



TOWN OF PARADISE VALLEY
RESIDENTIAL ALARM MONITORING AGREEMENT



This is an agreement between _____ (hereinafter referred to as "Subscriber") and the Town of Paradise Valley, Arizona (hereinafter referred to as "Town") for the purpose of monitoring a residential alarm system installed by a company who installs alarms (hereinafter referred to as ("Alarm System")) at the Subscriber's premises at:

 (ADDRESS)

 (CITY, STATE, ZIP)

IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

- MONITORING SERVICES:** In consideration of a monthly service charge (to be determined based on type and zones in accordance with Town's fee schedule) the Town will provide monitoring of the Alarm System installed at the above premises owned or occupied by Subscriber. Subscriber represents they operate and maintain the Alarm System at the premises, which has been installed by an independent third party installer company ("Installer"), and have requested alarm monitoring services. **The monitoring service provided by Town does NOT include: flood or water flow signals, air conditioning/heating sensors, wine room alarms, gun safes or maintenance trouble signals. The Town's monitoring service provides dispatch of first responders to fire, medical, panic and burglary signals.**

Subscriber acknowledges and agrees that the Town is authorized and permitted to utilize a subcontracted monitoring service provider ("Subcontractor Provider") to host receivers and other equipment to receive the signal from Subscriber's Alarm System and electronically transmit the signal to Town equipment and to perform data entry of Customer data and information. Upon receipt of the signal, the Town shall make every reasonable effort to alert necessary police, fire or emergency medical personnel (hereinafter collectively referred to as "First Responders") to respond depending upon the type of signal received. If, based on the professional opinion of the responding First Responders there is no emergency or no action is needed, the Town will make reasonable efforts to notify Subscriber by phone or by other reasonable means. Subscriber agrees that not all signals require alerting First Responders, and agrees that no response shall be required for, among other signals, loss or trouble of communication pathway, trouble or low battery signals, and interior door opens & closes.

Subscriber acknowledges that signals which are transmitted over telephone lines, wire, air waves, internet, VOIP, radio or cellular, or other modes of communication pass through communication networks wholly beyond the control of the Town and/or Subcontractor Provider and are not maintained by the Town or Subcontractor Provider and therefore the Town and Subcontractor Provider shall not be responsible for any failure which prevents transmission signals from reaching the Town or Subcontractor Provider or damages arising therefrom, or for data corruption, theft or viruses to Subscriber's computers if connected to the Alarm System communication equipment.

Subscriber agrees to furnish the Town with a written Call List of names and telephone numbers of those persons Subscriber wishes to receive notification of alarm signals and/or are authorized to enter the premises. The Town will make a reasonable effort to contact the first person reached or notified on the list either via telephone call. No more than one call to the list shall be required and any form of notification, including leaving a message on an answering machine or text message, shall be deemed reasonable compliance with Town's notification obligation. All changes and revisions to the Call List shall be supplied to Town in writing.

Town may, without prior notice, suspend or terminate its services to any or all Subscribers, in Town's sole discretion, including in the event of Subscriber's default in performance of this agreement or in event Town's or Subcontractor Provider's facility or communication network is nonoperational or Subscriber's alarm system is sending excessive false alarms. Town is authorized to record and maintain audio and video transmissions, data and communications, and shall be the exclusive owner of such property. All Subscriber information and data shall be maintained confidentially by Town. Electronic data may not be encrypted and wireless components of the security system may not meet Advanced Encryption Standard specifications for encryption of electronic data established by the US National Institute of Standards and Technology and Town shall have no liability for access to the security system by others.

- COMMENCEMENT:** This agreement shall commence upon Subscriber providing Town with: i) this agreement executed by Subscriber, ii) Subscriber's completed Call List; iii) Subscriber's data being received and input in Town's and/or Subcontractor Provider's electronic records, iv) alarm system details including and identifying all zones and types of signals programmed by Installer, and v) confirmed test signals for every zone and type of signal communicating with Town.
- TERM OF AGREEMENT / TERMINATION:** Subscriber and Town agree the alarm monitoring service is contracted for on a **monthly basis**, and automatically renews itself from month to month unless either party gives written notice to the other of their intention not to renew the agreement at least thirty (30) days before the desired termination date.

If Subscriber is in default for a period of thirty (30) or more days from the due date of any payment of the monitoring, or fails to abide to Subscriber's obligations and responsibilities in this agreement, Town may, at its option and in its sole discretion, terminate all monitoring services provided under this agreement without further notice.

- PAYMENT:** Each dwelling located on the premises will be charged separately and requires a separate agreement. Billing will be on a monthly basis and Subscriber will be billed for each monitoring fee in arrears. Payment is due by the 20th day of the succeeding month, and any payment made after the 20th day will be increased by the sum of \$5.00 as a late payment charge to cover Town's administrative costs resulting from such delinquency. Town may increase the monthly monitoring fees upon thirty (30) days' written notice to Subscriber stating the new monthly fee. **Subscriber acknowledges and agrees the monitoring fee is strictly for the monitoring service provided by Town.** Additional fees and charges, including any charges assessed by the telephone company to Town, Subcontractor Provider or Subscriber are the responsibility of the Subscriber.

5. **WIRELESS AND INTERNET ACCESS CAPABILITIES:** The Town does not provide internet service, maintain internet connection, wireless access or communication pathways, computer, smart phone, electric current connection or supply, or in all cases the remote video server. Subscriber is responsible for supplying high speed internet access and/or wireless services at Subscriber's premises or to Subscriber's mobile device, as necessary or desire. The Town is not responsible for Subscriber's access to the internet or any interruption of service or down time of remote access caused by loss of internet service, radio or cellular or any other mode of communication used by Subscriber. The Town is not responsible for data changes made by Installer or Subscriber or inaccurate data entry relied upon by Town when responding to alarm signals.

6. **ADDITIONAL TERMS AND CONDITIONS:**

False Alarms. Subscriber acknowledges receipt of a copy of this agreement and a copy of Article 9-3 of the Code of Ordinances of the Town of Paradise Valley, relating to alarm systems. Subscriber will assume all financial responsibility for assessments by Town for excessive false alarms, assessed under Article 9-3, as may be amended from time to time.

Subscriber to Initial: _____

Independent Installer. Subscriber acknowledges that Town is not related to or part of the Installer company and has not participated in the installation of the Alarm System. None of the equipment installed at Subscriber's premises is the property of the Town and the Town has made no representation, warranties or agreements regarding the equipment/Alarm System. The Subscriber acknowledges that the Alarm System is in the exclusive possession and control of the Subscriber and it is Subscriber's sole responsibility to test the operation of the Alarm System. The Town is not contracting to perform any repair service and it is the Subscriber's responsibility to repair the Alarm System and maintain same operational.

Securing Premises. Town is not responsible for securing the listed premises. In the event the Subscriber or their designee(s) cannot be reached or is unable to respond within thirty (30) minutes to the premises and forced entry or an unsecured entry way is found, Town at its option may take reasonable steps to secure the premises. However, in no event is Town obligated to secure any premises as part of this agreement. If any steps are taken to secure the premises, Subscriber will reimburse Town for any costs incurred. Town has the right to subcontract any services which it is required to perform under this agreement.

Call List. The individual names and contact information of persons to be contacted in the case of alarm activation and/or authorized to enter premises ("Call List") must be given to Town, by the Subscriber in writing, and the Subscriber must notify Town in writing of any changes of these persons. It is the obligation of the Subscriber to keep this information current with Town.

7. **EXCULPATORY CLAUSE:** Subscriber and Town agree that the Town is not an insurer and no insurance coverage is offered herein. The Town's monitoring services are designed to detect and reduce certain risks of loss, through the Town does not guarantee that no loss or damage will occur. The monitoring fees collected are based solely on the value of the monitoring service. The Town is not assuming liability, and, therefore, shall not be liable to Subscriber or any other third party for any loss, economic or non-economic, in contract or tort, data corruption or inability to retrieve data, personal injury or property damage sustained by Subscriber as a result of equipment failure, human error, burglary, theft, hold-up, fire, smoke, water or any other cause whatsoever, regardless of whether or not such loss or damage was caused by or contributed to by the Town's breach of contract, negligent performance to any degree in furtherance of this agreement, any extra contractual or legal duty, strict products liability, or negligent failure to perform any obligation pursuant to this agreement or any other legal duty. Town will not compensate Subscriber or anyone else for damages caused by any other source whatsoever, or by Acts of God, and Subscriber is strongly encouraged to independently purchase insurance to protect Subscriber, Subscriber's family, Subscriber's invitees, licensees, and/or guests, and all personal property on the monitored premises.

8. **INDEMNITY / WAIVER OF SUBROGATION RIGHTS / ASSIGNMENTS:** Subscriber agrees to defend, advance expenses for litigation and arbitration, including investigation, legal and expert witness fees, indemnify and hold harmless the Town, its employees, agents and subcontractors, from and against all claims, lawsuits, including those brought by third-parties or by Subscriber, including reasonable attorneys' fees and losses, asserted against and alleged to be caused by the Town's performance, negligence or failure to perform any obligation under or in furtherance of this agreement. Parties agree that there are no third-party beneficiaries of this agreement. Subscriber on its behalf and any insurance carrier waives any right of subrogation Subscriber's insurance carrier may otherwise have against the Town or the Town's subcontractors arising out of this agreement or the relation of the parties hereto. Subscriber shall not be permitted to assign this agreement without written consent of the Town. The Town shall have the right to assign this agreement and shall be relieved of any obligations herein upon such assignment.

9. **LIMITATION OF LIABILITY: SUBSCRIBER AGREES THAT SHOULD THERE ARISE ANY LIABILITY ON THE PART OF THE TOWN AS A RESULT OF THE TOWN'S BREACH OF THIS CONTRACT, NEGLIGENT PERFORMANCE TO ANY DEGREE OR NEGLIGENT FAILURE TO PERFORM ANY OF TOWN'S OBLIGATIONS PURSUANT TO THIS AGREEMENT OR ANY OTHER LEGAL DUTY, EQUIPMENT FAILURE, HUMAN ERROR, OR STRICT PRODUCTS LIABILITY, WHETHER ECONOMIC OR NON-ECONOMIC, IN CONTRACT OR IN TORT, THAT TOWN'S LIABILITY SHALL BE LIMITED TO THE SUM OF \$250.00 OR 6 TIMES THE MONTHLY PAYMENT FOR SERVICES BEING PROVIDED AT TIME OF LOSS, WHICHEVER IS GREATER. IF SUBSCRIBER WISHES TO INCREASE TOWN'S AMOUNT OF LIMITATION OF LIABILITY, SUBSCRIBER MAY, AS A MATTER OF RIGHT, AT ANY TIME, BY ENTERING INTO A SUPPLEMENTAL AGREEMENT, OBTAIN A HIGHER LIMIT BY PAYING AN ANNUAL PAYMENT CONSONANT WITH TOWN'S INCREASED LIABILITY. THIS SHALL NOT BE CONSTRUED AS INSURANCE COVERAGE.**

SUBSCRIBER ACKNOWLEDGES THAT THIS AGREEMENT CONTAINS EXCULPATORY CLAUSE, INDEMNITY/WAIVER OF SUBROGATION RIGHTS, AND LIMITATION OF LIABILITY PROVISIONS.

Subscriber to Initial: _____

10. **LEGAL ACTION / AGREEMENT TO BINDING ARBITRATION:** The prevailing party in any litigation or arbitration shall be entitled to recover its reasonable legal fees. In any action commenced by the Town against Subscriber, SUBSCRIBER AGREES THAT SUBSCRIBER MAY BRING CLAIMS AGAINST THE TOWN ONLY IN SUBSCRIBER'S INDIVIDUAL CAPACITY, AND NOT AS A CLASS ACTION PLAINTIFF OR CLASS ACTION MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. ANY DISPUTE BETWEEN THE PARTIES OR ARISING OUT OF THIS AGREEMENT, INCLUDING ISSUES OF ARBITRABILITY, SHALL, AT THE OPTION OF ANY PARTY, BE DETERMINED BY BINDING AND FINAL ARBITRATION IN ACCORDANCE WITH APPLICABLE RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), AS AMENDED HEREIN, EXCEPT THAT NO PUNITIVE OR CONSEQUENTIAL DAMAGES MAY BE AWARDED. Although the arbitration will be

conducted in accordance with the AAA Rules, it will not be administered by the AA, but will be heard independently. The Parties will exercise best efforts to select an arbitrator within five business days after agreement for arbitration. If the Parties have not agreed upon an arbitrator within this period, the Parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott, Skelly & Muchmore, LLC, (or other law firm amenable to the Parties) who will then select the arbitrator. The Parties will equally share the fees and costs incurred in the selection of the arbitrator. The arbitrator shall be bound by the terms of this agreement and is authorized to conduct proceedings by telephone, video or by submission of papers. By agreeing to this arbitration provision, you are waiving your right to a jury trial, waiving your right to appeal the arbitration award and waiving your right to participate in a class action. This agreement to arbitrate shall survive the termination of this agreement. Service of process or papers in any legal proceeding or arbitration between the parties may be made by First-Class Mail delivered by the U.S. Postal Service addressed to the party's address in this agreement or another address provided by the party in writing to the party making service. The parties submit to the jurisdiction and laws of Arizona and agree that any litigation or arbitration between the parties may be commenced and maintained in Maricopa County, Arizona. The parties waive trial by jury in any action between them unless prohibited by law. Any action between the parties must be commenced within one year of the accrual of the cause of action or shall be barred. All actions or proceedings by either party must be based on the provisions of this agreement. Any other action that Subscriber may have or bring against the Town in respect to other services rendered in connection with this agreement shall be deemed to have merged in and be restricted to the terms and conditions of this agreement.

SUBSCRIBER ACKNOWLEDGES THAT THIS AGREEMENT CONTAINS AN AGREEMENT TO ARBITRATE DISPUTES AND THAT ARBITRATION IS BINDING AND FINAL AND THAT SUBSCRIBER IS WAIVING SUBSCRIBER'S RIGHT TO TRIAL IN A COURT OF LAW AND OTHER RIGHTS.

Subscriber to Initial: _____

- 11. **ENTIRE INTERGRATED AGREEMENT and MODIFICATIONS:** This writing is intended by the parties as a final expression of their agreement and is a complete and exclusive statement of the terms and supersedes all prior representations or agreements. This agreement may not be amended or modified except in writing signed by both parties or their duly authorized agents. Subscriber acknowledges and represents that Subscriber has not relied on any representation, assertion, guarantee, warranty, collateral agreement or other assurance, except those set forth in this Agreement. Subscriber hereby waives all rights and remedies at law or in equity, arising, or which may arise, as the result of Subscriber's reliance on such representation, assertion, guarantee, warranty, collateral agreement or other assurance. To the extent this agreement is inconsistent with any other document or agreement, whether executed prior to or concurrently with this agreement, the terms of this agreement shall govern.

No course or prior dealings between the parties or usage of trade is relevant or admissible to supplement, explain or vary any of the terms contained in this agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement is not relevant or admissible to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and an opportunity to make objection.

- 12. **GOVERNING LAW:** Subscriber consents to settle all claims that may arise under this agreement in accordance with the laws of the State of Arizona. The parties to this agreement consent to venue for such action to be Maricopa County.
- 13. **HEIRS and ASSIGNS:** This agreement is binding upon and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.
- 14. **PARAGRAPH HEADINGS:** The headings of particular paragraphs and subparagraphs are inserted only for convenience and are not part of this agreement and are not to act as a limitation on the scope of the particular paragraph to which the heading refers.
- 15. **FORCE MAJEURE:** Any delay or failure in the performance by Town, including interruption of service, is excused if and to the extent caused by the occurrence of a Force Majeure. For purposes of this agreement, Force Majeure means a cause or event that is not reasonably foreseeable or otherwise caused by or under the control of Town, including, but not limited to, acts of God, strikes fires, floods, explosions, riots, wars, inclement weather, sabotage terrorism, vandalism, accident, injunctions, interruption or unavailability of phone service or internet, and other like events.
- 16. **SEVERABILITY:** The provisions of this agreement are severable and in the event any provision, clause, sentence, section or part is held to be invalid, illegal, unconstitutional, inapplicable or unenforceable to any person or circumstances, such invalidity, illegality, unconstitutionality, inapplicability or unenforceability will not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of the agreement or their application to Subscriber or other persons or circumstances.

DATED this _____ day of _____, 20_____.

SUBSCRIBER

By _____
Subscriber's Signature

Subscriber's Printed Name

TOWN OF PARADISE VALLEY

By: _____
Jill B. Keimach, Town Manager

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney

ATTEST:

Duncan Miller, Town Clerk