



- E. **DELAY IN SERVICE:** BES shall not be liable for loss or damage caused by delay, interruption, stoppage in construction, service on maintenance caused by strikes, walk-outs, acts of God or other causes beyond its control and same shall not relieve payments on behalf of the Subscriber for terms.
- F. **BILLABLE SERVICE:** Unless the Subscriber selects lifetime warranty, BES is under no obligation whatsoever to provide repairs or maintenance to the alarm equipment owned by the Subscriber, except on the terms and at the then prevailing rates charged by BES, and its service is requested by a Subscriber who does not have a lifetime warranty it will be due and payable upon completion.
5. **SUBSCRIBER'S DUTIES / USE OF SYSTEM:** The Subscriber shall carefully and properly test and set the alarm system immediately prior to the securing of all premises. Subscriber shall thoroughly test the system as to all its functions, to the extent possible, monthly during the term of this Agreement. Subscriber shall immediately report to BES any claimed malfunction of the alarm system or digital communicator. Upon request of BES, such inadequacies shall be reduced to writing.
- A. Subscriber acknowledges that when a device or protection system is used, including, but not limited to, space protection devices, these devices are affected by turbulence of air, a change in occupied air space, or other environmental conditions. Subscriber shall turn off, or remove, as the case maybe all things, animate or inanimate, including, but not limited to, all forced air heaters, air conditioners, horns, bells, plants and any other source of turbulence or movement, which may interfere with the effectiveness of the system when activated and while in use.
- B. Subscriber shall have the sole responsibility for silencing any audible devices. In the event BES is called upon by the Subscriber, governmental authority or others to silence Subscriber's audible device, unless the siren or warning signal cannot be deactivated due to a defect in the system not caused by the Subscriber, Subscriber agrees to pay for each all such service at BES's then prevailing rate with a minimum service charge.
- C. Subscriber shall obtain, pay for, and keep in full force and effect all necessary licenses and permits for the installation and use of the alarm system during the original and any renewal term of this Agreement. Any fine or penalty assessed upon the company due to Subscriber noncompliance shall be paid for by the Subscriber.
6. **INSTALLATION OF SYSTEM:** The BES in hereby authorized to make preparations such as drilling holes, driving nails, making attachments or doing any other thing or things necessary or pertinent to the installation, and maintenance of the electrical protection apparatus and BES shall not be responsible for any condition created thereby doing the installation, maintenance or removal of the equipment, and further, BES shall not be responsible for the condition of premises upon the removal of the apparatus and the Subscriber warrants that it has full authority from the owner and / or any other person in control of the premises to permit the installation of the apparatus under all conditions herein above mentioned.
7. **ERRORS IN INSTALLATION:** Errors or omissions in installation of said system, including but not limited to failure to wire points of protection, shall be called to the attention of BES by Subscriber in writing within five (5) days of completion of the installation. Upon the expiration of the five (5) day period, the installation and the protection provided shall be deemed acceptable by the Subscriber. Subscriber acknowledges that additional protection may be obtained over and above that provided at an additional cost.
8. **MONITORING SERVICES:** BES shall engage an Independent Monitoring Facility, hereinafter referred to as IMF, of its choosing.
- A. **SERVICES TO BE PROVIDED:** IMF shall reasonably endeavor to provide the following services:
- (1) Upon receipt of a burglar alarm signal, transmit the alarm to headquarters of the police department and notify the Subscriber or designated representative by calling the telephone numbers supplied to IMF in writing by Subscriber. It is the sole responsibility of Subscriber to notify BES of any changes to be made to the designated notification list in writing.
  - (2) Upon receipt of a duress/panic signal, transmit the alarm to the police department.
  - (3) Upon receipt of a sprinkler alarm signal, water flow signal, manual, smoke or automatic fire alarm signal, transmit the alarm to the fire department and/or notify Subscriber or his designated representatives by calling the telephone numbers supplied to IMF; provided that the Subscriber's designation does not violate the rules or regulations from time to time established by the local government authority.
  - (4) Upon receipt of a monitoring signal, such as a temperature alarm or water detection device, notify Subscriber or his designated representatives by calling the telephone numbers supplied to IMF in writing by Subscriber.
  - (5) Upon receipt of an emergency/medical alert signal, transmit the alarm to the persons and/or entities designated by Subscriber in the Subscriber information provided to IMF.
- B. **FALSE ALARMS:**
- (1) In the event of an excessive number of false alarms caused by the Subscriber's carelessness, malicious action, accidental abuse of the system, or the failure to advise BES of the need for repairs or maintenance, whether covered by warranty or not, BES may, in its sole discretion, deem same to be a material breach of this Agreement on the part of the Subscriber, and in addition to all of the remedies available to BES in the event of non-payment, upon (1) days written notice to the Subscriber, BES shall

no longer have the duty or obligation to provide monitoring services. However, BES shall have the right to accelerate all amounts due and recover as if there had been a monetary default hereunder.

- (2) Subscriber acknowledges that because of the sensitive and delicate nature of the equipment involved, it is subject to the influence of external events which are not within BES's control, a variety of which may not be reasonably anticipated by BES, which may cause the alarm to activate. Any and all such alarms that may occur shall not be construed as improper operation of the equipment nor as a malfunction thereof, nor shall any or all of such alarms excuse the Subscriber from performing under the terms of the Agreement.

9. **TRANSMISSION LINES OR SIGNALS:** Subscriber shall pay all charges made by any telephone company or other utility for installation, leasing and service charges of telephone lines connecting Subscriber's protected premises to IMF's central station when a digital communicator is used. Subscriber acknowledges that if a digital communicator is used for the purposes of transmitting alarm signals from Subscriber's premises to IMF's central station, the signals from Subscriber's alarm system are transmitted over Subscriber's regular telephone service and in the event Subscriber's telephone service is out of order, disconnected, placed on vacation or otherwise interrupted, signals from Subscriber's alarm system will not be received in IMF's central station during any such interruption in telephone service and the interruption will not be known to BES or IMF. Subscriber further acknowledges and agrees that signals are transmitted over telephone company lines which are wholly beyond the contract and jurisdiction of BES and IMF and are maintained and serviced by the applicable telephone company or utility. Upon written request of the Subscriber and at BES's sole option, BES may provide monitoring by way of a radio frequency system for transmitting alarm signals from the Subscriber's premises to the IMF central station. Such equipment shall be provided by the Subscriber at Subscriber's expense and it shall not be the obligation of BES to provide maintenance or repairs to same, nor shall BES be responsible in any manner, or for any reason, whatsoever for the failure of such equipment to perform as intended or anticipated. Subscriber acknowledges that the use of radio frequencies is controlled by the Federal Communications Commission and that changes in rules, regulations, and policies may necessitate discontinuing use of such transmission facilities by BES at BES's sole option. Subscriber further acknowledges that radio frequency transmissions may be impaired or interrupted by atmospheric conditions, including electrical storms, power failures, or other conditions and events beyond the control of BES and IMF.
10. **EMERGENCY DATA:** It is understood and agreed that it is the obligation of the Subscriber to provide and maintain current a list of all personnel who may be contracted in an emergency (alarm) condition, and hours of normal operation of the premises. Any and all changes to the above must be received in writing by the company before such changes are posted to BES records that apply.
11. **SELLER NOT AN INSURER AND LIQUIDATED DAMAGES:** It is understood and agreed: That BES is not an insurer, that insurance, if any, shall be obtained by Subscriber, that the payments provided for herein are based solely on the value of the service as set forth herein and are unrelated to the value of the Subscriber's property, or the property of others located on the Subscriber's premises; that BES makes no guarantee or warranty, including any implied warrant or merchantability or fitness that the equipment or services supplied will avert or prevent occurrences or the consequences therefrom which the system or service is designed to detect or avert. Subscriber acknowledges that it is impractical and extremely difficult to fix the actual damages if any, which may proximately result from failure to perform any of the obligations herein, or the failure of the system to properly operate with resulting loss to Subscriber because of, among other things: a) the uncertain amount of value of 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 system or services is designed to detect or avert; b) The uncertainty of the response time of any police or fire department, should the police or fire department be dispatched as a result of a signal being received or an audible device sounding; c) The inability to ascertain what portion, if any, of any loss would be proximately caused by BES's failure to perform or by failure of its equipment to operate; d) The case by nature of the specific service to be performed by BES. Subscriber understands and agrees that if BES should be found liable for loss or damage due to a failure of BES to perform any of the obligations herein, including but not limited to installation, maintenance, monitoring or service or the failure of the system or equipment in an respect whatsoever, BES's liability shall be limited to the total amount actually paid by Subscriber to BES for equipment installed, if any, and for services rendered by BES, of any, as liquidated damages and not as a penalty and this liability shall be exclusive; and that the provisions of this Section shall apply if loss or damage, irrespective of cause or origin, results directly or indirectly to persons or property from performance or nonperformance of the obligations imposed by this contract, or from negligence, active or otherwise, of BES it agents assigns or employees. If subscriber wishes BES to assume a limited liability in lieu of the liquidated damages as here in above set forth, Subscriber may obtain through BES a licensed insurance company, a limitation of liability by paying an additional monthly service charge to BES. If Subscriber elects to exercise this option, a rider shall be attached to this Agreement setting forth the terms, conditions and the amount of the limited liability, and the additional monthly charge. Such rider and additional obligation shall in no way be interpreted to hold BES as insurer.
12. **THIRD PARTY INDEMNIFICATION:** Subscriber agrees to and shall indemnify, defend and hold harmless BES, its employees and agents for and against all claims, lawsuits and losses which claim and/or lawsuit is brought or loss sustained by parties or entities other than the parties to this Agreement (herein referred to as third parties). This provision shall apply to all claims, lawsuits or damages by BES's negligent performance, whether active or passive and to all claims based upon defects in design, installation, maintenance, monitoring, operation or non-operation of the alarm system, whether those claims be based upon negligence, active or passive, warranty, or strict or product liability on the part of BES, its agents, servants or employees. This

Agreement by Subscriber to indemnify BES against third party claims as hereinafter set forth shall not apply to losses, damages, expenses and liability resulting in injury or death to third persons or injury to property of third persons, which losses, damages, expenses and liability occur while an employee of BES on Subscriber's premises and which losses, damages and liability are solely and directly caused by the acts of said employee.

13. **DELINQUENCY AND RECONNECT CHARGES:** In the event any payment due hereunder is more than thirty (30) days delinquent, BES may impose and collect a late charge on the amount of the delinquency at the maximum rate permitted by state law, but not greater than eighteen percent (18%) per annum. If the alarm system is deactivated because of Subscriber's past due balance, and if Subscriber desires to have the system reactivated, Subscriber agrees to pay in advance to BES a reconnect charge to be fixed by BES in a reasonable amount.
  
14. **DEFAULT AND REMEDIES:** If Subscriber fails to make any payment, or pay any charge referred to in this Agreement within thirty (30) business days after the same is due and payable, or if Subscriber fails to fulfill any obligation, or breaches any other provision hereof and subscriber fails to cure same, within ten (10) business days after BES shall have demanded in writing performance thereof, or if any proceeding, bankruptcy, receivership or insolvency shall be commenced by or against Subscriber or its property, or if Subscriber makes any assignment to the benefit of its creditors, or if a meeting of creditors is called by Subscriber to discuss its financial obligations, or if judicial liens have been secured against the Subscriber and/or its property and not released within a period of fifteen (15) business days, or if BES shall reasonably believe that Subscriber's financial condition has materially changed so as to affect the Subscriber's ability to perform hereunder, same shall constitute a default hereunder and BES shall have the right but not be obligated, to exercise any one or more of the following remedies:
  - A. (1) To continue to provide monitoring services and accelerate payments due to Subscribers for monitoring and declare the entire balance due under the Agreement to be immediately due and payable in full, and to take all actions and institute such suits as may be required to collect all amount dues hereunder, and  
(2) Discontinue all warranty, maintenance and repairs, accelerate payment attribute to warranty and/or preventive maintenance and the Subscriber shall be obligated to immediately pay eighty-percent (80%) of the remaining payments due for monitoring services for the term of this Agreement; or
  - B. Discontinue monitoring services and warranty work provided for in this Agreement and accelerate the payments for the remainder of the term of this Agreement for monitoring, and the Subscriber shall be obligated to immediately pay eighty percent (80%) if the remaining payments due for monitoring services and warranty work for the term of this Agreement and
  - C. To take possession of any of the equipment of BES, where ever it may be located, without demand or notice, without any court order or other process of law, and without incurring any liability for any damages occasioned by such taking of possession, provided that possession may be obtained peacefully. In the event the Subscriber refuses to allow entry upon the premises to secure possession of the equipment, or otherwise refuses to turn over the equipment, BES shall be entitled to seek and obtain a decree or court order granting entry upon the premises for removal of equipment, or compelling same to be turned over to BES, or providing for mandatory injunctive relief.
  - D. Subscriber shall pay BES all costs, expenses and costs of litigation, including attorney's fees of twenty-five (25% of any amount demanded if this Agreement is placed in the hands of an attorney for collection or reasonable attorney's fees and expenses and costs of litigation incurred in the enforcement of any of its rights hereunder.
  
15. **ASSIGNMENT AND INDEMNIFICATION:** BES shall have the right to assign this Agreement to any other person, firm, trust or corporation without notice to Subscriber and shall have the further right to subcontract any monitoring or other services to be performed by BES, under the terms of the Agreement.
  
16. **WAIVER:** Subscriber hereby waives the right to all notice prescribed herein, including but not limited to, notice of default, termination or increase in rates of charges.
  
17. **NOTICES:** All notices to be given hereunder shall be in writing and may be served, either personally or by mail, postage prepaid, to the addresses set forth in the Agreement or to any other address provided by one to the other from time to time in writing.
  
18. **INVALID PROVISIONS:** In the event any of the terms or provision of this Agreement shall be declared to be invalid or inoperative, all of the remaining terms and provisions shall remain in full force and effect.
  
19. **INCREASE IN TAXES OR UTILITY CHARGES:** All charges set forth herein are based upon existing Federal, State and local taxes and utility charges. BES shall have the right to increase at any time, the monthly charges provided herein, to reflect any additional taxes, fees or charges which may hereafter be imposed by any government or utility agency relating to the installation or service provided under the terms of this Agreement and the Subscriber agrees to pay same.

20. **REQUIRED INCREASE IN PROTECTION, EQUIPMENT OR SERVICES:** It is understood and agreed that if any government agency or bureau having jurisdiction, or the Subscriber by his own act shall require or make necessary any changes in the protective signaling equipment as originally installed, the Subscriber agrees, on demand, to pay for the cost of such changes. An Addendum to this Agreement shall be executed showing changes in the protective signaling equipment required, and the additional installation and monthly charges of BES.
21. **ENTIRE INTEGRATED AGREEMENT; MODIFICATION; ALTERNATION; WAIVER:** This writing 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 SUPERCEDES ALL PRIOR REPRESENTATIONS, UNDERSTANDINGS OR AGREEMENTS OF THESE 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 the parties or their duly authorized agent. No waiver of a breach of any term or condition of this Agreement shall be construed to be a waiver of any succeeding breach. The parties agree that this Agreement shall be governed by the laws of the Commonwealth of Virginia. The provisions set forth above relating to BES's maximum liability and third party indemnification, all of which insure to the benefit of, and are applicable, to IMF, and any assignee and/or other subcontractors of BES, agents, officers and employees of BES; and the provisions hereof shall bind the Subscriber with respect to IMF and any assignees or other subcontractors with the same force and effect as applicable to BES.
22. BES in the event of monitoring cancellation has the right to disconnect the control panel from the telephone lines and de-program the dial-out feature of the control panel.

Other instructions: \_\_\_\_\_

**BALDINO'S ELECTRONIC SECURITY**

**SUBSCRIBER**



By: \_\_\_\_\_

By: \_\_\_\_\_

Approved: Earle Wilson

Approved: \_\_\_\_\_

Date Approved: \_\_\_\_\_

Date Accepted: \_\_\_\_\_

THIS AGREEMENT SHALL NOT BE BINDING UPON COMPANY UNLESS APPROVED IN WRITING BY AN OFFICER OF COMPANY, IN THE EVENT OF NON-APPROVAL, THE SOLE LIABILITY OF COMPANY SHALL BE TO REFUND TO SUBSCRIBER THE AMOUNT THAT HAS BEEN PAID TO COMPANY BY SUBSCRIBER UPON THE SIGING OF THIS AGREEMENT

THE TERMS AND CONDITIONS SET FORTH ON THE REVERSE THIS AGREEMENT ARE INCORPORTATE HEREIN AND BY REFERENCE MADE A PART HEREOF.