

# ALARMS MANAGEMENT PROGRAM

## SERVICE AGREEMENT

(Hereinafter referred to as the "Agreement")

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

BETWEEN: \_\_\_\_\_

(Hereinafter referred to as the "Company")

- and -

### HAMILTON POLICE SERVICES BOARD

(hereinafter referred to as the "Board")

WHEREAS the Company is a Signal Receiving Centre as defined by the Underwriters' Laboratories of Canada carrying on business in the Province of Ontario and servicing clientele who reside in the City of Hamilton;

AND WHEREAS the Company is responsible for contacting police and requesting emergency response to the residences and/or businesses of its customers whenever it receives notice that a security alarm has been breached;

AND WHEREAS the Board has established an Alarms Management Program (hereinafter the "Program") and has adopted the Program as Schedule D to By-Law 14-001 (hereinafter the "By-law"), the details of which prescribe the circumstances under which the members of the Hamilton Police Service (hereinafter the "Service") will respond to alarm calls and any applicable fees or charges that will be levied against the Company in accordance with the Program;

THEREFORE IN CONSIDERATION of the mutual covenants and agreements set out herein the parties hereto covenant and agree as follows:

## PROGRAM REGISTRATION

1. The Company is required to initially register itself with the Program by contacting the designated representative of the Board (hereinafter the “Representative”). An authorized agent of the Company shall sign the Agreement to signify its acceptance of the Terms and Conditions of the Program which are outlined in the By-law. At the beginning of each year the Representative will, at their sole discretion, determine whether the Company is an eligible candidate for the Program. In order to be eligible for participation in the Program the Company:
  - a. Must be listed with the Underwriters Laboratories of Canada, or other Board approved organization; and
  - b. Must not have an outstanding account balance beyond 60 days from invoice date with the Board in respect of fees.
2. Once the Company has been deemed eligible to participate in the Program, the Company will be assigned a unique identifying number by the Representative. The Company agrees to provide the Representative with a list of its customers residing in the City of Hamilton who require police response at their alarmed premises. The list shall include the complete address particulars for each customer. The Representative will assign each customer a customer permit number. The Company will be provided with its own identifying number as well as a list of permit numbers.
3. Any change in the information pertaining to the Company, including any change to the ownership of the Company and/or any amendment to its incorporation status, where applicable, as well as any cancellations or additions to its individual customers shall be reported, in writing, to the Representative immediately, together with the date upon which the change is scheduled to or has taken effect. Such notices will be provided to the Board in accordance with the provisions set out in Paragraph 29.

**POLICE RESPONSE UNDER THE VERIFIED RESPONSE PROGRAM EFFECTIVE  
SEPTEMBER 1, 2019**

4. Once the Company has been deemed eligible to participate in the Program it will provide the Representative with a list of its customers residing in the City of Hamilton who have requested Police Response to alarm activations. The customer addresses will also be provided to the Representative for Police Response. The Service will have no direct contact with the Company's customers unless a customer contacts the Service directly for follow up to an emergency call for service or for a matter that is not related to the Terms and Conditions of this Agreement. If during the term of the Agreement the Company's participation in the Program is terminated in accordance with Paragraph 21 below, the Company acknowledges and agrees that it shall be responsible for alerting its customers that it is no longer a participant in the Program and that such notice shall be sent by registered mail to its customers within 10 working days of such non-participation.
  
5. For each emergency call that is placed with the Service, the Company must verify the alarm first and agree to provide the Service with the following information:
  - a. The name of the monitoring station;
  - b. The customer permit number assigned to the residence/business that requires police assistance;
  - c. The complete street address of the residence/business and the name of the registered owner of that address, together with any police officer safety concerns that are known by the Company to be present at the residence;
  - d. Advise how the alarm has first been verified at the premises requiring police assistance;
  - e. The time at which the operator accessed the event information.

**6. Prior to contacting police, the monitoring station must verify the intrusion alarm using at least one of the following methods:**

1. Audio sensors that provide the alarm company or monitoring service with the ability to confirm criminal activity by the sounds detected within the premises;
2. A video system that provides the alarm company or monitoring service with the ability to confirm criminal activity through visual images;
3. Confirmation made by an owner, key holder, an alternate response agency, or a witness on scene who can confirm the existence of a suspected criminal act; or
4. The alarm was triggered by multiple activation points i.e. at least two separate/different sensors and the alarm company or monitoring system determines the manner or sequence of activation indicates that suspected criminal activity is, or has taken place.

*\*A Verified Response requirement does not apply to panic, hold-up or duress alarms as with these alarms, there is reason to believe that a crime against a person is taking place or an emergency exists; and the safety of the community is paramount. These calls will continue to be treated as an emergency.*

**If the company is unable to verify the alarm as per paragraph 6, Officers will not be dispatched.**

7. Where the Company has placed a call for service with the Service that has been verified by the Company in accordance with one of the processes outlined at Paragraph 6, the members of the Service will dispatch the first available police unit to respond to the call for service at a priority of response that will be dictated by the other operational demands occurring during the same timeframe. The Company acknowledges and agrees that the Service makes no warranties or representations with respect to their ability to respond to an alarm call, within a certain timeframe and that the police response time for the call will be subject to other operational demands experienced by the Service at the time the call is made. The Company also acknowledges that it does not have the ability or the authority to set the parameters around police response time or make suggestions with respect to police response time to alarm calls for service. The decisions affecting police

response to alarms calls are determined within the sole discretion of the Chief of Police or his designate.

8. If after the Company has placed an alarm call to the Service it determines that the call is indeed a false alarm the Company agrees to contact the Service immediately to cancel the call. If the alarm call can be cancelled by the Service prior to a police unit acknowledging the call and marking themselves en route to the call, the call for service will not be classified as a false alarm and the Company will not be billed for the fees and charges outlined in Paragraph 10 below. If during the time in which the Company is attempting to cancel a call for service the responding police unit has marked themselves en route to the call but has not yet arrived at the address of the alarm call, the Company will be charged the reduced fee for cancelled alarms as outlined at Paragraph 10.
9. In the event that this Agreement is terminated by either party during the term of the Agreement or the Company is deemed to be an unsuitable candidate by the Representative, the Company acknowledges and agrees that it will be classified by the Service as an unregistered Signal Receiving Centre operating within the City of Hamilton. As a result the Police Service will no longer recognize the unregistered Signal Receiving Centre as acting as agent on behalf of the premises owner. In this case the premises owner will be required to contact the Service directly to make an emergency call for service in response to the alarm.

#### **FEES AND CHARGES FOR FALSE ALARMS**

10. The Company agrees to reimburse the Service in accordance with Schedule D of Hamilton Police Services Board By Law 14-001 for each false alarm call that is answered by a police unit (hereinafter referred to as the "Fee"). The fee may be reduced, in accordance with Schedule D of Hamilton Police Services Board By Law 14-001, at the sole discretion of the Service, whenever the Company is able to cancel a false alarm call prior to the responding police unit arriving at the scene of the alarm call (hereinafter referred to as the "Cancellation Fee"). Both the Fee and the Cancellation Fee are non-negotiable amounts that may be changed by by-law at any time, without notice to the Company, in accordance with the provisions set out in the *Municipal Act, 2001*, S.O. 2001, c. 25.

11. The Fee, or the Cancellation Fee, where applicable, will be charged to the Company on every occasion that a police unit has accepted a call for service and the call is ultimately deemed to be a false alarm. The decision to classify the call for service as a false alarm will be made at the sole discretion of the responding police unit. The responding officer(s) will be directed to classify an alarm call for service as a false alarm in every instance where the responding officer(s) finds no evidence of criminal activity at the premise or where the responding officer(s) has marked himself en route to respond to the call before the Company is able to cancel the call.
12. Once a false alarm call has been reported to the Service, the Representative will issue an invoice to the Company requiring payment of the Fee or Cancellation Fee immediately. The Service may elect to issue a consolidated invoice to the Company on a weekly basis, inclusive of all fees owing by the Company, the payment of which would be required immediately. All payments made by the Company to the Service must be accompanied by a copy of the original invoice, which includes the permit numbers on which the charge(s) were issued.
13. In circumstances where the Company wishes to dispute the classification of the call for service as a false alarm, the Company may write to the Representative seeking a reconsideration of its decision to levy the fee against it. Regardless of the ability of the Company to appeal the decision to levy the fee, the Company acknowledges that it is still responsible for paying the fee and that any and all ramifications of not paying the fee, including removal from the Program, remain available to the Board during the appeal period. All appeal decisions shall be the sole and absolute discretion of the Representative and all decisions of the Representative are final. Should the Representative decide to allow the appeal of the fee, the Company will receive a credit for the amount of the fee, which will appear on the next invoice that is issued to the Company.

**COSTS OF SERVICE**

14. Each party shall bear their respective administrative expenses associated with its compliance with the terms of this Agreement, with the exception of the fees incurred and payable by the Company as outlined at Paragraph 10 above.

**LIABILITY AND INSURANCE**

15. The Company hereby assumes any and all risks incidental to and associated with the Company's performance of the Terms and Conditions in this Agreement and shall at all times fully indemnify and save harmless the Board, its successors and assigns, from and against any and all claims, damages, losses, costs and expenses which the Company or the Board may from time to time incur or suffer as a result of, or arising out of, injury to, or death of, persons or damage to real or tangible personal property which may be caused by the negligence of the Company or any breach or default by the Company of its obligations under this Agreement.
16. The Board hereby assumes any and all risks incidental to and associated with the Board's performance of the Terms and Conditions in this Agreement and shall at all times fully indemnify and save harmless the Company, its successors and assigns, from and against any and all claims, damages, losses, costs and expenses which the Board or the Company may from time to time incur or suffer as a result of, or arising out of, injury to, or death of, persons or damage to real or tangible personal property which may be caused by the negligence of the Board or any breach or default by the Board of its obligations under this Agreement.
17. A party will not be in breach of this contract or be liable to the other party if it fails to perform or delays the performance of an obligations as a result of an event beyond its reasonable control, including, strikes, industrial disputes, fire, flood, act of God, war, insurrection, vandalism, sabotage, invasion, riot, national emergency, piracy, hijack, acts of terrorism, embargoes or restraints, extreme weather or traffic conditions, temporary closure of roads, legislation, regulation, order or other act of any government or governmental agency.

18. The Company agrees to provide the Board with a Certificate of Insurance evidencing coverage for at least ONE MILLION (\$1,000,000.00) DOLLARS per occurrence and TWO MILLION (\$2,000,000.00) DOLLARS in the aggregate to cover its liability at law or under this Agreement for personal injury or death or property damage (such coverage being generally referred to as “Commercial General Liability Insurance”). The Certificate shall specifically cover operations under this Agreement, shall name the Board as an additional insured party in respect of losses or claims referred to herein. Such insurance shall remain in full force and effect throughout the term of this Agreement. The company agrees to notify the board in writing of any change in coverage material to this agreement.
19. Failure of the Company to so provide, or to keep the required insurance in full force and effect shall be grounds for the termination of this Agreement by the Board in accordance with the provisions in Paragraph 21 (c).

## **TERM**

20. This Agreement shall be deemed to have come into force and effect on the date that it is signed by the parties to the Agreement and shall automatically renew for ONE (1) year periods from the date of commencement, unless it is otherwise terminated by the Board and/or the Company in accordance with Paragraph 21 below.

## **TERMINATION**

21. This Agreement shall be terminated in any of the following circumstances:
- (a) at the option of the Company, by THIRTY (30) days prior written notice to the Board; or
  - (b) at the option of the Board, by THIRTY (30) days prior written notice to the Company; or
  - (c) at the option of the Board, by giving written notice to the Company of a breach of this agreement and the Company not resolving the breach to the full satisfaction of the Board within THIRTY (30) days of such notice, the determination of which will be made at the sole discretion of the Board; or

- (d) at the option of the Company, by notice in writing to the Board terminating this Agreement forthwith by reason of the Company becoming bankrupt or making an assignment for the benefit of his creditors or in the event a receiver is appointed of the Company's property; or
- (e) at the option of the Company, by notice in writing to the Board terminating this Agreement forthwith by reason of the Company no longer conducting business with the residents and proprietors of the City of Hamilton;
- (f) at the option of the Company and /or the Board, by notice in writing to either party, by reason of the By-law being repealed in its entirety by the Board. This does not include amendments to the By-law which may occur from time to time in order to alter the false alarm or cancellation fee;
- (g) by mutual written agreement of the parties hereto.

In the event the Agreement is terminated for any of the above reasons the Company agrees to pay all outstanding fees owing to the Board as a result of false alarms determined in accordance with Paragraphs 10 and 11 above.

## **ACCESS TO INFORMATION AND RECORDS RETENTION**

22. Upon termination of this Agreement, the Representative shall forthwith destroy any and all materials whatsoever provided to the Board by the Company in respect to its business and its customers. The Company acknowledges that these records will not include any police operational reports and/or internal documents generated by the Board or its members with respect to police response to calls for service made by the Company or the administration of the Program by the Service in respect to the Company. The Board's records will be retained by the Board in accordance with its Records Retention By-law and destroyed in accordance with the provisions set out therein. Any information the Company requires with respect to this documentation may be obtained by the Company through an Information and Privacy Request made in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.

## **GENERAL**

### **Entire Agreement and Waiver**

23. This Agreement constitutes all of the agreements between the Company and the Board pertaining to the subject-matter of it and supersedes all prior agreements, undertakings, negotiations and discussions, whether oral or written, of the parties to it and there are no warranties, representations or other agreements between the parties to it in connection with the subject-matter of it except as specifically set forth or referred to in this Agreement. No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the party hereto to be bound thereby. No waiver of any other provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions (whether or not similar) nor shall the waiver constitute a continuing waiver unless otherwise expressly provided.
24. This Agreement does not form part of any agreement for services that exists, did exist or may exist in the future between the Company and its individual customers within the City of Hamilton. Similarly all benefits and obligations created under this Agreement are bestowed solely on the parties to this Agreement and do not extend to any customers of the Company with respect to police response to alarmed premises.

### **Headings**

25. Headings are not to be considered part of this Agreement, are included solely for convenience and are not intended to be full or accurate descriptions of the content of the paragraphs.

### **Interpretation**

26. In this Agreement, words importing the singular number include the plural and vice versa, words importing the masculine gender include the feminine and neuter genders; and words importing persons include individuals, sole proprietors, corporations, partnerships, trusts and unincorporated associations.

**Applicable law**

27. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada in force therein.

**Invalidity of provision**

28. The invalidity or unenforceability of any provision of this Agreement or any covenant in it shall not affect the validity or enforceability of any other provision or covenant in the Agreement and the invalid provision or covenant shall be deemed to be severable. The Agreement, without the invalid provision or covenant, shall remain in full force and effect.

**NOTICES**

29. Any notice or communication provided for under this Agreement shall be in writing and be sufficiently given to the party to whom it is addressed if it is delivered or sent by pre-paid registered mail or emailed to or for such party at the addresses of such party as set out below:

If to the Company:

**Company Name:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

\_\_\_\_\_  
POLICE PROGRAM PHONE #: \_\_\_\_\_ FAX #: \_\_\_\_\_

POLICE PROGRAM GENERAL EMAIL: \_\_\_\_\_

If to the Board:

**Hamilton Police Services Board**  
**Alarm Coordinator, Support Services**  
**Hamilton Police Service**  
**155 King William Street,**  
**Hamilton, Ont. L8R 1A7**

- 30. Any notice or communication addressed and delivered, mailed or emailed, as applicable, in accordance with this paragraph shall be deemed to have been sufficiently given and received on the date on which it was so delivered or, if such date is not on a business day, on the business day next following such date, or on the fifth business day next following the date of its mailing or on the first business day next following the date of its emailing, as applicable.

**SUCCESSORS AND ASSIGNS**

- 31. Neither this Agreement nor any interest in it may be assigned in any manner by the Company without prior written acceptance by the Board. This Agreement shall be binding upon any successors and assigns of the Company.

**COMPANY’S UNDERSTANDING**

- 32. The Company understands its commitments and obligations under this Agreement and further acknowledges that it was given the opportunity to obtain independent legal advice before signing this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date herein before written. \_\_\_\_\_ (Your company name)

Per: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email: \_\_\_\_\_

Per: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email: \_\_\_\_\_

I/WE HAVE THE AUTHORITY TO BIND THE  
CORPORATION

**HAMILTON POLICE SERVICES BOARD**

Per: \_\_\_\_\_

Name: Fred Eisenberger

Title: Chair

Per: \_\_\_\_\_

Name: Kirsten Stevenson

Title: Administrator