

DEALER NAME Ace Alarms
ADDRESS 1110 NE Canyon Drive
CITY, STATE, ZIP Lincoln City OR 97367
PHONE 541-996

ALARM SYSTEM MONITORING AND REPAIR AGREEMENT

THIS AGREEMENT is made this 27 day of Aug., 2020, by and between Ace Alarms ("Dealer") and:

SUBSCRIBER: City of Newport 485t Soc. Security #: _____

ADDRESS: 169 S Coast Hwy

CITY: Newport STATE: OR ZIP: 97365

THIS AGREEMENT HAS BEEN WRITTEN IN PLAIN LANGUAGE SO IT WILL BE EASY FOR YOU TO UNDERSTAND. DEALER IS SOMETIMES REFERRED TO AS "WE" OR "OUR" AND SUBSCRIBER IS SOMETIMES REFERRED TO AS "YOU." THE ALARM SYSTEM IS REFERRED TO AS "SYSTEM" UNLESS OTHERWISE INDICATED.

☐ Existing Subscriber ☒ New Subscriber

Dealer agrees to provide monitoring and time and material repair service for the alarm system installed at the above address pursuant to the terms and conditions of this Agreement. The system consists of:

TYPE OF SYSTEM

☐ Burglary ☐ Hold-up ☒ Fire ☐ Personal Emergency ☐ Supervisory ☐ Other _____

1. PRICE: PAYMENT AND TERM:

a. **MONITORING FEE:** FOR MONITORING SERVICE YOU WILL PAY US \$ 35.00 PER MONTH PAYABLE (MONTHLY)(QUARTERLY) IN ADVANCE. THE FIRST PAYMENT IS DUE WHEN WE BEGIN SERVICE, AND WILL INCLUDE THE PRORATED AMOUNT FOR THE MONTH IN WHICH SERVICE BEGINS. THIS AGREEMENT SHALL HAVE AN ORIGINAL TERM OF THREE (3) YEARS AND SHALL AUTOMATICALLY RENEW FOR SUCCESSIVE ONE YEAR PERIODS UNLESS EITHER PARTY GIVES THE OTHER AT LEAST SIXTY (60) DAYS PRIOR WRITTEN NOTICE OF ITS INTENTION TO CANCEL THE AGREEMENT AT THE END OF THE ORIGINAL TERM OR AT THE END OF ANY RENEWAL TERM. WE MAY INCREASE THE MONITORING AT ANY TIME TO RECOVER ANY ADDITIONAL TAXES, FEES, LICENSE OR OTHER CHARGES THAT MAY BE IMPOSED ON US BY ANY GOVERNMENTAL AGENCY OR UTILITY AND YOU AGREE TO PAY THE SAME. IN ADDITION, WE MAY INCREASE THE MONITORING FEE BY NOT MORE THAN FIVE PERCENT (5%) OF THE CURRENT MONITORING FEE ON EACH ANNIVERSARY OF THE EXECUTION OF THIS AGREEMENT BY GIVING YOU THIRTY (30) DAYS PRIOR WRITTEN NOTICE OF THE INCREASE.

b. **DELINQUENCY AND DEFAULT:** IF YOU FAIL TO MAKE ANY PAYMENT WHEN DUE WE MAY DISCONTINUE SERVICE, TERMINATE THIS AGREEMENT AND RECOVER ALL DAMAGES TO WHICH WE ARE ENTITLED INCLUDING, WITHOUT LIMITATION, THE VALUE OF THE WORK AND SERVICES PERFORMED. IN ADDITION WE MAY IMPOSE A LATE CHARGE OF 1.5% PER MONTH (18% APR) ON ALL PAYMENTS MORE THAN 15 DAYS PAST DUE.

2. **RECEIPT OF COPY:** YOU STATE THAT YOU HAVE RECEIVED A COPY OF THIS AGREEMENT AND, UNLESS THIS AGREEMENT WAS MAILED TO YOU FOR SIGNATURE, TWO COPIES OF THE NOTICE OF CANCELLATION FORM. ALL OF THE TERMS ON THE REVERSE SIDE OF THIS PAGE ARE PART OF THIS AGREEMENT. READ THEM BEFORE YOU SIGN BELOW.

3. **OUR LIMITED LIABILITY:** WE DO NOT REPRESENT OR WARRANT THAT THE SERVICE WILL PREVENT ANY LOSS OR INJURY DUE TO BURGLARY, HOLD-UP, FIRE, PERSONAL EMERGENCY OR OTHERWISE, OR THAT THE SERVICE WILL IN ALL CASES PROVIDE THE PROTECTION FOR WHICH IT IS INTENDED. YOU ACKNOWLEDGE AND AGREE THAT: (A) WE HAVE MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, NOR HAVE YOU RELIED ON ANY REPRESENTATIONS OR WARRANTIES EXPRESS OR IMPLIED; AND (B) YOU ASSUME ALL RISK OF LOSS OR DAMAGE TO YOUR PREMISES OR TO THE CONTENTS THEREOF. DEALER MAKES NO REPRESENTATION OR WARRANTY AS TO THE PROMPTNESS OF THE CENTER'S RESPONSE, AND DEALER HAS NO CONTROL OVER THE RESPONSE TIME OR CAPABILITY OF ANY AGENCY OR PERSON WHO MAY BE NOTIFIED AS A RESULT OF THE SYSTEM BEING USED. YOU FURTHER UNDERSTAND THAT WE OR THE CENTER MAY BE NEGLIGENT IN PROVIDING THE SERVICE, AND MAY FAIL TO PROPERLY RESPOND TO THE RECEIPT OF AN ALARM SIGNAL FROM THE SYSTEM, OR THAT THE SYSTEM MAY FAIL TO FUNCTION PROPERLY. YOU AGREE THAT IF WE OR THE CENTER WERE TO HAVE ANY LIABILITY GREATER THAN THAT AGREED TO BY YOU PURSUANT TO SECTION 13 OF THIS AGREEMENT, WE COULD NOT AND WOULD NOT PROVIDE THE SERVICE. YOU ACKNOWLEDGE THAT YOU SHOULD OBTAIN ANY LIFE, MEDICAL, OR DISABILITY INSURANCE FOR THE PROTECTION OF YOURSELF AND OTHERS WHO MAY USE THE SYSTEM. YOU UNDERSTAND THAT THERE ARE ALTERNATIVES AVAILABLE TO YOU SUCH AS 911 EMERGENCY TELEPHONE SERVICE AND YOU HAVE SELECTED THIS SERVICE WITH A FULL UNDERSTANDING OF ITS LIMITATIONS AND THE LIMITATION OF THE CENTER'S AND OUR LIABILITY. YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD ALL OF THIS AGREEMENT, PARTICULARLY PARAGRAPHS 13 AND 14 WHICH SET FORTH OUR MAXIMUM LIABILITY IN THE EVENT OF ANY LOSS OR DAMAGE TO YOU OR ANYONE ELSE. YOU ACKNOWLEDGE THAT YOU HAVE HAD THE OPPORTUNITY TO DISCUSS PARAGRAPH 13 WITH OUR REPRESENTATIVE AND UNDERSTAND THAT YOU MAY OBTAIN A HIGHER LIMITATION OF OUR LIMITED LIABILITY BY PAYING AN ADDITIONAL PERIODIC CHARGE.

IF THIS AGREEMENT WAS NEGOTIATED SOLELY BY TELEPHONE AND/OR MAIL, THEN THE FOLLOWING NOTICE OF CANCELLATION IS NOT APPLICABLE TO THIS AGREEMENT.

4. **CANCELLATION: (RESIDENTIAL SYSTEMS ONLY)** YOU MAY CANCEL THIS AGREEMENT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

Ace Alarms
DEALER
BY: Tyler White
Tyler White
Management Approval

City of Newport
BY: AK White
Aug. 27, 2020
Date Signed

THIS AGREEMENT WILL NOT BE BINDING UPON DEALER UNTIL EITHER (I) SIGNED BY ONE OF OUR MANAGERS OR (II) WE START TO MONITOR THE SYSTEM. IN THE EVENT OF DISAPPROVAL, OUR ONLY LIABILITY SHALL BE TO REFUND TO YOU THE AMOUNT THAT YOU PAID TO US UPON THE SIGNING OF THIS AGREEMENT.

White (Dealer)

Yellow (Subscriber)

Pink (File Copy)

5. **MONITORING SERVICE:** The system will be monitored by a central monitoring station owned by Security Associates International, Inc., or its subsidiaries (the "Center"). We will pay all monitoring fees charged by the Center. If requested to do so, you will complete and return to us or the Center, the Center's standard Subscriber Information Form. When a burglary, fire or holdup signal from the system is received in the Center it will try to telephone the proper police or fire department and the first person designated on the Subscriber Information Form you give us. When a personal emergency or supervisory signal is received in the Center it will try to notify the persons designated on your information form. To avoid false alarms, the Center may call your premises first to determine if an actual emergency exists before calling any authorities or persons on your information form. If the Center has reason to believe that no actual emergency exists, it may choose not to place such calls. We may discontinue any particular form of response if required to do so by any governmental authority or insurance interests. You consent to the tape recording of all telephonic communications between our office or the Center and your premises.

6. **REPAIR SERVICE:** After the expiration of any applicable warranty for a system we sold to you, or for a new subscriber takeover we will provide time and material repair service. You will pay our standard parts and labor charges for all repair calls. There will be a one hour minimum visit charge for each repair call. Service is normally provided Monday through Friday between the hours of 9:00am and 5:00pm except holidays we observe. There is a premium labor charge for service performed at other times.

7. **TRANSMISSION LINES:** You will pay for all telephone charges including any installation fee for a special jack to connect the system to your telephone service. The system includes a communicator that sends signals to the Center over your regular telephone service, and we recommend the use of an RJ31X telephone jack or equivalent jack to give the system priority over other telephones on your premises; however, you will not be able to use your telephone service to make other calls (such as calls to the 911 emergency operator) when the system is activated, and therefore you may wish to have the system connected to a separate telephone service. If your telephone is out of order, placed on vacation status or otherwise not working, signals cannot be transmitted and we will not know of the telephone service problem. Transmission is provided over telephone facilities that are controlled and maintained by the telephone company and are beyond our control.

8. **FALSE ALARMS:** You agree that you and others using the system, will use it carefully so as to avoid causing false alarms. False alarms can be caused by severe weather or other forces beyond our control. If we receive too many false alarms, that will constitute a breach of contract by you, and we may cancel monitoring and service, disconnect the system from the Center and seek to recover damages. You will pay any false alarm fine, penalty or fee that is charged against you, and if a false alarm fine, penalty or fee is charged to us by any governmental agency, you will pay us for the charge. Additionally, you will pay all taxes and assessments imposed by state, local or county agencies.

9. **SUBSCRIBER'S DUTIES:** You will instruct all other persons who may use the system on its proper use. You will test the system's protective devices and send test signals to the Center in accordance with our instructions. If the system includes space information (ie: infrared, microwave, photobeams or other such detectors) you will turn off, control, relocate or remove all things such as air conditioning and heating systems, inventory, furniture and pets that might interfere with such devices when they are turned on. If a problem in the system occurs you will notify us. You will obtain and keep in effect, at your sole expense, all permits or licenses that may be required for the monitoring and operation of the system. You will complete and give us a Subscriber Information Form which will include the name, telephone number and relationship of each person we may call in the event we believe there is an emergency at your premises, and other information we may require. You will notify us in writing of any changes in the information set forth on the form. You agree that we may disclose the information on the form to any governmental agency having jurisdiction over the use and operation of the system.

10. **SUSPENSION OR CANCELLATION OF THIS AGREEMENT:** You understand that Dealer may stop or suspend monitoring and repair service if: (a) strikes, severe weather, earthquakes or other such events beyond our control affect the operation of our facilities, including the Center, or so severely damage your premises that continuing service would be impractical; (b) there is an interruption or unavailability of the telephone service between the system and the Center; (c) you do not pay the service charge or any fees or charges due to us, after we have given you ten days notice that we are canceling service because of non-payment, we may charge a reconnection fee if service is suspended for non-payment; (d) we are unable to provide service because of some action or ruling by any governmental authority; or (e) you become a debtor in a bankruptcy proceeding.

11. **TERMINATION, REMOVAL OF CERTAIN EQUIPMENT:** At the expiration of this Agreement or in the event of your default, you authorize us to cancel monitoring by remotely disconnecting the system from the monitoring facilities at the Center, and enter upon your premises to remove all of our signs, decals, communications prom chip and communications software. Such disconnection and removal of equipment shall be without prejudice to the collection of any and all sums due under the entire contract or extensions or renewals thereof, and for recovery of the amounts due for any unexpired term of this Agreement. If you do not permit us to disconnect the communicator, it is possible that the communicator may interfere with your telephone service even though signals are not being processed at the Center.

12. **ASSIGNEES AND SUBCONTRACTORS:** We may transfer or assign this agreement to any other alarm company or central station. You may not transfer this agreement to someone else (including someone who purchases or rents your premises) unless we approve the transfer in writing. We may use subcontractors (including the Center) to provide monitoring, repair or other services. This Agreement, and particularly sections 13 and 14, shall apply to and protect our assignees and subcontractors in the same manner as it applies to and protects us.

13. **DEALER AND CENTER ARE NOT INSURERS; LIMITATION OF LIABILITY:** You understand that: (a) we and the Center are not insurers of your property or the personal safety of persons in your premises; (b) you will provide any insurance on your premises and its contents; (c) the amount you pay to us is based on the value of the system and service provided and not on the value of your premises or its contents; (d) alarm systems and the monitoring and repair service may not always operate properly for various reasons; (e) it is difficult to determine in advance the value of the property that might be lost, stolen or destroyed if the system or service fail to operate properly; (f) it is difficult to determine how fast the police or fire department or others would respond to an alarm signal; and (g) it is difficult to determine what portion, if any, of any property loss, personal injury or death would be proximately caused by our or the Center's failure to perform, our or the Center's active, passive or gross negligence, or a failure of the system.

THEREFORE YOU AGREE:

Even if a court decides that a failure of the system, or our or the Center's negligence, or a failure of any repair work, monitoring or other service caused or allowed any harm or damage (whether property damage, personal injury or death) to you or anyone in your premises, you agree that our and the Center's total combined liability shall be limited to the lesser of \$250.00 or six times the monthly monitoring fee, and this shall be your only remedy regardless of what legal authority is used to determine that Dealer and or the Center were liable for the injury or loss.

YOU MAY OBTAIN A HIGHER LIMITATION OF LIABILITY. If you wish, you may obtain from us a higher limitation of liability by paying an additional periodic charge based on a graduated scale of rates. If you elect this option, we will attach a rider to this agreement which will set forth the amount of the limitation of liability and the amount of the additional charge. Agreeing to the limitation of liability does not mean that we are an insurer.

14. **THIRD PARTY INDEMNIFICATION AND SUBROGATION:** If anyone other than you, asks Dealer or the Center to pay for any harm or damages (including property damage, personal injury or death) connected with or resulting from (i) a failure of the alarm system or services, (ii) the Center's or our negligence, (iii) any other improper or careless activity of the Center or Dealer in providing the alarm system or services or (iv) a claim for indemnification or contribution, you will pay to the Center or Dealer (a) any amount which a court orders the Center or us to pay or which we or the Center reasonably agree to pay, and (b) the amount of the Center's and our reasonable attorney's fees and any other losses and costs that the Center or we may pay in connection with the harm or damages. Your obligation to pay Dealer or the Center for such harm or damages shall not apply if the harm or damages happens while one of our employees or subcontractors is in or about your premises, and such harm or damages is directly and solely caused by that employee or subcontractor. Unless prohibited by your property insurance policy, you agree to release Dealer and the Center from any claims of any parties suing through your authority or in your name, such as your insurance company, and you agree to defend the Center and us against any such claim. You will notify your insurance company of this release.

15. **LIMITATION ON LAWSUITS; WAIVER OF JURY TRIAL:** Both Dealer and Subscriber agree that no law suit or any other legal proceeding connected with this agreement shall be brought or filed more than one year after the incident giving rise to the claim occurred. In addition any such legal proceeding shall not be heard before a jury. Each party gives up any right to a jury trial.

16. **ENTIRE AGREEMENT:** The entire and only agreement between you and Dealer is written in this Agreement. It replaces any earlier oral or written understandings or agreements. It may only be changed by a written agreement signed by you and us. If you have given or ever give us a purchase order for the system or service which provides for different terms than this agreement, this agreement will govern and be controlling. If any provision of this agreement is found to be invalid or illegal in court, the balance of the agreement shall remain in force.

DEALER NAME Ace Alarms
ADDRESS 1100 NE Canyon Dr
CITY, STATE, ZIP Toledo, OR 97391
PHONE 541-336-9563

ALARM SYSTEM MONITORING AND REPAIR AGREEMENT

THIS AGREEMENT is made this 27 day of Aug, 2020 by and between Ace Alarms ("Dealer") and:

SUBSCRIBER: City of Newport 68th Street Soc. Security #: _____

ADDRESS: 169 S Coast Hwy

CITY: Newport STATE: OR ZIP: 97365

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Ace Alarms
DEALER
BY: Tyler White
Tyler White
Management Approval

City of Newport
SUBSCRIBER
BY: [Signature]
Aug. 27, 2020
Date Signed

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THEREFORE YOU AGREE:

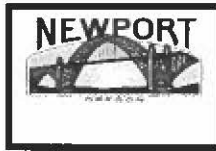
Even if a court decides that a failure of the system, or our or the Center's negligence, or a failure of any repair work, monitoring or other service caused or allowed any harm or damage (whether property damage, personal injury or death) to you or anyone in your premises, you agree that our and the Center's total combined liability shall be limited to the lesser of \$250.00 or six times the monthly monitoring fee, and this shall be your only remedy regardless of what legal authority is used to determine that Dealer and or the Center were liable for the injury or loss.

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14. **THIRD PARTY INDEMNIFICATION AND SUBROGATION:** If anyone other than you, asks Dealer or the Center to pay for any harm or damages (including property damage, personal injury or death) connected with or resulting from (i) a failure of the alarm system or services, (ii) the Center's or our negligence, (iii) any other improper or careless activity of the Center or Dealer in providing the alarm system or services or (iv) a claim for indemnification or contribution, you will pay to the Center or Dealer (a) any amount which a court orders the Center or us to pay or which we or the Center reasonably agree to pay, and (b) the amount of the Center's and our reasonable attorney's fees and any other losses and costs that the Center or we may pay in connection with the harm or damages. Your obligation to pay Dealer or the Center for such harm or damages shall not apply if the harm or damages happens while one of our employees or subcontractors is in or about your premises, and such harm or damages is directly and solely caused by that employee or subcontractor. Unless prohibited by your property insurance policy, you agree to release Dealer and the Center from any claims of any parties suing through your authority or in your name, such as your insurance company, and you agree to defend the Center and us against any such claim. You will notify your insurance company of this release.

15. **LIMITATION ON LAWSUITS; WAIVER OF JURY TRIAL:** Both Dealer and Subscriber agree that no law suit or any other legal proceeding connected with this agreement shall be brought or filed more than one year after the incident giving rise to the claim occurred. In addition any such legal proceeding shall not be heard before a jury. Each party gives up any right to a jury trial.

16. **ENTIRE AGREEMENT:** The entire and only agreement between you and Dealer is written in this Agreement. It replaces any earlier oral or written understandings or agreements. It may only be changed by a written agreement signed by you and us. If you have given or ever give us a purchase order for the system or service which provides for different terms than this agreement, this agreement will govern and be controlling. If any provision of this agreement is found to be invalid or illegal in court, the balance of the agreement shall remain in force.



**AUTHORIZATION FOR
AGREEMENTS, MOUs, OR
OTHER DOCUMENTS OBLIGATING
THE CITY**

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Alarm System Monitoring Agreement - ACE Alarms

Date: 10/2/20

Statement of Purpose: Agreement for monitoring 48th and 68th Pump Stations.

Department Head Signature: [Signature]

Remarks, if any: \$35/month monitoring agreement for each building

City Attorney Review and Signature: _____ Date: _____

Other Signatures as Requested by the City Attorney: _____

Name/Position

Date: _____

Budget Confirmed: Signature Yes ☐ No ☐ N/A ☐

Certificate of Insurance Attached: Yes ☐ No ☐ N/A ☐

City Council Approval Needed: Yes ☐ No ☐ Date: _____

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: [Signature]

Date: 10-02-20

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: [Signature]

Date: 10/2/2020

Date posted on website: 10/7/20