

SERVICE PROVIDER & SUBSCRIBER MONITORING AND LEASE AGREEMENT

SERVICE PROVIDER:

SUBSCRIBER:

Name: Calhoun County REC

Name: _____

Address: PO Box 312

Address: _____

Rockwell City, Iowa 50579

AGREEMENT DATE: _____, 20____

The descriptive headings contained in this AGREEMENT are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions of this Agreement.

1. AGREEMENT: Service Provider agrees to lease a Personal Emergency Response System (“PERS”), to the Subscriber and provide monitoring services for the System, at the Subscriber’s address shown above, subject to the terms and conditions of this Agreement. The Subscriber agrees to provide, at no expense to Service Provider, suitable electric and telephone service and to provide a suitable location and space for the System. Subscriber also agrees to provide Service Provider with written instructions (“Notification Instructions”) identifying the names and telephone numbers and other pertinent instructions of parties designated by Subscriber (“Responders”) to receive notification upon the receipt of a signal from the address shown above.

2. TERMS OF PAYMENT: Subscriber agrees to pay Service Provider for lease and monitoring services, twenty-five dollars (\$25.00) plus tax, per month, starting on _____. At the time of this Agreement, *Subscriber has paid Service Provider a sum of Sixty Dollars (\$60.00) plus tax, which included the first monthly payment due and the total cost of the installation of the System.* Service Provider agrees to lease the System and to provide monitoring services for the System to Subscriber on the terms and conditions of this Agreement. This Agreement shall automatically renew from month-to-month, unless either party notifies the other in writing thirty (30) days prior to the end of the initial term of its intention to terminate the Agreement, with such cancellation to be effective at the expiration of such term. Subscriber acknowledges services described in this Agreement will not begin until Service Provider has received a fully executed copy of this Agreement, the completed Notification Instructions, and acceptable test signals from the System. Subscriber acknowledges Service Provider may adjust the monthly payment amount at anytime, after the initial term of the Agreement, by giving the Subscriber thirty (30) days prior written notice.

3. EQUIPMENT PROVIDED: Service Provider or its installation agent shall install the System at the Subscriber’s address shown above. Service Provider, at its sole option, may install new or reconditioned equipment. Service Provider or its installation agent shall

provide the Subscriber with instruction on proper use of the equipment at time of installation. The Subscriber will make no alterations or repairs to the equipment and will not move the equipment without the written authorization of Service Provider. Leased equipment shall remain the property of Service Provider, and upon termination of this Agreement, equipment shall be returned to Service Provider in substantially similar condition.

4. MONITORING SERVICES PROVIDED: Upon receipt of a signal from the Subscriber's premises, Service Provider will attempt to contact the Subscriber. If Service Provider is unable to contact the Subscriber, it will then attempt to contact the Responders designated by the Subscriber. The Responders will be called in the order listed by the Subscriber. Service Provider assumes no responsibility whatsoever under this Agreement other than to use reasonable efforts to contact one of the Responders designated by the Subscriber, after receipt of an incoming signal from the System. If the Responders cannot be reached after reasonable effort, Service Provider may, at its discretion, request dispatch of law enforcement or other emergency personnel. Subscriber understands that Service Provider will not send any Service Provider personnel to Subscriber's location in response to any alarm signal. Service Provider 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 Responder who may be notified as a result of the System being activated. Subscriber authorizes Service Provider to temporarily disconnect the Service for nuisance or safety reasons if Service Provider is unable to notify Subscriber or Responders or if Subscriber or Responders refuse or fail to arrive at Subscriber's location within a reasonable time.

5. SUBSCRIBER RESPONSIBILITIES:

- a. Subscriber agrees not to use the equipment to transmit signals that are not reasonably needed.
- b. Subscriber will be responsible for payment of any expense incurred by any person, rescue, fire, or police service or agency responding to a call from Service Provider occasioned by an incoming signal from the equipment,
- c. Subscriber will notify Service Provider in a timely manner of any changes in the Notification Instructions. Subscriber may change one or all Responders named in the Notification Instructions at any time by submitting a change to Service Provider in writing.
- d. Subscriber agrees to transmit a monthly test signal to Service Provider by activating the signal button on the System, which dials the central monitoring station.
- e. Subscriber agrees that any Responder or any emergency services agency contacted by Service Provider may enter the Subscriber's premises at the address listed above with force, if necessary, and the Subscriber shall release Responders, the emergency service agencies, Service Provider and its representatives, agents and contractors from any liability for injury and damages done to the premises in making such a forced entry.

f. Subscriber will allow access by technical representatives assigned by the Service Provider to inspect Equipment and provide periodic maintenance.

g. Subscriber will secure and maintain all licenses or permits that may be necessary now or in the future from governmental or insurance authorities for the continued monitoring and use of System.

h. Subscriber agrees that in consideration of the operation of the monitoring facility by Service Provider: (i) that Service Provider is not an insurer; (ii) that insurance, if any, shall be obtained by Subscriber.

i. Subscriber **agrees to have a working surge protector at the home** on or before the tech installs the PERS device. A surge protector must be used at all times with the PERS system.

6. INTERRUPTION OF SERVICE: Neither Service Provider nor its contractor assumes any liability for interruption of monitoring services due to strikes, floods, fires, power failures, insurrection, interruption, or unavailability of telephone service, acts of God, or for any other cause beyond the control of Service Provider or its contractor, and neither Service Provider nor its contractor will be required to supply monitoring service to Subscriber while any such cause may continue. This Agreement may be suspended by Service Provider should the System, Subscriber's premises, or the monitoring facilities become so damaged that further service is impractical or if Service Provider is unable to either obtain the connections necessary to transmit signals between Subscriber's premises, Service Provider's monitoring facility and local police or fire department. Subscriber shall not be entitled to any refund or credit of any charges for an interruption of Monitoring Services.

7. TRANSMISSION LINES: Subscriber acknowledges that the signals from the System are transmitted over Subscriber's regular telephone service to a central monitoring station. In the event Subscriber's telephone service is disconnected or the line is in use or otherwise interrupted, signals from the System will not be received at the central monitoring station and interruptions may not be known by the central monitoring station.

8. DISCLAIMER OF WARRANTIES: Service Provider makes no guarantee or warranty, including any implied warranty of merchantability or fitness for a particular purpose.

9. INDEMNIFICATION/LIMITATION OF LIABILITY: With the exception of any claim of the commission of an intentional tort, subscriber shall indemnify, hold harmless and defend Service Provider from all claims, damages and liability, of any nature

whatsoever, arising out of or in any manner related to the acts, errors or omissions of Service Provider's officers, agents or employees allegedly arising from the performance or failure to perform the obligations required by this Service Provider & Subscriber Monitoring and Lease Agreement.

10. REMEDIES: Subscriber will be in default and there will be a breach of this Agreement if; (a) Subscriber fails to pay any fees or charges of any kind when due or fails to perform other obligations in this Agreement; (b) Subscriber attempts to remove, sell, transfer or encumber the System except as expressly permitted herein; or (c) Subscriber otherwise fails to comply with any of its obligations of this Agreement. In the event of Subscriber's default, Service Provider may at its option do any or all of the following: (i) by notice to Subscriber, terminate the Agreement; (ii) without terminating this Agreement take possession of the System wherever located and for such purpose, enter the Subscriber's premises for doing so; (iii) declare immediately due and payable all moneys to be paid by Subscriber during the initial term and/or renewal thereof without presentment, demand, protest, or further notice of any kind all of which are expressly waived by the Subscriber; (iv) sell, dispose of, hold, lease or otherwise use the System as Service Provider shall determine in its sole discretion without any duty to account to Subscriber; and/or (v) exercise any and all other remedies available at law or equity. Service Provider shall also be entitled to recover all reasonable collection, expense, court costs and attorneys' fees. The subsequent acceptance by Service Provider of any fees or charge shall not be deemed a waiver of any prior existing breach of Subscriber regardless of Service Provider's knowledge of such prior existing breach at the time such payment(s) are accepted.

11. FALSE ALARMS: Subscriber understands that local governments may levy a fine or charge for any false alarms or signals which summon an emergency service and Subscriber agrees to assume all responsibility for any false alarms or signal and to pay related fees, levies, and fines. Subscriber hereby releases Service Provider and its contractors from such responsibility and liability. If, in Service Provider's sole judgment, it is determined that the Subscriber is generating an excess number of false alarms or signals which may affect Service Provider's monitoring facilities Service Provider may charge a fee for processing such false alarms and/or Service Provider may cancel this Agreement. In the event of cancellation of this Agreement, Service Provider shall not refund any moneys previously paid by Subscriber and shall retain the right to collect any moneys due or to become due.

12. ENTIRE AGREEMENT: This Agreement is the entire agreement and understanding between the Parties. This Agreement can only be modified by a written addendum signed by the Parties. No waiver or a breach of any term or condition of this Agreement shall be construed to be waiver of any succeeding breach. The Parties agree that this Agreement shall be governed by the laws of the State of Iowa.

13. ASSIGNMENT: This Agreement may not be assigned by Subscriber. Service Provider may assign or subcontract all or any portion of this Agreement without notice to Subscriber and any such assignee or subcontractor shall be entitled to the rights, benefits, privileges and protection afforded to Service Provider under the terms of this Agreement.

IN WITNESS WHEREOF, this Agreement is hereby executed.

SERVICE PROVIDER

SUBSCRIBER

(Signature)

(Signature)

(Date)

(Date)

(Witness)

(Witness)