

# Subscriber Service Agreement Terms and Conditions

## **READ THIS AGREEMENT CAREFULLY BEFORE YOU ORDER YOUR NEW LIFEGUARDIAN SYSTEM.**

**1. AGREEMENT PARTIES.** Subscriber understands this Service Agreement (hereafter referred to as the "Agreement") is solely by and between LifeGuardian Technologies, LLC, a Nevada Limited Liability Company (hereafter referred to as "LifeGuardian") and the subscriber (hereafter referred to as the "Subscriber") for use of a personal emergency reporting system (hereafter referred to as the "System").

**2. SUBSCRIBER INFORMATION.** Subscriber agrees to immediately update, and keep current at all times, all information contained on the Subscriber Account Information Form and to immediately report or transmit any/all changes or cancellation, in writing, to LifeGuardian by FAX to 800-209-3813 or by mail to **LifeGuardian Technologies, LLC, 125 Old Grove Road, Ste 9 PMB 310 Oceanside, CA 92057**. Information required to be kept current at all times are, but are limited to, subscriber telephone & address information, medical information, billing/bank account information and credit card expiration dates.

**4. INSTALLATION & TESTING.** SUBSCRIBER ACCEPTS SOLE AND COMPLETE RESPONSIBILITY FOR SYSTEM INITIAL INSTALLATION, OPERATION, MAINTENANCE AND WEEKLY TESTING. Weekly testing of the System is required to insure System is functioning correctly. If subscriber chooses not to test the System every week, subscriber agrees to release and hold harmless LifeGuardian from any/all liability should the System fail to operate in the event of an emergency.

**5. MONITORING SERVICES.** Monitoring services consist of the receipt, analysis and response to signals from the Subscriber. Signals from the system maintained by Subscriber at the Subscriber's premise shall be monitored by a nationwide UL listed & licensed alarm monitoring center which is not affiliated with, owned or operated by LifeGuardian. The monitoring company shall monitor the Subscribers System by acknowledging signals from the console and seeking to create two way voice communication with the subscriber at his premises through the system, Thereafter, monitoring center may seek to contact by telephone one or more of the responders designated in the agreement.

**6. EVENT REPORTING.** Upon receipt of an alarm signal from the premises of Subscriber, the monitoring center will make every reasonable effort to promptly notify the police, fire department or paramedic units having jurisdiction or other persons or entities designated by Subscriber in the Subscriber Account Information Form provided by Subscriber. Subscriber agrees that the System may enable the emergency dispatchers to "listen in" to Subscriber's premises and to establish two-way voice communications with occupants of the premises. Subscriber authorizes the monitoring center to utilize this feature upon receipt of an alarm to authenticate the nature of the emergency and to ascertain whether or not an emergency condition exists. **THE MONITORING CENTER MAY, IN ITS SOLE DISCRETION, ELECT NOT TO NOTIFY THE PARAMEDICS, POLICE OR FIRE DEPARTMENT OR OTHERS IF CENTER HAS THE SLIGHTEST REASON TO BELIEVE THAT AN EMERGENCY CONDITION MAY NOT EXIST.** Subscriber acknowledges that the LifeGuardian is unable under any circumstances to activate the listen-in feature from the monitoring center without having it's received an alarm signal. The subscriber or his designee agrees to notify LifeGuardian of the disposition with regard to any System signal within twenty-four hours (24).

**7. TELEPHONE LINES.** Subscriber understands that a working standard telephone line and 110 VAC power is required for proper System operation. Subscriber acknowledges that the signals from Subscriber's System are transmitted over Subscriber's regular telephone service to the monitoring center, and in the event Subscriber's telephone service is out of order, in use, unplugged, disconnected, placed on vacation or otherwise interrupted, signals from Subscriber's System will not be received by the monitoring center during any such interruption in telephone service and the interruption will not be known to monitoring center. Subscriber shall pay all charges made by any telephone company or other utility for Installation, leasing and service charges of telephone lines and jacks connecting Subscriber's System to LifeGuardian. Subscriber further acknowledges and agrees that signals are transmitted over the telephone company lines which are wholly beyond the control and jurisdiction of monitoring center and are maintained and serviced by the applicable telephone company or utility. Subscriber understands that a change in telephone service may render the unit inoperative if phone service is changed or modified subscriber agrees to verify system compatibility and performance.

**8. TELEPHONE LINE REQUIREMENTS.** SUBSCRIBER ACKNOWLEDGES, UNDERSTANDS AND ACCEPTS THAT THE SYSTEM WILL NOT OPERATE IF AN EXTENSION PHONE IS IN USE OR IF ANY PHONE IS "OFF THE HOOK" OR IF NO DIAL TONE IS AVAILABLE FOR ANY REASON. If the Subscriber has two (2) or more telephones using the same telephone number, Subscriber may need to install either a dedicated telephone line or a RJ31X jack to insure proper System operation. The RJ31X jack allows the System to send a signal over the phone lines even though any phone is in use or off the hook. Any System without the RJ31X cannot communicate with the LifeGuardian under those specific circumstances. Please note that the RJ31X jack is an optional item and that the System will communicate without it providing the phone is not in use or off the hook. This optional jack can be ordered from your local telephone company business office.

**9. EQUIPMENT REPAIR OR REPLACEMENT.** Subscriber agrees that LifeGuardian's sole and only obligation under this service Agreement shall be to provide equipment manufacturer's warranty support in the event the System is defective as solely determined by LifeGuardian. Each System includes free lifetime equipment repair or replacement program for as long as the Subscriber is monitored by LifeGuardian. It is the sole responsibility of Subscriber to contact LifeGuardian for the first on-line test and all subsequent weekly tests to ensure proper functioning of all equipment. In the event the Subscriber is unable to perform a successful System test, Subscriber agrees to immediately notify Technical Support at 800-378-2957 Ext 712 to report any/all System problems or malfunctions.

**10. LOCAL PERMITS.** Subscriber is solely and completely responsible for obtaining and maintaining and shall apply for, retain and pay for all licenses, permits, or other charges imposed by any governmental agency necessary for the installation and use of the System. Subscriber is responsible for investigating specific permits required by his local municipality, law enforcement agency or other appropriate jurisdictional body. Subscriber understands & accepts that LifeGuardian is a retailer of user-installed personal emergency reporting systems and is not a state-licensed alarm dealer or installer.

**11. FALSE ALARMS.** In the event of an excessive number of false alarms caused by Subscriber's carelessness, malicious action or accidental use of the System, LifeGuardian may, at its sole discretion, deem same to be a material breach of contract on the part of Subscriber and, at its option, in addition to all other legal remedies available to LifeGuardian be, excused from further performance, upon the giving of ten (10) days written notice to Subscriber. LifeGuardian's excuse from performance shall not affect its right to recover damages from Subscriber. In the event a fine, penalty or fee is assessed against LifeGuardian by any governmental or municipal agency as a result of any alarm originating from Subscriber's premises, Subscriber agrees to forthwith reimburse LifeGuardian for same.

**12. INTERRUPTION OF SERVICE.** LifeGuardian assumes no liability for interruption of monitoring service due to strikes, riots, floods, storms, earthquakes, fires, power failures, insurrection, interruptions or unavailability of telephone service, acts of God, or for any other abuse beyond the control of LifeGuardian. LifeGuardian and will not be required to supply monitoring service to Subscriber while interruption of service due to any such cause may continue.

**13. SUSPENSION OR CANCELLATION.** This Agreement may be suspended or cancelled without notice at the option of LifeGuardian if the LifeGuardian's contracted monitoring facilities or Subscriber's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service or in the event LifeGuardian is unable to render service as a result of any action by any governmental or regulatory authority

**14. SUBSCRIBER'S DUTIES.** Subscriber shall carefully use and instruct all members of his or her household proper use of the System. Subscriber shall use the System only to report incidents or occurrences that impose an immediate and present danger of burglary, robbery or other circumstances that endanger the life or personal safety of Subscriber or others in Subscriber's home. In addition, Subscriber agrees to keep current the Subscriber information provided to monitoring center. All changes, revisions and modifications of the information shall be supplied to LifeGuardian in writing. It is the sole responsibility of the Subscriber to perform tests of the System for proper operation no less than once a week. **FAILURE TO CONDUCT WEEKLY SYSTEM TESTS BY THE SUBSCRIBER RELEASES LIFEGUARDIAN FROM ANY/ALL LIABILITY IN THE EVENT THE SYSTEM FAILS TO OPERATE IN THE EVENT OF AN EMERGENCY.**

**15. AGREEMENT TERM.** The initial term of this Agreement is for a minimum period as selected by Subscriber on reverse side (Paragraph #4 "Service Plan Selected/Agreement Term"). **AGREEMENT IS EFFECTIVE WHEN THE MONITORING SERVICE IS FIRST ACTIVATED AND SHALL AUTOMATICALLY RENEW ITSELF FOR SUBSEQUENT TERMS UNTIL TERMINATED BY EITHER PARTY IN WRITING 30 DAYS IN ADVANCE OF THE RENEWAL DATE.** Monitoring services provided to Subscriber will begin – and the system is considered "activated", upon receipt of subscriber's order and assignment of a subscriber account number.

**16. MONITORING SERVICE FEES.** Subscriber agrees to pay monitoring service fees as selected on the Subscriber Account Information & Service. A non-refundable Account Activation Fee of \$99 applies to all new accounts. Monitoring service fees are due and payable in advance prior to each service period. LifeGuardian may charge a late fee of \$10/month for each month subscriber maintains an unpaid balance due. Additionally, interest at the rate of two percent (2%) per month of the unpaid balance may be charged for all balances over 30 days past due. Suspended or de-activated accounts are subject to a \$49 re-activation fee. Pre-paid monitoring fees are non-refundable in the event of early termination or default by the Subscriber.

**17. PRIVACY AGREEMENT.** Subscriber authorizes the release medical information provided to LifeGuardian to law enforcement, emergency medical or rescue personnel in the event the Subscriber activates the System and emergency rescue personnel (including police, fire and paramedics) are dispatched to assist the Subscriber. LifeGuardian will not release any medical information provided by the subscriber for any other reason or purpose unless required to by law or law enforcement.

**18. MEDICAL OR RELATED EXPENSES:** In the event the subscriber utilizes the system by transmitting a signal to the monitoring center, the subscriber does hereby authorize the monitoring center to seek to obtain assistance in their behalf. The subscriber shall be obligated for any agrees to pay any cost and expenses incurred in obtaining assistance including but not limited to ambulance, physician or other medical assistance or any cost whatsoever incurred as a result of the subscribers use of the system.

**19. FORCEABLE ENTRY.** The subscriber authorizes in its sole discretion to authorize entry to the subscribers premise in the event of a signal is transmitted to the monitoring center. LifeGuardian is relieved from any and all liability whatsoever as a result of said entry.

**20. AGREEMENT TERMINATION:** Subscriber may terminate this Agreement by returning equipment to LifeGuardian within seven (7) days of date of receipt of the initial order for a full refund of equipment cost and pre-paid monitoring fees, less original shipping charges and the \$99 activation fee. After seven (7) following delivery, all sales are final and no refunds will be issued. Thereafter, either party may terminate this Agreement after the initial term as selected by the Subscriber (Paragraph #15 "Agreement Term") by providing the other party with written notice thirty (30) days prior to the end of the initial term or any subsequent term. Upon termination of the Agreement for any reason, Subscriber shall permit LifeGuardian, or its agent, to disconnect Subscriber's System from LifeGuardian's monitoring center. Subscriber termination requests must be made in writing and all rental equipment must be returned to LifeGuardian – at Subscriber's expense – before the account can be deactivated. This Agreement may be immediately terminated, and all monitoring services discontinued, at the sole discretion of LifeGuardian, any time monthly monitoring service charges are more than thirty (30) days past due. Written notice by LifeGuardian via U.S. mail, postage prepaid to the billing address shall be deemed sufficient notice of discontinuation for non-payment. In the event of non-payment or default by Subscriber, Subscriber agrees to pay all outstanding monitoring fees and return all LifeGuardian System rental equipment to the LifeGuardian within fourteen (14) days. LifeGuardian reserves the right to charge subscriber for non-return of LifeGuardian System rental equipment in the amount of Four hundred Ninety Five dollars (\$495), unpaid monitoring services, late payment fees, interest and collection costs in the maximum amount allowed by law. All LifeGuardian rental equipment must be returned to: LifeGuardian Technologies, LLC Attn: Returns 125 Old Grove Road, Suite 9 PMB 310 Oceanside, CA 92057 within seven (7) days of termination by either party.

**21. DISCLAIMER OF WARRANTIES.** LifeGuardian does not represent that the System may not be compromised or circumvented or that the System or service will prevent or minimize any loss by emergency medical, fire, burglary, hold-up or otherwise that the System or service will in all cases provide the protection for which it was installed or intended. Subscriber acknowledges and agrees that LifeGuardian has made no representations or warranties express or implied, as to any matter whatsoever, including without limitation the condition of the equipment, its merchantability or fitness for any particular purpose and the limited warranty of the manufacturer is the only express warranty regarding the System. Subscriber further acknowledges and agrees that any affirmation of fact or promise shall not be deemed to create an express warranty and that there are no warranties which extend beyond the face of the Agreement hereof. Subscriber further acknowledges and agrees that LifeGuardian is not an insurer, that Subscriber assumes all risk of loss or damage to life, premises or the contents thereof. Subscriber has read and understands all of this Agreement, particularly Paragraph 10, which sets forth LifeGuardian's maximum liability in the event of loss or damage to Subscriber or anyone else.

**22. LIMITATION OF LIABILITY.** It is understood and agreed that neither LifeGuardian nor monitoring center is an insurer of person life, limb, or property and that insurance if any covering personal injury like and property loss or damage shall be obtained by the subscriber if so desired LifeGuardian is being paid for the monitoring of a system designed to reduce certain risk. LifeGuardian and the subscriber acknowledges that the amounts being charged are not sufficient to in any loss or damage will occur even if due to LifeGuardian or monitoring center negligent performance or failure or perform any obligation under this Agreement or failure of the system to operate as intended or for any other reason whatsoever. Subscriber agrees that if LifeGuardian was to have any liability greater than that agreed to by the Subscriber, LifeGuardian could not and would not provide the service. Subscriber acknowledges that Subscriber should obtain and maintain at all times life, medical, disability and property insurance for the protection of the Subscriber and others who may use the System. Subscriber understands that there are alternatives available to Subscriber such as "911" emergency telephone service and Subscriber has selected this service with a full understanding of its limitations and the limitation of LifeGuardian liability.

Subscriber acknowledges that it is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from LifeGuardian's active or passive negligence, a failure to perform any of the obligations herein, including, but not limited to, design of equipment, warranty service, service, monitoring service or the nature of the System to properly operate with resulting loss to subscriber because of among other things:

- a) The uncertain amount or value by 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 service is designed to detect or avert;
- b) The uncertainty of the response time of any police or fire department, paramedic unit or others should they be dispatched as a result of a signal being received;
- c) The inability to ascertain what portion, if any, of any loss would be proximity caused by LifeGuardian's failure to perform or by the System to operate;
- d) The uncertain nature of occurrences which might cause injury/death to subscriber or any other person which the System or service is designed to detect or avert
- e) The inability of LifeGuardian to know whether or not the System is operational; and the nature of LifeGuardian's services.

Since it is impractical and extremely difficult to fix actually damages which may arise due to improper monitoring of the system the failure services or the failure to perform said services if not withstanding the above provisions there should arise any liability whatsoever on the part of LifeGuardian or monitoring center it is agreed that such liability shall be limited to two hundred fifty dollars (250.0) This sum shall be completed and exclusive and shall be paid and received as and exclusive and shall be paid and received as an exclusive remedy and not as a penalty.

**23. SERVICE LIMITATIONS.** Subscriber acknowledges that LifeGuardian does not represent or warrant that the System or monitoring service will prevent death, bodily or personal injury, or any other injury or damage to Subscriber or others who use the System. LifeGuardian makes no representation or warranty as to the promptness of its response, and has no control over the response time or capability of any agency or person who may be notified as the result of the System being used. Subscriber further understands that LifeGuardian 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.

**24. ARBITRATION AGREEMENT.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Both parties to this contract, by entering into it, agree that all claims must be arbitrated and are giving up their constitutional right to have any such dispute decided in a court of law before a jury and instead are accepting the use of arbitration. Arbitration must take place in Clark County, Nevada. The validity, interpretation and performance of this Agreement and any dispute connected therewith shall be governed and construed according to the laws of the State of Nevada.

**25. THIRD PARTY INDEMNIFICATION.** When Subscriber in the ordinary course of business has the opportunity of others in his custody, or the System extends to protect property of others, Subscriber agrees to and shall indemnify, defend and hold harmless LifeGuardian, its employees, distributors, retailers or agents for and against all claims brought by parties other than the parties to this Agreement. This provision shall apply to all claims regardless of cause including LifeGuardian's performance or failure to perform and including defects in products, design, installation, maintenance, operation or non-operation of the System whether based upon active or passive negligence, express or implied warranty, contribution, indemnification, or strict or product liability on the part of LifeGuardian, its employees or agents, but this provision shall not apply to claims for loss or damage which occurs if an employee of LifeGuardian is on Subscriber's premises and are solely and directly caused by said employee.

**26. INVALID PROVISIONS.** In the event of any of the terms and provisions 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.

**27. NOTICES.** All notices to be given hereunder shall be in writing and may be served, either personally or by mail, postage prepaid to the Subscriber address set forth in the Agreement or to any other address provided by one to the other from time to time in writing.

**28. ENTIRE INTEGRATED AGREEMENT, MODIFICATION, ALTERATION & 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 supersedes all prior representations, understandings, or agreements of the 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.

**29. SUBSCRIBER APPROVAL & ACCEPTANCE.** Activation of the System by Subscriber confirms that Subscriber, or authorized legal representative, has read, understands and accepts the above LifeGuardian Service Agreement in its entirety without exception or exclusion. The undersigned represents and warrants that he/she is the persons who will be using the System, or a legal representative of the subscriber, is of legal age to enter this agreement and agrees to be bound by all of the terms and conditions of this Service Agreement. Subscriber acknowledges receipt of a copy of this agreement. I hereby authorize LifeGuardian Technologies, LLC or its assignee "Monitoring Services" to initiate ongoing monthly electronic debits from my credit card or bank account for all amounts I owe under this Agreement as directed above unless I cancel the authorization through written notice. If I fax this Agreement to expedite commencement of my services, I understand that a facsimile (FAX) copy is considered the same as an original for all purposes.