



- 2. PURCHASE OF THE SYSTEM.** Customer hereby agrees to buy, and Company hereby agrees to sell, at the Premises the alarm system described in the Agreement and incorporated herein for all purposes by this reference (the "System"), in accordance with the terms and conditions hereinafter set forth.
- 3. INSTALLATION OF THE SYSTEM.** Company agrees to install or cause to be installed the System at the Premises in a workmanlike manner and in compliance with applicable laws, regulations and industry standards, and to furnish all material and labor necessary for such installation, subject to the following conditions: (a) Customer authorizes and empowers the Company to enter upon the Premises for such purpose and agrees to make the Premises available; (b) Customer will provide required electrical power outlets at the location or locations designated by Company for equipment requiring such power; (c) Customer will provide any communication network to which the system may be connected, including any internet, intranet, cable, transmission, or telephone lines and service (Company recommends the Customer properly install a RJ31X jack for connection of the System to Customer's telephone service); (d) Customer understands that installation will require drilling and cutting into certain parts of the Premises, which shall be identified to Customer before the work commences, and that certain wiring may be required to be exposed, although Company will attempt to conceal wiring in the furnished areas of the Premises whenever possible, and Customer agrees to provide for lifting and replacing carpeting, if required, for installation of floor mats, switches, or wiring; and (e) Company will attempt to complete installation within 14 days following execution of this Agreement by Company, but Company expressly assumes no liability for delay in installation of the System due to strikes, riots, floods, storms, earthquakes, fires, power failures, insurrection, act of God, shortages of labor or materials, or any other cause beyond the control of Company.
- 4. PRE-EXISTING EQUIPMENT.** Customer understands and agrees that if there is pre-existing equipment at the Premises, Company will leave the pre-existing equipment with the Customer and will not remove it from the Premises. Customer agrees to hold Company harmless for any loss or damage to pre-existing equipment. In addition, Customer understands that neither Company nor any of its subcontractors will connect any pre-existing smoke/fire sensor(s) unless they are compliant with the System and are less than 5 years old.
- 5. TITLE TO THE SYSTEM; RISK OF LOSS.** Customer acknowledges and agrees that title to and ownership of the System, and all component parts, shall remain the sole and exclusive property of Company until Customer has paid in full all amounts required hereunder; and the 3 Day Notice of Cancellation provision in the Alarm Monitoring Agreement has expired. However, until the System has been paid for in full by Customer, Customer shall bear the entire risk of loss to the System. If Customer defaults in any payment under this agreement for the System, the Customer hereby authorizes and empowers Company to enter upon the Premises and to remove the System. Removal of the System shall not be deemed a waiver of Company's right to damages or to collect any payment due hereunder, and Company shall continue to have the right to enforce any legal remedy or right available to Company. Further, Company shall be in no way obligated to restore the Premises to its original condition or redecorate or repaint same in the event the System is removed as a result of Customer's default or cancellation.
- 6. LIMITED ONE YEAR WARRANTY.** a) Company warrants that the System will be free from defects in material and workmanship under normal use and operating conditions for a period of one year from the date of installation. Company will repair or replace, at Company's sole option, any component of the System proven to be defective during such period without further charge to Customer. b) Warranty Service will be furnished during Company's regular business hours of Monday – Friday, excluding holidays, from 8:00 a.m. until 5:00 p.m. Emergency Service provided at other times shall be paid by Customer at Company's customary rate. Customer must provide full access to the Premises and to the System requiring repair at the time agreed upon by Company and Customer. c) Warranty Service excludes: repair of the system as a result of: replacement of batteries; or damage from accident or abuse; misuse; faulty communication network, transmission, telephone or electrical connections; unauthorized repair, modification of or tempering with the System; remodeling or construction; vandalism, theft, acts of God, cosmetic damage, or other causes other than normal wear and tear. Customer reserves the right to use new or reconditioned parts in fulfillment of this warranty, and retain any parts removed from the System. Parts required which were not defective shall be at additional cost to Customer. Company shall not be responsible for failure to render service due to causes beyond Company's control. d) Company shall not be required to make repairs or replace any parts of the System that has been abused or not operated in accordance with instructions provided to Customer. Any other service provided shall be paid by Customer at Company's prevailing material and hourly rates.
- 7. DISCLAIMER OF ALL OTHER WARRANTIES.** COMPANY DOES NOT REPRESENT OR WARRANT THAT THE SYSTEM OR ANY MONITORING SERVICE WILL PREVENT ANY LOSS BY BURGLARY, FIRE, HOLD-UP OR OTHERWISE, OR THAT THE SYSTEM OR ANY MONITORING SERVICE WILL IN ALL CASES PROVIDE THE NOTIFICATION SERVICE FOR WHICH IT IS INTENDED. CUSTOMER ACKNOWLEDGES AND AGREES THAT COMPANY HAS MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION THE CONDITION OF THE SYSTEM OR ANY MONITORING SERVICE, THEIR MERCHANTABILITY OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE; NOR HAS CUSTOMER RELIED ON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THOSE EXPRESSLY CONTAINED HERE-IN. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY AFFIRMATION OF FACT OR PROMISE SHALL NOT BE DEEMED TO CREATE AN EXPRESS WARRANTY, THAT CLIENT IS NOT RELYING ON COMPANY'S SKILL OR JUDGEMENT IN SELECTING OR FURNISHING A SYSTEM, AND THAT THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE FACE OF THE AGREEMENT HEREOF. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT COMPANY IS NOT AN INSURER; THAT CUSTOMER ASSUMES ALL RISK OF PERSONAL INJURY AND LOSS OR DAMAGE TO CUSTOMER'S PREMISES OR TO THE CONTENTS THEREOF; AND THAT CUSTOMER HAS READ AND UNDERSTANDS ALL OF THIS AGREEMENT, PARTICULARLY PARAGRAPHS 10 AND 11, WHICH SET FORTH COMPANY'S MAXIMUM LIABILITY IN THE EVENT OF ANY LOSS OR DAMAGE TO CUSTOMER OR ANYONE ELSE.
- 8. ACCEPTANCE OF INSTALLATION.** Customer hereby acknowledges and agrees that any error or omission in the installation of the System must be brought to the attention of Company in writing within five (5) days after the completion of installation; otherwise, the installation shall be deemed accepted by and satisfactory to Customer.
- 9. NOT A MONITORING CONTRACT.** Customer hereby acknowledges and agrees that this Agreement is not a monitoring contract and does not provide for monitoring services to be provided by Company or any other party with respect to the System. Monitoring service to be provided to Customer with respect to the System shall be pursuant to a separate agreement to be separately negotiated by the parties, if desired. Customer acknowledges that the central station receiver telephone number is the property of Company. Upon expiration or cancellation of the Agreement, Customer will be charged for extended use and signals sent to this telephone number.
- 10. COMPANY IS NOT AN INSURER: LIMITATION OF LIABILITY.** CUSTOMER AGREES AND UNDERSTANDS THAT COMPANY IS NOT AN INSURER, THAT INSURANCE, IF ANY, COVERING PERSONAL INJURY, INCLUDING DEATH, AND ALL REAL OR PERSONAL PROPERTY LOSS OR DAMAGE IN, ABOUT OR TO THE PREMISES SHALL BE OBTAINED BY CUSTOMER; THAT **COMPANY MAKES NO GUARANTY, REPRESENTATION OR WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY** OR FITNESS FOR A PARTICULAR PURPOSE THAT THE SYSTEM WILL AVERT OR PREVENT OCCURRENCES OR THE CONSEQUENCES THEREFROM WHICH THE SYSTEM IS DESIGNED TO DETECT OR AVERT. CUSTOMER ACKNOWLEDGES THAT IT IS IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES, IF ANY, WHICH MAY PROXIMATELY RESULT FROM COMPANY'S NEGLIGENCE, A FAILURE OF COMPANY TO PERFORM ANY OF COMPANY'S OBLIGATIONS HEREIN, INCLUDING, BUT NOT LIMITED TO, ANY BREACH OR FAILURE BY COMPANY TO PERFORM UNDER ANY SERVICE CALL OR AGREEMENT, FAILURE TO REASONABLY RESPOND TO SERVICE REQUEST, FAILURE OF THE SYSTEM, COMMUNICATION NETWORKS, MONITORING SERVICE, OR EQUIPMENT TO PROPERLY OPERATE WITH A RESULTING LOSS TO CUSTOMER BECAUSE OF, AMONG OTHER THINGS: (A) THE UNCERTAIN AMOUNT OR VALUE OF CUSTOMER'S PROPERTY OR THE PERPRTY OF OTHERS KEPT ON THE PREMISES WHICH MAY BE LOST, STOLEN, DESTROYED, DAMAGED OR OTHERWISE AFFECTED BY OCCURRENCES WHICH THE SYSTEM OR SERVICE IS DESIGNED TO DETECT OR AVERT; (B) THE UNCERTAINTY OF THE RESPONSE TIME OF THE POLICE DEPARTMENT, FIRE DEPARTMENT, PARAMEDIC UNIT, OR OTHERS, SHOULD THE POLICE DEPARTMENT, FIRE DEPARTMENT, PARAMEDIC UNIT, OR OTHERS, BE DISPATCHED AS A RESULT OF A SIGNAL BEING RECEIVED; (C) THE INABILITY TO ASCERTAIN WHAT PORTION, IF ANY, OF ANY LOSS WOULD BE PROXIMATELY CAUSE BY COMPANY'S FAILURE TO PERFORM OR BY THE SYSTEM TO OPERATE; (D) THE UNCERTAIN NATURE OF OCCURRENCES WHICH MIGHT CAUSE INJURY OR DEATH TO CUSTOMER OR ANY OTHER PERSON WHICH THE SYSTEM IS DESIGNED TO DETECT OR AVERT OR, (E) THE NATURE OF THE SERVICE TO BE PERFORMED BY COMPANY. CONSEQUENTLY, CUSTOMER HEREBY ACKNOWLEDGES AND AGREES THAT COMPANY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE WHICH MAY OCCUR EVEN IF DUE TO THE ACTIVE OR POSSIBLE SOLE, JOINT OR SEVERAL NEGLIGENCE OF THE COMPANY OR ITS AGENTS, SERVANTS, EMPLOYEES, SUPPLIERS OR CONTRACTORS, OR TO THE IMPROPER PERFORMANCE OF AND/OR FAILURE TO PERFORM OF THE SYSTEM, OR TO BREACH OF CONTRACT, EXPRESS OR IMPLIED, OR BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BY LOSS OR DAMAGE TO MONITORING FACILITIES, IN EXCESS OF THE MAXIMUM SUM OF TWO HUNDRED FIFTY DOLLARS (\$250.00 AND THIS LIABILITY SHALL BE EXCLUSIVE. If Customer wishes Company to assume a greater limited liability, Customer may obtain from Company a higher limitation of liability by paying an additional charge to Company. If Customer elects to exercise this option, a rider shall be attached to this Agreement setting forth such additional charges. Such rider and additional obligation shall in no way be interpreted to hold Company as an insurer.
- 11. THIRD PARTY INDEMNIFICATION.** When Customer in the ordinary course has the property of others in Customer's custody or other persons are on the Premises, or the System extends to protect other persons or property of others, Customer agrees to and shall indemnify, defense, and hold harmless Company and its employees and agents, from and against all claims brought by parties other than the parties to this Agreement. This provision shall apply to all claims, demands, or lawsuits, regardless of cause, including Company's performance or failure to perform any of the obligations herein, Company's negligence, or a failure of the System, whether these claims are based upon negligence, express or implied warranty, contribution, indemnification, strict liability, or product liability, on the part of Company or its employees or agents.
- 12. SUBROGATION.** Customer hereby releases, discharges, and agrees to hold Company harmless from any and all claims, liabilities, damages, losses or expenses, arising from or caused by any hazard covered by insurance in, about or to the Premises whether said claims are made by Customer, Customer's agents, or insurance company or other parties claiming under, or through Customer. Customer agrees to indemnify Company against and defend and hold Company harmless from any action for subrogation which may be brought again Company by any insurer or insurance company or its agents or assigns including the payment of all damages, expenses, costs, and attorney's fees. Customer shall notify Customer's insurance carrier of the terms of this provision.
- 13. LIMITATION OF ACTIONS.** Waiver of Jury Trial. Both parties hereby agree that no suit or action that relates in any way to this Agreement (whether based upon contract, negligence or otherwise) shall be brought against the other more than one (1) year after the accrual of the cause of action there from. In addition, both parties hereby waive any rights to a jury trial in any judicial action brought by either party which relates in any way to this Agreement (whether based upon contract, negligence or otherwise).
- 14. CHANGES IN STANDARDS AND REGULATIONS OF REGULATORY AGENCIES.** Company shall not be responsible nor liable for any costs or changes necessitated by changes in the regulations and standards of any regulatory agencies after the date of execution of this Agreement. Customer shall be responsible for and shall pay to Company the cost of any additions, corrections or changes to the System that may be requested or required, after the execution of this Agreement by Customer, by any of the regulatory agencies or institutions, including, but not limited to any State Fire Marshall, any insurance companies, the National Fire Protection Association, Underwriters' Laboratories, Inc., or any other municipal or local police, fire or electrical agencies.
- 15. COMPANY'S RIGHT TO FILE MECHANIC'S LIEN.** Customer acknowledges that Customer is aware that if Customer defaults in the performance of any of the terms or conditions of this Agreement, Company may have the right to record a Mechanic's Lien upon any property upon which Company has bestowed labor and/or furnished material or appliances or equipment, for the value of such labor done, or materials furnished, and/or for the value of the use of such appliances or equipment, whether done or furnished at the instance of the owner or any personal acting by or under the authority of the owner, or under the owner as a contractor or otherwise. Customer may be entitled to protect himself/herself/itself under applicable law again such claims either by filing with the court a "No Lien Agreement" or a payment bond, depending upon the law of the state where the Premises is located.
- 16. TESTING.** It is the responsibility of Customer to test the System for proper operation periodically, but not less than monthly.
- 17. INTEREST.** Any Amounts due Company and past due for thirty (30) days will be subject to a one and one-half percent (1.5%) interest charge for each month on the unpaid balance, this being equivalent to 18% per year, or will be subject to the maximum annualized interest rate allowed by applicable law, whichever is the lesser amount.
- 18. INVALID PROVISIONS.** If any of the terms or provisions of the Agreement shall be determined to be invalid or inoperative, all of the remaining terms and provisions shall remain in full force and effect.
- 19. DEFAULT.** In the event of default by Customer in the performance of any of the terms or conditions of the Agreement, including timely payment of any amounts due to Company, Company may pursue any one or more of the following remedies, which shall be cumulative and nonexclusive: (a) recover from Customer the total unpaid balance of the sum provided from in Paragraph 2, and any other sum provided for herein, (b) repossess the System; (c) immediately cease further work on the installation of the System; (d) terminate this Agreement by giving ten (10) day written notice to Customer; and (e) pursue any other remedy at law now or hereafter existing. In the event of a repossession of the System and resale thereof, Customer shall be responsible to Company for any deficiency remaining after Company applies the proceeds of such resale, first to all costs of repossession and resale, including, but not limited to, storage, repair, renovation, alteration, attorney's fees, collection costs and commissions, and then to the unpaid amount due hereunder.
- 20. COMPLIANCE WITH LAWS.** Customer agrees to use the System strictly in compliance with all applicable laws and regulations. Company assumes no responsibility for any unlawful activity on Customer's part. Should Customer's unlawful activity subject Company to any civil or criminal liability for any reason, Customer agrees to indemnify, defend and hold harmless Company from any such potential or actual liability, including payment of all attorneys fees and court costs related to such matters.
- 21. ENTIRE AGREEMENT.** This Agreement is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof. This Agreement supersedes all prior representations, understandings or agreements or the parties and the parties rely only upon the contents of this Agreement in executing it. This Agreement can only be modified by a writing signed by parties or their duly authorized agent. No waiver or breach of any term or condition of this Agreement shall be construed to be a waiver of any succeeding breach.