

# TERMS AND CONDITIONS OF ALARM MONITORING AGREEMENT

This Alarm Monitoring Agreement (hereinafter called this "Agreement") is entered into the date of acceptance thereof by the Company between the Company and the Subscriber indicated on the front page of this Agreement.

### 1. Misleading Service

A. Subscriber has furnished Company on the front page of this Agreement under heading "Authorized Individuals To Be Notified" with the name and telephone numbers (hereinafter called a "Station" in the singular, and "stations" in the plural) of all persons who are to be notified in the event of an alarm condition. Company reserves the right to change any emergency signal originating from a station provided the change is not made by the Subscriber. Company agrees to provide the Subscriber as described under heading "Location of Alarm Devices" on the front page of this Agreement (hereinafter called the "Premises"). Company shall have no responsibility for the failure, neglect or refusal of any party at a station to respond to the condition for errors or mistakes made by Subscriber and shall be effective only after a reasonable time (but not less than 5 days) after the notification is received by Company.

B. Company shall fully monitor the occurrence of conditions and events marked under heading "Conditions Monitored" on the front page of this Agreement and Company disclaims (and Subscriber accepts that Company is disclaiming) any obligation to monitor the occurrence of any other conditions on the Premises. Company agrees (a) to monitor signals to Company from alarm devices of Subscriber, (b) to respond to an alarm condition by a direct telephone call to a station or stations designated by the Subscriber, and (c) to notify the local authorities (depending on the alarm condition reported) inside under heading "Local Authorities To Be Notified" on the front page of this Agreement in the sole discretion of Company in the event the response received from the Subscriber's designated station is incomplete or unsatisfactory in the sole discretion of Company (hereinafter, collectively, called the "Service"). Provided, however, that Company shall not be liable for any delay in the response to an alarm condition reported, and further provided that Company shall not be required to give notification of an emergency signal from an alarm device of Subscriber if Company has reasonable grounds to believe that an emergency condition does not exist.

C. This Agreement as to Subscriber shall become effective only when (i) Subscriber and Company have completed, to the extent satisfaction to Company, the information required of Subscriber on the front page of this Agreement and shall have signed this Agreement in the two indicated places, (ii) an authorized agent of Company shall have signed this Agreement after completion of the information on the front page required of Subscriber, (iii) Company shall have accepted payment of the initial installment of the fee (as hereinafter defined) to be paid for the Service by Subscriber, and (iv) when the installer (or other qualified individual) of the alarm devices on the Premises of Subscriber shall have sent an acceptable test signal received and acknowledged as acceptable by Company on the alarm devices of Subscriber which monitors the occurrence of Conditions Monitored.

### iii. Monitoring, Service Fees and Renewal

A. For the Service required of Company under this Agreement, Subscriber agrees to pay Company the fee (hereinafter called the "fee") set forth under heading "Fee" Term 1, hereinafter, on the front page of this Agreement in the manner indicated set forth on the front page of this Agreement. Subscriber agrees to pay the fee in advance on the basis of a calendar month. Company may impose and collect from Subscriber an administrative charge of 5% of the net stated amount of \$5.00, which charge shall be added to the fee. B. This Agreement shall be for the initial Term set forth in the heading "Fee" Term 1, hereinafter, on the front page of this Agreement and shall be automatically renewed for successive like periods of time thereafter on the same terms and conditions (except for the fee and the method of payment thereof) unless either Subscriber or Company shall have notified the other of its decision to the contrary at least thirty (30) days prior to the expiration of initial Term or the next renewal period of the Agreement, as applicable. If, for any renewed period after the initial Term, Company shall determine an increase in the fee is appropriate, a change in the method of payment is proper, Company shall notify Subscriber prior to the expiration of the period for cancellation of this Agreement, with respect to the next renewal period, and if this Agreement is not so cancelled by Subscriber, the new fee and new payment schedule shall be deemed accepted by Subscriber and shall be applicable during the next renewal period and all subsequent renewal periods until again changed in accordance with this Agreement.

C. Subscriber shall be in default under this Agreement (i) if Subscriber shall fail to pay any installment of the fee within ten (10) days after due (ii) if Subscriber shall fail to comply with any other provisions or covenants of this Agreement, other than the payment of the fee, and (iii) if Subscriber or its authorized agent or representative shall have failed to pay to Subscriber, or (iv) to the extent permitted by law, ifSubscriber or its authorized agent or representative shall have failed to pay to Subscriber, or (v) to the extent permitted by law, ifSubscriber or its authorized agent or representative shall have failed to pay to Subscriber.

Upon the occurrence of any of such events of default, Company shall have the option, in its sole discretion, without any notice or demand whatsoever: (i) terminate this Agreement, discontinue the Service to the Subscriber and recover, then, without any notice of the fee due from Subscriber, and all other fees and damages which Company may suffer, by reason of such termination, including the cost of discontinuance of the Service to Subscriber or (ii) recover then matured installments of the fee due from Subscriber and continue the Service to Subscriber, in which case, Company shall be entitled to recover, in addition to the matured installments of the fee due, the fees due under this Agreement for the continued Service. Pursued by Company of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any damages accruing to Company by reason of the violation of any of the terms, provisions and covenants of this Agreement. Forbearance by Company to enforce one or more of the remedies herein provided upon default by Subscriber shall not be deemed or construed to constitute a waiver of such default.

### iv. Limitation on Liability

Company shall not be liable for any damages, including consequential damages, incurred by Subscriber as a result of the use, operation, maintenance, repair, service, replacement or insurance of the alarm devices are used in the operation and/or functioning thereof and the warranties, repair, service, replacement or insurance of the alarm devices are not the obligation or responsibility of Company. After written notice (setting an effective date) to Subscriber, this Agreement may be renewed in Company's sole discretion should the alarm devices located on the Premises become so disabled or so substantially damaged that further Service to the Subscriber is reasonably impracticable. The Company has, and assumes no liability for, interruption of Service due to strike, riots, floods, fires, casualty, failure of equipment, acts of God, or any other causes beyond the reasonable control of Company. Company will not be required to supply Service to a Subscriber while interruption of Service is due to any such cause whether at the Premises or the monitoring location of Company. Since signals from alarm devices to company are usually received by means of the telephone system, Company shall not be responsible for interruption in Service due to any telephone or telephone services failure. The availability of Service and response times are, in the main, governed by the telephone system, and Company assumes no liability for delays caused by said system, regardless of where such failure be located.

B. Subscriber is responsible for complying with any local or other governmental ordinances or laws which may require a license, permit, fee or other charge with respect to alarm devices. Subscriber understands that local governments or other governmental agencies, penalties or charges for any false alarm or signal which summons emergency aid unnecessarily. **SUBSCRIBER**

**AGREES TO ASSUME ALL RESPONSIBILITY FOR ANY FALSE ALARM OR EMERGENCY SIGNAL GIVEN BY THE ALARM DEVICES ON THE PREMISES.** Subscriber agrees to indemnify Company against and hold Company harmless from any losses (as hereinafter defined) with respect thereto. If Company reasonably determines that the alarm devices of Subscriber are generating an excessive number of false alarms or emergency signals, Company may, after written notice to Subscriber, require Subscriber to pay a reasonable surcharge fee for processing false alarms or emergency signals, if Company determines in its sole discretion that excessive generation continues after such notice to Subscriber.

C. EVEN IF THE ALARM DEVICES OF SUBSCRIBER ARE TESTED REGULARLY AND THE COMPONENTS ARE OPERATING IN ACCORDANCE WITH SPECIFICATIONS, THERE CAN BE NO WARRANTY, REPRESENTATION OR GUARANTY THAT IT WILL NOT BE COMPROMISED OR CIRCUMVENTED BEFORE THE ALARM DEVICES WILL PROVIDE ADEQUATE WARNING IN ANY GIVEN SITUATION. For all these reasons, Subscriber is responsible for insuring the life and property with the types and amounts of insurance that Subscriber deems appropriate. Company assumes no liability to Subscriber, or to anyone claiming through Subscriber, whatsoever for the Service, except to the extent specified in Paragraph B. below. Subscriber acknowledges and agrees that Company is not an insurer and that the fee is not designed to provide insurance coverage. **COMPANY MAKES NO GUARANTY, REPRESENTATION OR WARRANTY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, TO SUBSCRIBER, THAT THE SERVICE WILL PREVENT LOSS OF LIFE, PERSONAL INJURY, PROPERTY DAMAGE, ECONOMIC OR ANY OTHER LOSS BY BURGLARY, ROBBERY, FIRE OR OTHERWISE, OR THAT THE SERVICE WILL IN ALL CASES PROVIDE ADEQUATE WARNING OR PROTECTION, NOR DOES COMPANY HAVE OR ASSUME ANY RESPONSIBILITY TO SUBSCRIBER, OR TO ANYONE CLAIMING THROUGH SUBSCRIBER, WHATSOEVER FOR ANY LOSS OF LIFE, PERSONAL INJURY, PROPERTY DAMAGE, ECONOMIC OR OTHER LOSS SUSTAINED AS A RESULT OF ANY CAUSE WHATSOEVER INCLUDING THE NEGLIGENCE, PERFORMANCE BY COMPANY OR FAILURE TO PERFORM BY COMPANY ANY OBLIGATION UNDER THIS AGREEMENT IF COMPANY OR COMPANY'S RELATED PARTIES (AS THAT TERM IS HEREINAFTER DEFINED) SHOULD, NEVERTHELESS, BE FOUND LIABLE TO SUBSCRIBER, OR TO ANYONE CLAIMING THROUGH SUBSCRIBER, WHETHER DIRECTLY OR INDIRECTLY, FOR ANY LOSS OF LIFE, PERSONAL INJURY, PROPERTY DAMAGE, ECONOMIC OR OTHER LOSS ARISING UNDER OR RESULTING FROM THIS AGREEMENT OR OTHERWISE, REGARDLESS OF CAUSE OR ORIGIN, ON ANY BASIS WHATSOEVER, EVEN IF THE RESULT OF THE NEGLIGENCE OF COMPANY AND/OR COMPANY'S RELATED PARTIES, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE, ORDINARY OR GROSS, COMPANY'S AND COMPANY'S RELATED PARTIES' COLLECTIVE TOTAL MAXIMUM LIABILITY IS LIMITED TO EQUAL TO ONE-HALF (1/2) THE FEE OR \$250.00, WHICH SHALL BE THE COMPLETE AND EXCLUSIVE REMEDY AGAINST COMPANY.**

E. Subscriber acknowledges that it is impractical and extremely difficult to fix the actual damage, if any, which may proximately result from a failure by Company to perform any of the obligations contained in this Agreement, because of, among other things:

(1) the uncertain amount of value of a Subscriber's property or the property of others kept on the Premises which may be lost, stolen, destroyed, damaged or otherwise affected by occurrences which the Service is designed to detect or avert;

(2) the uncertainty of the response time of any police or fire department, should the police or fire department be dispatched by Company; and

(3) the inability to ascertain what portion, if any, of any loss, would be proximately caused by Company's failure to perform.

**SUBSCRIBER UNDERSTANDS AND AGREES THAT IF COMPANY OR COMPANY'S RELATED PARTIES SHOULD BE FOUND LIABLE TO SUBSCRIBER, OR TO ANYONE CLAIMING THROUGH SUBSCRIBER, OR TO ANYONE CLAIMING THROUGH SUBSCRIBER, WHETHER DIRECTLY OR INDIRECTLY, FOR ANY LOSS OF LIFE, PERSONAL INJURY, PROPERTY DAMAGE, ECONOMIC OR OTHER LOSS ARISING UNDER OR RESULTING FROM THIS AGREEMENT OR OTHERWISE, REGARDLESS OF CAUSE OR ORIGIN, ON ANY BASIS WHATSOEVER, EVEN IF THE RESULT OF THE NEGLIGENCE OF COMPANY AND/OR COMPANY'S RELATED PARTIES, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE, ORDINARY OR GROSS, COMPANY'S AND COMPANY'S RELATED PARTIES' COLLECTIVE TOTAL MAXIMUM LIABILITY IS LIMITED TO EQUAL TO ONE-HALF (1/2) THE FEE OR \$250.00, WHICH SHALL BE THE COMPLETE AND EXCLUSIVE REMEDY AGAINST COMPANY.**

F. Subscriber acknowledges that it is impractical and extremely difficult to fix the actual damage, if any, which may proximately result from a failure by Company to perform any of the obligations contained in this Agreement, because of, among other things:

(1) the uncertain amount of value of a Subscriber's property or the property of others kept on the Premises which may be lost, stolen, destroyed, damaged or otherwise affected by occurrences which the Service is designed to detect or avert;

(2) the uncertainty of the response time of any police or fire department, should the police or fire department be dispatched by Company; and

(3) the inability to ascertain what portion, if any, of any loss, would be proximately caused by Company's failure to perform.

**SUBSCRIBER UNDERSTANDS AND AGREES THAT IF COMPANY OR COMPANY'S RELATED PARTIES SHOULD BE FOUND LIABLE TO SUBSCRIBER, OR TO ANYONE CLAIMING THROUGH SUBSCRIBER, WHETHER DIRECTLY OR INDIRECTLY, FOR LOSS OF LIFE, PERSONAL**

**INJURY, PROPERTY DAMAGE, ECONOMIC OR OTHER LOSS ARISING UNDER OR RESULTING FROM THIS AGREEMENT OR OTHERWISE, REGARDLESS OF CAUSE OR ORIGIN, ON ANY BASIS WHATSOEVER, EVEN IF THE RESULT OF THE NEGLIGENCE OF COMPANY AND/OR COMPANY'S RELATED PARTIES, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE, ORDINARY OR GROSS, COMPANY'S AND COMPANY'S RELATED PARTIES' COLLECTIVE TOTAL MAXIMUM LIABILITY TO SUBSCRIBER AND ANYONE CLAIMING THROUGH SUBSCRIBER IS LIMITED TO AND SHALL NOT IN ANY CASE EXCEED THE GREATER OF AN AMOUNT EQUAL TO ONE-HALF (1/2) THE FEE RECEIVABLE BY COMPANY UNDER THIS AGREEMENT OR \$250.00, AS LIQUIDATED DAMAGES AND NOT AS A PENALTY, AND THIS LIABILITY SHALL BE EXCLUSIVE, COMPANY AND COMPANY'S RELATED PARTIES SHALL NOT BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES EXCEPT TO THE EXTENT OF THE LIQUIDATED DAMAGES HEREIN PROVIDED.**

F. In the event any third party, including any insurance carrier of Subscriber, a person claiming through Subscriber or any other third party, makes any claim or commences any action against Subscriber, in any manner, to this Agreement or the Service regardless of cause or origin, whether based upon or due to alleged defects, acts or omissions, active or passive negligence, strict or product liability, breach of warranty or contract, or otherwise, Subscriber agrees to indemnify Company and to hold Company harmless against all losses, in excess of the monetary limits provided in Paragraphs D and E of this Section.

G. WHEN SUBSCRIBER AGREES TO INDEMNIFY COMPANY IN THIS AGREEMENT, SUBSCRIBER (AT HIS SOLE COST AND EXPENSE) AGREES TO INDEMNIFY, KEEP INDEMNIFIED, DEFEND AND HOLD COMPANY, AND ANY OF ITS PRESENT OR FUTURE OFFICERS, DIRECTORS, EMPLOYEES, PARENTS, SUBSIDIARIES, AGENTS, SUCCESSORS, ASSIGNEES, CONTRACTORS, LICENSEES OR AFFILIATES AND ANY OTHER PERSON WHOMSOEVER ACTING FOR OR ON BEHALF OF COMPANY (COLLECTIVELY, HEREIN CALLED "COMPANY'S RELATED PARTIES") HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION, DAMAGES, LOSSES, LIABILITIES, FEES (INCLUDING ATTORNEY'S FEES), COSTS (INCLUDING COSTS OF COURT), AND EXPENSES (COLLECTIVELY, HEREIN CALLED "LOSSES") IN ANY WAY OR MANNER WHATSOEVER ARISING FROM OR ATTRIBUTABLE TO THE MATTER(S) BEING INDEMNIFIED AGAINST EVEN IF THE RESULT OF THE NEGLIGENCE OF COMPANY AND/OR COMPANY'S RELATED PARTIES, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE, ORDINARY OR GROSS. EACH AND EVERY COVENANT BY SUBSCRIBER TO INDEMNIFY AND HOLD COMPANY HARMLESS SHALL SURVIVE THE EXPIRATION, TERMINATION OR CANCELLATION OF THIS AGREEMENT.

### ACKNOWLEDGEMENT OF CUSTOMER

SUBSCRIBER SPECIFICALLY ACKNOWLEDGES THAT THE LIMITED LIABILITY ASPECT OF THIS AGREEMENT CONSTITUTES THE ESSENCE OF SAME AND SUBSCRIBER SPECIFICALLY AGREES TO BE BOUND, WITHOUT LIMITATION OR RESERVATION, TO EACH AND EVERY PROVISION OF THE PARAGRAPHS CONTAINED IN THE "LIMITATION ON LIABILITY" SECTION OF THIS AGREEMENT INCLUDING THOSE PARAGRAPHS REDUCING, LIMITING OR ELIMINATING WARRANTIES, REPRESENTATIONS, CONTRACTUAL OBLIGATIONS AND DAMAGES, AND REQUIRING INDEMNIFICATION. SUBSCRIBER FULLY UNDERSTANDS THAT EXECUTION OF THIS ACKNOWLEDGEMENT CONSTITUTES A SPECIFIC INDUCEMENT FOR COMPANY TO EFFECTUATE THIS AGREEMENT.



### SUBSCRIBER

#### v. Assignment, Transfer or Subcontracting

A. Company may assign its rights, obligations under this Agreement or subcontract its obligations and rights under this Agreement, in whole or in part, without any written consent of Subscriber, hereby consents to and shall acknowledge every such assignment or subcontract shall be required by the law to be made, provided that the assignment or subcontract shall be made to a person or persons who shall be bound by the same terms and conditions as set forth in this Agreement to the same extent as Company's (or after notice from Company to do so). Subscriber will perform all of its obligations under this Agreement for the benefit of the subcontractor or assignee, and will not assign or subcontract any of its obligations under this Agreement to any other party. Subscriber agrees to assign or subcontract any of its obligations under this Agreement to any other party designated by such subcontractor or assignee, notwithstanding any defense or claim of whatever nature, either by reason of breach of this Agreement or otherwise, which Subscriber may now or hereafter have as against Company (Subscriber reserving the right to have recourse directly against Company on account of any such defense or claim), and (iii) Company shall fully assume its rights under this Agreement and give written notice thereof to Subscriber, then Company shall be released from and after the date of such assignment of further responsibility under this Agreement (such provision shall be deemed to be waived by Subscriber) and (iv) Subscriber shall execute and deliver to Company and its assignee or subcontractor such documentation or instruments as Company or its assignee or subcontractor may reasonably require. This Agreement is not assignable by Subscriber except upon the written consent of Company, which shall be at Company's sole discretion.

#### vi. Miscellaneous

A. Any notice required or permitted to be given hereunder by one party to the other shall be in writing and shall be mailed by first class or express mail, postage prepaid, registered or certified with return receipt requested, or sent by telex, telegram, telecopy or other similar form of rapid transmission, or personally delivered to the receiving party. All such communications shall be mailed, sent or delivered at the physical address indicated on the first page of this Agreement or at such other address as either party may have furnished to the other party in writing. Any communication so addressed and mailed shall be deemed to be given when so mailed, and any notice so sent by rapid transmission shall be deemed to be given when receipt of such transmission is acknowledged by the receiving party or equipment, and any communication so delivered in person shall be deemed to be given when received by the receiving party. In all cases mentioned in this Paragraph A, Subscriber shall be deemed to have received the notice if the fee shall be mailed by first class mail, as Subscriber has furnished pursuant to the provisions of this Paragraph A) and such notices so addressed and mailed shall be deemed to be given when so mailed.

B. This Agreement shall be governed by the laws of the State of Texas and the United States of America. This Agreement may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter of this Agreement, and merges and shall supersede all prior agreements, communications, representations, writings, negotiations, and discussions between them except that all acknowledgments, representations and warranties made to Company herein shall survive the execution and delivery of this Agreement. Headings to Sections of this Agreement have been included for convenience of reference only and shall not modify, define, limit, or expand the express provisions hereof. The Parties to this Agreement shall have the same meaning throughout this Agreement unless otherwise defined and applied on the first page of this Agreement. This Agreement shall have the same meaning throughout this Agreement as set forth in full here. Each individual signing this Agreement represents and warrants to every party hereto that he is duly authorized to execute same in the capacity stated and as an act of the entity for whom he signs. Time is of the essence to this Agreement and each and every provision thereof. If any provision of this Agreement is held illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been a part thereof, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance therefrom. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be automatically added as a part of this Agreement a provision as similar in terms to such legal, valid and enforceable provision as may be possible and be legal, valid and enforceable. This provision shall be deemed paramount and control over all other provisions of this Agreement. This Agreement may be binding on the next, personal representatives, successors and assigns of the parties hereto. This Agreement may be assigned, transferred, sold, conveyed, mortgaged, pledged, hypothecated, assigned, conveyed, or otherwise, and shall be binding on the estate, heirs, assigns, personal representatives, successors and assigns of the parties hereto. This Agreement shall be binding on the estate, heirs, assigns, personal representatives, successors and assigns of the parties hereto, "with or without cause", or whenever in this Agreement any act, matter or thing is to be "satisfied to Company", "acceptable to Company", "approved by Company", or words of similar import, or whenever in this Agreement Company is entitled to act or not to act, "in its sole discretion", or otherwise whenever in this Agreement Company is granted discretion, such discretion, acceptance, consent, approval or satisfaction (or lack thereof) may be withheld or exercised by Company, as the case may be, for any reason or for no reason, whether or not such refusal or exercise is arbitrary, uncontrolled or unreasonable, and any such refusal or exercise shall not be subject to appeal or to the adjudication by courts of law or otherwise.

C. This Agreement is binding on Company, may be subject to appeal or to the adjudication by courts of law or otherwise of Company. This Agreement may only be altered or modified by a document in writing signed by both parties, here to