention of loss of life, or loss of property resulting from telephone equipment failure, false alarms or interruption of telephone service or inaccurate data set forth in any related executed Contact Data Sheet. We do not assume any duty or responsibility to advise any caller to take or not take any specific action resulting from an emergency, perceived emergency or any other situation including, but not limited to, entrapment of persons, evacuation, repair or return to service of any equipment.

If SoundNet is unable to reach Customer's designated emergency contacts, a service technician may be dispatched to the site at Purchaser's expense in accordance with ThyssenKrupp Elevator's applicable billing rates. Purchaser agrees that it is within the reasonable discretion of SoundNet service call representatives to dispatch a mechanic or contact emergency personnel if Customer's designated emergency contacts are unavailable. Customer agrees to pay all charges for services provided by any person, organization or municipality contacted as a result of any emergency or perceived emergency call.

### CLARIFICATIONS

- "The attached Elevator/ Lift Maintenance and Service - ITB 11-004 shall be attached to this agreement."

## Gold Maintenance Agreement

- This agreement is in accordance with the above referenced contract and in the event of any conflicts the above referenced contract will govern.

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## Exhibit 1 – Contact Data Sheet

### Complete Building Information

This contact data is for the building located at:	City of Key West
	633 Palm Avenue
	Key West, FL 33040

### Complete Billing Information

Company Bill To Name:	
Billing Address:	
City, State, Zip:	
Attn Line:	

### (INTERNAL USE ONLY)

Elevator:	
Branch:	
Service:	
Contract:	

Total No of Elevators in Building:

Elevator #	Elevator Telephone Number including Area Code

Elevator #	Elevator Telephone Number including Area Code

In the event of an emergency, or perceived emergency, one or more of the following are to be primary Purchaser contacts:

	Contact Name	Title	Primary Telephone #	Secondary Telephone #
1.				
2.				
3.				
4.				

*If unable to reach anyone at the above listed numbers, SoundNet has the express permission of Purchaser to contact the elevator service company listed below.*

Elevator Service Company: ThyssenKrupp Elevator Phone Number:

In the event of an Emergency or perceived emergency, SoundNet has the express permission to contact one or more of the following (911 is not sufficient, local phone numbers are required):

Police Department: ( ) - -  
 Fire Department: ( ) - -

Special instructions/remarks: \_\_\_\_\_

It is the responsibility of Purchaser to immediately advise SoundNet in writing of any changes to the contacts or numbers listed on this Contact Data Sheet. Purchaser agrees to pay all charges for services incurred by any person, organization or municipality as a result of any emergency or perceived emergency call. It is also expressly understood that SoundNet does not have and does not assume any duty or responsibility for any person or entity that fails to respond to any emergency or perceived emergency situation.

ThyssenKrupp Elevator Corporation:	City of Key West	ThyssenKrupp Elevator Corporation Approval:
By: _____ (Signature of ThyssenKrupp Elevator Representative)	By: <u>J.K. Scholl</u> (Signature of Authorized Individual)	By: _____ (Signature of Authorized Individual)
<u>John Fernandez</u> Service Sales Rep. (786)336-5352	<u>J. K. SCHOLL</u> (Print or Type Name)	_____ (Print or Type Name)
<u>March 02, 2011</u> (Date Submitted)	<u>CITY MANAGER</u> (Print or Type Title)	_____ (Print or Type Title)
	<u>03 MAR 2011</u> (Date of Approval)	_____ (Date of Approval)