



A wholly owned subsidiary of Wright-Hennepin Cooperative Electric Association

MONITORING AGREEMENT

This Agreement is made this 25 day of September 2023 by and between (WH International Response Center, LLC ("Company") and ("Subscriber"). Subscriber is sometimes referred to herein as "you" or "your". Subject to the terms and conditions hereinafter set forth, Company agrees to perform monitoring services ("Services") for an electronic security alarm signaling system ("System"), as a subcontractor of ESC Systems ("Dealer"). You understand and agree that your local municipality may require that you obtain a license or permit for the use or monitoring of the System and that you are solely responsible for determining and complying with such obligations.

- 1. Termination. Company may terminate this Agreement at any time upon five (5) days written notice to you.
2. DISCLAIMER/LIMITATION OF LIABILITY. YOU UNDERSTAND AND AGREE:

THAT NEITHER COMPANY NOR ITS DIRECTORS, OFFICERS, SHAREHOLDERS, PARTNERS OR EMPLOYEES (COLLECTIVELY, "REPRESENTATIVES") IS AN INSURER; THAT YOU CURRENTLY HAVE AND SHALL ALWAYS MAINTAIN INSURANCE COVERING YOU, YOUR FAMILY AND OTHERS WHO MAY BE ON YOUR PREMISES FOR MEDICAL, DISABILITY, LIFE, AND PROPERTY DAMAGE; THAT RECOVERY FOR ALL SUCH LOSS, DAMAGE, COST AND EXPENSE SHALL BE LIMITED TO ANY SUCH INSURANCE COVERAGE ONLY; AND THAT COMPANY AND REPRESENTATIVES ARE RELEASED FROM ALL LIABILITY DUE TO ACTIVE OR PASSIVE SOLE, JOINT OR SEVERAL NEGLIGENCE OF ANY KIND OR DEGREE, THE IMPROPER OPERATION OR NON-OPERATION OF THE SYSTEM, BREACH OF CONTRACT, EXPRESS OR IMPLIED, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BY LOSS OR DAMAGE TO OR MALFUNCTION OF FACILITIES NECESSARY TO OPERATE THE SYSTEM, TRANSMIT ANY SIGNAL OR OPERATE ANY MONITORING STATION.

YOU FURTHER UNDERSTAND AND AGREE: THAT SHOULD THERE ARISE ANY LIABILITY ON THE PART OF COMPANY OR REPRESENTATIVES FOR ANY LOSS, DAMAGE, COST OR EXPENSE DUE TO ACTIVE OR PASSIVE SOLE, JOINT OR SEVERAL NEGLIGENCE OF ANY KIND OR DEGREE WHICH OCCURS BEFORE OR AFTER THE SIGNING OF THIS AGREEMENT, PRODUCT OR STRICT LIABILITY, BREACH OF WARRANTY, EXPRESS OR IMPLIED, BREACH OF CONTRACT, EXPRESS OR IMPLIED, OR FOR CONTRIBUTION OR INDEMNIFICATION, SUCH LIABILITY SHALL BE LIMITED TO THE MAXIMUM SUM OF \$1,000.00 COLLECTIVELY FOR COMPANY AND REPRESENTATIVES. IN THE EVENT THAT YOU WISH TO INCREASE THE MAXIMUM AMOUNT OF SUCH LIMITED LIABILITY, YOU MAY, AS A MATTER OF RIGHT, OBTAIN A HIGHER LIMIT BY PAYING AN ADDITIONAL AMOUNT FOR THE INCREASE IN SUCH LIMIT OF LIABILITY, BUT THIS HIGHER LIMITATION SHALL IN NO WAY BE INTERPRETED TO HOLD COMPANY OR REPRESENTATIVES AS AN INSURER.

3. Data Communications. The System transmits and receives voice, video and data (collectively, "Signals") via some third-party communications equipment and service (e.g., telephone, cable, wireless, radio or satellite). The communications service may access or incorporate the Internet or some other network. Each communications service may be affected or delayed by any number of factors, natural or human. As a result, the transmission and receipt of Signals, regardless of the equipment or communications service used, may be interrupted, circumvented or otherwise compromised. In addition, the System and communications service may not be supervised. Under such circumstances, if the communications service is interrupted by any cause, there will not be any indication of such interruption at the monitoring facility or otherwise unless Subscriber elects to purchase and use any available form of technology designed to detect and report such an interruption at additional cost. If the communications service is incompatible, inoperative or interrupted, Signals will not be received at the monitoring facility or otherwise. You may elect to purchase and use some form of redundant communication equipment or service or some other form of communication service or equipment as part of the System at additional cost. Following installation, you must confirm that the communications equipment, technology and services used to transmit Signals to and from the System are compatible with the System and any monitoring facility, especially when there are changes to such communications equipment or services (e.g., starting, discontinuing, changing, adding or removing any form of equipment or communication services). You also must test the System, equipment and communications service, periodically, and following changes. You acknowledge that the Company is not responsible to provide or pay for the communications services necessary to enable the System to transmit and receive Signals at the monitoring facility. Further, you understand that (i) a two-way voice system enables Company to "listen-in" to your premises; and (ii) video cameras enables Company to view into your premises. You authorize and consent to Company listening-in and viewing and release Company and Representatives for all claims, losses, damages, costs and expenses due to Company listening-in to or viewing your premises.

4. Waiver of Subrogation. You hereby waive any rights your insurance company may have to be reimbursed by Company or Representatives for money paid to you or on your behalf.

5. INDEMNIFICATION. IF ANYONE OTHER THAN YOU, INCLUDING YOUR INSURANCE COMPANY, ASKS COMPANY OR REPRESENTATIVES TO PAY FOR ANY LOSS, DAMAGE OR EXPENSE (INCLUDING, WITHOUT LIMITATION, ECONOMIC LOSSES, PROPERTY DAMAGE, PERSONAL INJURY OR DEATH) DUE TO (I) BREACH OF CONTRACT OR WARRANTY, EXPRESS OR IMPLIED, (II) ACTIVE OR PASSIVE SOLE, JOINT OR SEVERAL NEGLIGENCE OF ANY KIND OR DEGREE BY COMPANY OR REPRESENTATIVES, (III) FAILURE OR MALFUNCTION OF THE SYSTEM OR THE MONITORING STATION FACILITIES, (IV) "LISTENING IN" TO COMMUNICATIONS OR AUDIO OR VIDEO RECORDING AT THE PREMISES, (V) PRODUCT OR STRICT LIABILITY, OR (VI) A CLAIM FOR SUBROGATION, INDEMNIFICATION OR CONTRIBUTION, YOU AGREE TO PAY (WITHOUT ANY CONDITION THAT COMPANY OR REPRESENTATIVES FIRST PAY) FOR ALL LOSSES, DAMAGES, COSTS AND EXPENSES INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, WHICH MAY BE ASSERTED AGAINST OR INCURRED BY COMPANY OR REPRESENTATIVES.

6. Suspension of Service. Should Dealer default under its contract with Company, or upon termination or suspension of Services for any reason, or if the System becomes a "runaway" system or the System excessively signals Company's monitoring station without apparent reason, you authorize Company to, without limitation, concurrently or consecutively, do any one or more of the following: ignore all signals received from the System, disconnect the System, or render the System incapable of signaling locally or communicating with the monitoring station by deletion of data necessary to operate the System and Company's obligations hereunder are waived automatically without notice to you.

NOTICES TO SUBSCRIBER. YOU SPECIFICALLY ACKNOWLEDGE AND ACCEPT THE DISCLAIMER/LIMITATION OF LIABILITY AND INDEMNITY PARAGRAPHS HEREOF. TERMS AND CONDITIONS ON THE REVERSE SIDE ARE AN INTEGRAL PART OF THIS AGREEMENT. YOU ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT. READ THE FRONT AND REVERSE BEFORE SIGNING.

NO WARRANTIES. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OR REVERSE HEREOF, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

WH International Response Center, LLC

BY: _____

SUBSCRIBER

Signature _____

(IRA Civic Arena)

Printed Name _____

1401 NW 3rd Ave Grand Rapids, MN 55744

Address

ESC0297

Account#

7. **False Alarms.** In the event the System is activated for any reason whatsoever, you shall pay, without any right to be reimbursed by Company, all fines, fees, costs, expenses and penalties assessed against you or Company by any court or governmental agency.
8. **Binding Agreement.** This Agreement becomes binding upon Company only when signed or approved by an authorized representative of Company. If there are any additions to the Agreement or any of the printed terms and conditions have been altered, deleted or substituted by other wording, then such approval must come from one of the Company's officers. If there are no such additions, alterations, deletions or substitutions, this Agreement becomes binding on the Company upon the commencement of Services.
9. **Applicable Law.** This Agreement shall be governed by and construed according to the laws of Minnesota.
10. **Place of Suit.** You and Company each irrevocably agree that all claims, actions or proceedings arising out of or from, in connection with, as a result of, related to or as a consequence of this Agreement or the Services (a "Suit") shall be brought exclusively in the state or federal courts located in the district or county where Company's monitoring station is located and you and Company each irrevocably consent to the exclusive jurisdiction of these courts.
11. **Service of Process.** You and Company each authorize and consent to service of process by U.S. mail, certified, return receipt requested, or national overnight courier service (with confirmation of receipt).
12. **WAIVER OF TRIAL BY JURY. YOU AND COMPANY EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY SUIT BROUGHT BY EITHER PARTY.**
13. **Contractual Limitation of Actions.** All Suits against Company or Representatives must be commenced in court within one (1) year after the cause of action has accrued, without judicial extension of time, or said Suit is barred. The time period in this paragraph must be strictly complied with.
14. **Assignability of Agreement.** This Agreement is not assignable by you. This Agreement or any portion thereof is assignable by Company.
15. **Monitoring Service.** Monitoring service consists solely of the calling by telephone of governmental agencies or the telephone number supplied by you in writing ("Proper Authorities") upon receipt of signals transmitted from the System which are codes identified in writing (hereinafter "Listed Codes") or voice communication received from your Premises. No monitoring service shall be rendered for signals received which are not Listed Codes or for voice communication which does not request assistance.
- Notwithstanding anything contained herein to the contrary, you understand and agree that upon receipt of a Listed Code and prior to telephoning any other person or entity, Company may, in its sole and absolute discretion and without any liability, contact or attempt to contact your Premises to verify the necessity to report the receipt of a Listed Code to any other person.
- You understand and agree that Company's efforts to notify Proper Authorities shall be satisfied by advice by telephone to any person answering the telephone at the telephone number(s) provided to Company in writing or by leaving a message with a telephone answering service or any mechanical, electrical, electronic or other technology permitting the recording of voice or data communications.
16. **Service Information Obligation of Subscriber.** You shall provide the Company complete and accurate information required to perform Services under this Agreement ("Information") in accordance with the Company's policies. Information shall not become available for use until entered into the Company's database, which shall occur not sooner than the next business day after receipt of the Information at the monitoring station. Oral communications shall not be binding on Company.
17. **INTEGRATED AGREEMENT. THIS INSTRUMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN YOU AND COMPANY. NEITHER PARTY HAS AUTHORITY TO MAKE OR CLAIM ANY REPRESENTATION, TERM, PROMISE, CONDITION, STATEMENT, WARRANTY, OR INDUCEMENT (COLLECTIVELY, "INDUCEMENT") WHICH IS NOT EXPRESSED HEREIN. YOU AND COMPANY EACH REPRESENT THAT IT/HE/SHE IS NOT RELYING ON ANY INDUCEMENT IN SIGNING THIS AGREEMENT WHICH IS NOT EXPRESSED IN THE AGREEMENT.**
18. **Valid Agreement.** Should any provision hereof (or portion thereof), or its application to any circumstances, be held illegal, invalid or unenforceable to any extent, the validity and enforceability of the remainder of the provision and this Agreement, or of such provisions as applied to any other circumstances, shall not be affected thereby, and shall remain in full force and effect as valid, binding and continuing.
19. **Modifications.** All changes or amendments to this Agreement must be in writing and signed by you and Company to be binding.
20. **Right to Subcontract.** Company may, in its sole and absolute discretion, subcontract for the provision of Services under this Agreement. You agree that the provisions of this Agreement inure to the benefit of and are applicable to any subcontractors engaged by Company to provide any Service to you, and bind you to said subcontractor with the same force and effect as they bind you to Company.
21. **Authorization to Record Communications.** You acknowledge and agree that Company may record video, wire and oral transmissions or communications and hereby consent and authorize Company to so record all such transmissions or communications between you, your agents, servants, employees or representatives and Company.
22. **MEDICAL EMERGENCY SIGNAL. YOU ACKNOWLEDGE AND AGREE THAT COMPANY'S SOLE RESPONSIBILITY UPON RECEIPT OF A MEDICAL EMERGENCY SIGNAL TRANSMITTED FROM THE SYSTEM IS TO CALL BY TELEPHONE THE MEDICAL ASSISTANCE PROVIDERS AS DIRECTED BY YOU. YOU UNDERSTAND AND AGREE THAT COMPANY AND REPRESENTATIVES ARE HEREBY RELEASED FROM ALL LIABILITY DUE TO ACTIVE OR PASSIVE SOLE, JOINT OR SEVERAL NEGLIGENCE OF ANY KIND OR DEGREE OF COMPANY OR REPRESENTATIVES WHICH YOU, OR ANYONE CLAIMING THROUGH YOU, IN ANY WAY MIGHT OR COULD CLAIM AGAINST COMPANY OR REPRESENTATIVES BASED UPON, ARISING OUT OF OR FROM, IN CONNECTION WITH, RESULTING FROM, RELATED TO OR AS A CONSEQUENCE OF COMPANY'S FAILURE OR IMPROPER DISPATCH OF MEDICAL ASSISTANCE PROVIDERS.**
23. **Subscriber as Surety.** You agree to be a surety for the obligations of Dealer to Company including, without limitation, all charges for Services rendered or to be rendered by Company to you, upon written notice to you that Dealer is in default or breach of its agreement with Company.
24. **Subscriber Obligations.** If the business relationship between you and Dealer terminates, or if you sell or no longer occupy the entire Premises, you shall immediately (i) notify Company in writing, and (ii) deprogram the microprocessor in the alarm panel to delete Company's telephone number and account number.
25. **Paragraph Headings.** The paragraph titles used herein are for convenience of the parties only and shall not be considered in construing the provisions of this Agreement.
26. **Company as Subcontractor.** You understand and agree that (i) the relationship between Company and Dealer is one of independent contractors where Company is a subcontractor of Dealer and not a partner or joint venturer with Dealer, and (ii) Company shall not be liable to you, directly or indirectly, for any liability of Dealer to you.
27. **Electronic Record.** A copy of this Agreement and signatures delivered by facsimile or e-mail shall be originals for all purposes. We may scan or otherwise convert this Agreement and any Information or other written materials into an electronic and/or digital file, which shall be given the same legal force and effect as the original. We may destroy all written documents or other materials once scanned or converted into an electronic or digital file.
28. **Application Use.** If you access or otherwise use the Service through your Smartphone or similar technology (e.g., iPhone, Droid, iPad, etc.) (collectively, "Application Use"), you alone (i) are entirely responsible to comply with the terms, conditions and directions for any Application Use and (ii) acknowledge that we do not create any Application Use. For ease of reference, the term "Service" throughout this Agreement includes any Application Use.