



Terms of Service

Last Modified: August __, 2019

These Terms of Service (the “Terms of Service” or “Agreement”) set forth the terms and conditions governing the relationship between Alarmspecialists, Inc. (“Alarmspecialists”) and the customer (the “Customer”) identified in the applicable Customer Order (collectively, the “Order”) relating to the services provided by Alarmspecialists (the “Services”).

1. Scope of Services. Alarmspecialists agrees to provide the Services as set forth in the Order in accordance with the terms and conditions of this Agreement. Customer shall not control the manner or means by which Alarmspecialists performs the Services.

2. Additional Terms. Each Order may contain additional terms and conditions applicable to the Services under that Order (the “Order Terms”). To the extent there is any conflict between the Order Terms and the main body of the Terms of Service, the Order Terms shall control and supersede any other terms and conditions in the Agreement.

3. Fees and Expenses

3.1. Fees and Costs. In consideration of the provision of Services by Alarmspecialists and the rights granted to Customer under this Agreement, Customer shall pay the fees and costs set forth in the applicable Order. Unless otherwise provided, Alarmspecialists will invoice Customer at least once per month. All fees shall be due within ten (10) days after receipt of the invoice.

3.2. Expenses. Unless otherwise agreed to in the Agreement, Customer shall reimburse Alarmspecialists for all reasonable out of pocket expenses incurred in performance of the Services.

3.3. Taxes. Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer pursuant to this Agreement; provided, that, in no event shall Customer pay or be responsible for any taxes imposed on, or with respect to, Alarmspecialists’ income, revenues, gross receipts, personnel or real or personal property or other assets.

3.4. Late Payments. Except for invoiced payments that Customer has successfully disputed, all late payments shall bear a two percent (2%) late charge per month. Customer shall also reimburse Alarmspecialists for all reasonable costs incurred in collecting any late payments, including, without limitation, attorneys’ fees. In addition to all other remedies available under this Agreement or at law (which Alarmspecialists does not waive by the exercise of any rights hereunder), Alarmspecialists shall be entitled to suspend the provision of any Services if the Customer fails to pay any amounts when due and such failure continues for five (5) days following written notice of the failure to pay.

3.5. Increases in Taxes, Utility Charges, Registration Fees or Monthly Services.

(a) All Fees and Costs are based upon existing federal, state and local taxes and utility charges, including, but not limited to telephone company line charges. Alarmspecialists shall have the right, at any

time, to increase the Fees and Costs charges to reflect any additional taxes, fees or charges which may hereafter be imposed by any utility or governmental agency relating to the Services.

(b) After the expiration of one (1) year from the date of the Agreement, Alarmspecialists may increase the Fees upon written notice to Customer. In the event Customer is unwilling to pay the increased charge, Customer may terminate this Agreement upon giving notice in writing to Alarmspecialists within thirty (30) days from receipt of Alarmspecialists' notice, provided Customer shall not be in default of any of the terms and conditions of the Agreement. Failure to notify Alarmspecialists within said thirty (30) days will constitute Customer's consent to the increase and all of the other terms and conditions of this Agreement shall remain in full force and effect.

4. Alarmspecialists Limited Warranty and Limitation of Liability

4.1. Alarmspecialists Warranties. Alarmspecialists warrants that it shall use reasonable efforts to perform the Services: (a) in accordance with the terms and subject to the conditions set out in the respective Order and this Agreement, and (b) in a workmanlike and professional manner in accordance with generally recognized industry standards for similar services.

4.2. Remedy for Breach of Warranties. Alarmspecialists' sole and exclusive liability and Customer's sole and exclusive remedy for breach of the warranties in section 4.1 shall be for Alarmspecialists to use reasonable commercial efforts to promptly cure any such breach. The foregoing remedy shall not be available unless Customer provides written notice of such breach within ten (10) days after delivery of the Services giving rise to the claim.

4.3. Disclaimer of Warranties. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT, EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, THE SERVICES, INCLUDING ANY RELATED SOFTWARE AND EQUIPMENT, ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND OTHERWISE WITHOUT WARRANTY BY ALARMSPECIALISTS OR ITS THIRD PARTY PROVIDERS OF ANY KIND AND, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, ALARMSPECIALISTS AND ITS THIRD PARTY LICENSORS AND PROVIDERS EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY OF NON-INFRINGEMENT. FOR CLARIFICATION PURPOSES, NEITHER ALARMSPECIALISTS NOR ITS THIRD-PARTY PROVIDERS WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICES WITH RESPECT TO PERFORMANCE, ACCURACY, RELIABILITY, SECURITY, CAPABILITY, UPTIME, CURRENTNESS OR OTHERWISE. CUSTOMER WILL NOT HOLD ALARMSPECIALISTS AND/OR IT'S THIRD PARTY PROVIDERS RESPONSIBLE FOR ANY DAMAGES THAT RESULT FROM CUSTOMER'S USE OF THE SERVICES. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ANY PERSON SHALL CREATE A WARRANTY IN ANY WAY WHATSOEVER RELATING TO ALARMSPECIALISTS AND/OR ITS THIRD-PARTY PROVIDERS.

4.4. Additional Disclaimers. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ALARMSPECIALISTS, INC. DOES NOT REPRESENT OR WARRANT THAT THE SYSTEM OR SERVICES MAY NOT BE COMPROMISED OR CIRCUMVENTED; THAT THE SYSTEM OR SERVICES WILL PREVENT ANY LOSS BY BURGLARY, HOLD-UP, FIRE OR OTHERWISE; OR THAT THE SYSTEM OR SERVICES WILL IN ALL CASES PROVIDE THE PROTECTION FOR WHICH IT IS INSTALLED OR INTENDED. CUSTOMER ACKNOWLEDGES THAT ALARMSPECIALISTS IS NOT AN INSURER, THAT THIS AGREEMENT IS NOT INTENDED TO BE AN INSURANCE POLICY OR SUBSTITUTE OF AN INSURANCE POLICY, THAT CUSTOMER ASSUMES ALL RISK FOR LOSS OR DAMAGES TO CUSTOMER'S PREMISES AND ITS CONTENTS, AND THAT ALARMSPECIALISTS HAS MADE NO REPRESENTATIONS OR

WARRANTIES, NOR HAS CUSTOMER RELIED ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, EXCEPT AS SET FORTH HEREIN.

4.5. Limitation of Liability. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NEITHER ALARMSPECIALISTS NOR ITS THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS SHALL BE LIABLE TO CUSTOMER (OR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM CUSTOMER'S RIGHTS) FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND -- INCLUDING LOST REVENUES OR PROFITS, LOSS OF BUSINESS AND LOSS OF DATA -- IN ANY WAY RELATED TO THIS AGREEMENT (INCLUDING ANY ORDER), INCLUDING WITHOUT LIMITATION AS A RESULT OF ANY BREACH OF ANY WARRANTY OR OTHER TERM OF THIS AGREEMENT OR AS A RESULT OF NEGLIGENCE OR BREACH OF STATUTORY DUTY, REGARDLESS OF WHETHER THE PARTY THAT IS LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF. IN NO EVENT SHALL ALARMSPECIALISTS' LIABILITY FOR A CLAIM UNDER THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID TO OR RECEIVED BY ALARMSPECIALISTS UNDER THE APPLICABLE ORDER FROM WHICH THE CLAIM AROSE DURING THE SIX-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE OR \$250, WHICHEVER IS GREATER.

4.6. Insurance. Customer agrees to maintain at all times reasonable and appropriate insurance, including insurance covering the full value of the Premises and any contents. Customer does hereby for Customer and any parties claiming under Customer, release and discharge Alarmspecialists from and against all hazards covered by the required insurance (or that would have been covered had insurance been obtained), and all claims against Alarmspecialists arising out of such hazards, including any right of subrogation by Customer's insurance carrier, are hereby waived.

5. Third-Party Materials. To the extent the Services include software, content, data, or other materials, including related documentation, that are owned by persons other than Alarmspecialists ("Third Party Materials") and that are provided to Customer on licensee or other terms that are in addition to and/or different from those contained in this Agreement ("Third-Party Terms"), Customer is bound by and shall comply with all Third-Party Terms, and Customer's exclusive remedy as to the Third Party shall be against the Third-Party. Any breach by Licensee or any of its Authorized Users of any Third-Party License is also a breach of this Agreement.

6. Customer Representations and Warranties. In addition to any other representations and warranties set forth in this Agreement, Customer represents, warrants and covenants that: (i) it is a legal entity duly organized, validly existing and in good standing in the jurisdiction of its incorporation/organization/formation; (ii) it is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement; (iii) it has the full right, power and authority to enter into this Agreement; and (iv) it is now and through the Term shall remain in compliance with all applicable laws.

7. Asbestos/Toxic Substances. If, at any time, during the performance of this Agreement, asbestos or any other toxic or hazardous substance is found to be present on the Site, then Alarmspecialists, Inc. will cease all activities until such time as the Customer's qualified representative completes proper abatement services for the asbestos, toxic and hazardous substances. In any event, the procurement of any abatement procedures / services, including the associated costs, shall be the sole responsibility of the Customer, and Alarmspecialists, Inc. will not be held responsible for any delay of completion.

8. Site Defects. All Customer existing electrical wiring or devices must be clean, properly installed, free of ground faults, and in total compliance with the current codes. If any electrical deficiency is found to be present, then Alarmspecialists, Inc. will cease its Services until Customer corrects the faulty condition through either Alarmspecialists, Inc. or another supplier of the Customer's choice. Alarmspecialists, Inc. will not be held responsible for any delay of completion of any Services. In no event shall Alarmspecialists, Inc. have any obligation to identify, correct, abate, clean up, control or remove any electrical deficiency, defective premises electrical wiring or other equipment or any existing code or permit violations, any defect

at the Premises, or any toxic or hazardous material at the Site (collectively, "Site Defect") nor shall Alarmspecialists have any liability of any kind or nature whatsoever for any damages or injury caused by any Site Defect. Customer hereby agrees to indemnify, defend and hold harmless Alarmspecialists for any claim, damage, loss or injury arising out of any Site Defect. In no event shall Alarmspecialists have any obligation to coordinate the provision of other services, install or service any sprinkler systems or controls, travel cable for elevators, elevator recall or any other equipment of any kind in elevators.

9. Customer Indemnification. In addition to any other indemnification obligations under this Agreement, Customer shall defend, indemnify and hold harmless Alarmspecialists, and its officers, directors, employees, agents, Affiliates, successors and permitted assigns, and third party providers and licensors (collectively, an "Alarmspecialists Indemnified Party"), from and against any and all claims and losses arising out of or resulting from any third-party claim alleging: (i) breach by Customer of any representation, warranty, covenant or other obligations set forth in this Agreement; (ii) negligence or other fault of Customer in connection with this Agreement; (iii) that any Customer materials or intellectual property or Alarmspecialists' receipt or use thereof in accordance with the terms of this Agreement infringes any Intellectual Property of a third party; (iv) harm to any property or persons on the Premises; (v) Alarmspecialists' compliance with the terms of this Agreement and Customer's requests.

10. Intellectual Property. Except as otherwise provided, all intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "Intellectual Property Rights") in and to all documents, work product and other materials that are delivered to Customer under this Agreement or prepared by or on behalf of Alarmspecialists in the course of performing the Services (collectively, the "Deliverables"), except for any Confidential Information of Customer or customer materials incorporated in the Deliverables, shall be owned by Alarmspecialists. Provided full payment has been received by Alarmspecialists, Alarmspecialists hereby grants Customer a license to use all Intellectual Property Rights in the Deliverables free of additional charge and on a non-exclusive, worldwide, non-transferable, non-sublicenseable, fully paid-up, royalty-free basis to the extent necessary to enable Customer to make reasonable use of the Deliverables and the Services during the Term.

11. Customer Materials License. Customer hereby grants to Alarmspecialists the limited, royalty-free, non-exclusive right and license to the Customer Materials solely as necessary to incorporate the Customer Materials into the work product and deliverables as described in the Agreement and any Order. "Customer Materials" means, collectively, all content and all other information in any form or media, including but not limited to documents, data, know-how, ideas, specifications, software code and other materials provided to Alarmspecialists by or on behalf of Customer, whether or not the same: (a) are owned by Customer, a third party or in the public domain; or (b) qualify for or are protected by any intellectual property rights.

12. Confidentiality

12.1. Confidential Information. From time to time during the Term of this Agreement, either party (as the "Disclosing Party") may disclose or make available to the other party (as the "Receiving Party"), non-public proprietary and confidential information of Disclosing Party ("Confidential Information"); provided, however, that Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Receiving Party's breach of this Section; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was in Receiving Party's possession prior to Disclosing Party's disclosure hereunder; or (d) was or is independently developed by Receiving Party without using any Confidential Information.

12.2. Non-Disclosure. The Receiving Party shall: (a) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable

degree of care; (b) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (c) not disclose any such Confidential Information to any person or entity, except to the Receiving Party's Representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement. If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify Disclosing Party of such requirements to afford Disclosing Party the opportunity to seek, at Disclosing Party's sole cost and expense, a protective order or other remedy.

13. Term and Termination

13.1. Term. This Agreement shall remain in effect for the duration of the Services provided under the applicable Order (the "Term").

13.2. Termination for Default. Either party may terminate this Agreement or the applicable Order, effective upon written notice to the other party (the "Defaulting Party"), if the Defaulting Party:

(a) Materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach. If the Agreement is terminated as a result of Customer's breach, in addition to any other remedies available, the unpaid balance for the remainder of the initial term of the Order shall become immediately due and payable.

(b) Becomes insolvent or admits its inability to pay its debts generally as they become due, becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, is dissolved or liquidated or takes any corporate action for such purpose, makes a general assignment for the benefit of creditors, or has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

13.3 Termination for Convenience. Alarmspecialists may terminate this Agreement and any Order at any time upon thirty (30) days written notice to Customer.

14. Miscellaneous

14.1 Entire Agreement. This Agreement, including and together with any SOs, related exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the parties with respect to the subject matter contained in the Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter.

14.2 Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a "Notice") must be in writing and addressed to the other party at its address set forth in the Order (or to such other address that the receiving party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving party; and (b) if the party giving the Notice has complied with the requirements of this Section.

14.3 Independent Contractor. Alarmspecialists shall be an independent contractor with respect to the performance of Services under this Agreement. Alarmspecialists and Customer agree that nothing in this Agreement shall be (i) construed as constituting Alarmspecialists as other than an independent contractor of Customer for any purpose whatsoever or (ii) deemed to create an employer-employee, partnership, franchise or joint venture relationship between Alarmspecialists and Customer.

14.4 Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal or unenforceable, the parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.5 Non-Solicit/Non-Hire. During the term of this Agreement, and for a period of one (1) year following the expiration or termination of this Agreement, Customer will not, directly or indirectly, (i) solicit, employ, offer employment to, or otherwise engage as an employee, independent contractor, or otherwise, any individual who is or was an employee of Alarmspecialists at any time during the term, or in any manner induce or attempt to induce any employee of Alarmspecialists to terminate their employment with Alarmspecialists, or (ii) materially interfere with the relationship of Alarmspecialists with any individual who at any time during, prior to, or after the Effective Date was an employee of Alarmspecialists, without the prior written consent of Alarmspecialists.

14.6 Amendments. No amendment to or modification of this Agreement or any Agreement is effective unless it is in writing, identified as an amendment to this Agreement, and signed by an authorized representative of each party.

14.7 Waiver. No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

14.8 Assignment. Customer shall not assign, transfer, delegate or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Alarmspecialists. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Customer of any of its obligations under this Agreement.

14.9 Successors and Assigns. This Agreement is binding on and inures to the benefit of the parties to this Agreement and their respective permitted successors and permitted assigns.

14.10 No Third-Party Beneficiaries. Agreement benefits solely the parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

14.11 Choice of Law. This Agreement, including the Order and all exhibits attached to this Agreement or Order, and all matters arising out of or relating to this Agreement, is governed by, and is to be construed in accordance with, the laws of the State of Colorado, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Colorado.

14.12 Arbitration. Any controversies or disputes arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with current Commercial Arbitration Rules of the American Arbitration Association. The parties shall select a mutually agreeable arbitrator knowledgeable about the issues relating to the subject matter of this Agreement. In the event the parties are unable to agree to such a selection, each party will select an arbitrator and the two arbitrators in turn shall select a third arbitrator, all three of whom shall preside jointly over the matter. The arbitration shall take place in Denver, Colorado, or an otherwise mutually agreed upon by the parties. All documents, materials, and information in the possession of each party that are in any way relevant to the dispute shall be made available to the other

party for review and copying no later than 30 days after the notice of arbitration is served. The arbitrator(s) shall not have the authority to modify any provision of this Agreement or to award punitive damages. All arbitrated decisions shall be effective immediately upon entry and shall be binding on the parties until or unless vacated by the arbitrator(s) pursuant to part 2 of article 22 of title 13, C.R.S., or until modified or corrected by the arbitrator pursuant to part 2 or article 22 of title 13, C.R.S.

14.13 Attorney Fees. In any action or proceeding between the parties to enforce the terms of this Agreement, in addition to all other legal or equitable remedies, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses, including reasonable attorneys' fees incurred to enforce this Agreement or by reason of such action or proceeding.

14.14 Force Majeure. Alarmspecialists shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Alarmspecialists including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage. This Agreement may be suspended or canceled, without notice and without liability or penalty, at the option of Alarmspecialists in the event the receiving station connection wires or other equipment are destroyed by fire, other catastrophe or are so substantially damaged that it is impractical to continue service, or in the event that Alarmspecialists is unable to either secure or retain the connections or privileges necessary for the transmission of signals between the Premises and the Alarmspecialists receiving station or between the receiving station and the public police or fire department for any reason whatsoever.