

**Emergency Response Systems
PO BOX 411511
Charlotte, NC 28273
(980)272-6016**

PERSONAL EMERGENCY RESPONSE SYSTEM AGREEMENT

Agreement dated _____, (or date ordered via website) by and between Emergency Response Systems, Inc. (hereinafter referred to as "DEALER" or "Seller") and _____ (hereinafter referred to as "Subscriber" or "Purchaser".) Subscriber is leasing the Personal Emergency Response System ("PERS") for use by _____ ("User"). Subscriber
Phone: _____.

The parties hereto agree that:

1. PERS IS LEASED AND REMAINS PERSONAL PROPERTY OF "DEALER": "DEALER" shall lease, instruct the User in the proper use of the Personal Emergency Response System, initialize or provide self-initialization instructions for the User, located at _____ a personal emergency response system, described herein, including all necessary devices and equipment, for the duration of this agreement, with the understanding that the entire system is and shall always remain the sole personal property of "DEALER" and shall not be considered a fixture or a part of the realty, and Subscriber shall not permit the attachment thereto of any apparatus not furnished by "DEALER".
2. SCHEDULE OF INSTALLATION: Description of Equipment: Personal Emergency Response System Transmitter. The value of provided equipment is: \$595.00. Replacement cost for lost or damaged equipment during lease period is \$199.00. Approximate Initialization Date: _____.
3. CANCELLATION AND REFUND POLICY: If Subscriber cancels this agreement pursuant to any statutory authority, within 30 days or within such time as such statute specifies, upon such cancellation and return of equipment, "DEALER" will refund to Subscriber any amount paid for the equipment and any advance payment for services not yet rendered.
4. RENTAL AND SERVICE CHARGES. Subscriber will pay "DEALER" the sum of \$29.95 per month, payable each month in advance, including all services provided hereunder, for the term of this agreement. Such services may include monitoring, servicing, rental, device replacement, and tracking portal access. Payment for the first month, plus an activation fee of \$99.00 is due and payable at the inception of this agreement. Thereafter, said payments shall commence on the first day of the second month next succeeding the date hereof, and shall continue monthly thereafter, all payments being due on the first of the month.
5. TERM OF AGREEMENT: RENEWALS: This agreement shall have a two year term and may be cancelled before the end of the term only in accordance with the Notice of Cancellation below, this agreement shall continue from month to month, unless either party gives written notice to the other by certified mail, return receipt requested, of their intention not to renew the contract at least 30 days prior to the expiration of any term, thereby relieving Subscriber of any obligation to pay any charge after the termination of service. After the conclusion of any applicable two-year term, this Agreement shall automatically renew from month to month as previously set forth in this paragraph.
6. INCREASES OF MONTHLY CHARGE: "DEALER" shall be permitted to increase the charges provided for herein at any time or times after the expiration of one year from the date hereof by up to nine percent per annum each year, upon giving notice to Subscriber.
7. PERSONAL EMERGENCY RESPONSE SYSTEM CENTRAL OFFICE MONITORING: Upon receipt of a signal, "DEALER" or its designee communication center shall make every reasonable effort to notify Subscriber, User, User's designated emergency contacts, and/or the appropriate municipal police or fire department or emergency personal response service. Subscriber acknowledges that signals which are transmitted over telephone lines, cellular networks, the internet, or other modes of communication pass through communication networks wholly beyond the control of "DEALER" and are not maintained by "DEALER" and, therefore, "DEALER" shall not be responsible for any equipment failure which prevents transmission signals from reaching the central office monitoring center or damages arising therefrom. Subscriber agrees to furnish "DEALER" with a written list of names and telephone numbers of those persons Subscriber wishes to receive notification of emergency conditions together with a list of all medication, allergies and medical conditions subscriber wishes to be available to all personal emergency response personnel and medical personnel. All changes and revisions shall be supplied to "DEALER" in writing. Subscriber acknowledges that "DEALER" provides no response to a personal emergency response system signal except notification to the appropriate party, and that the provisions of this agreement exculpating and limiting "DEALER"'s liability are fully applicable to the personal emergency response system service. "DEALER" may, without prior notice, suspend or terminate its services, in designee communication center's sole discretion, in event of Subscriber's default in performance of this agreement or in event designee communication center facility or communication network is nonoperational or Subscriber's system is sending excessive communication. "DEALER" or its designee is authorized to record all telephone conversations and shall own such recordings.
8. SUBSCRIBER'S CARE OF EQUIPMENT: REPAIRS AND ADDITIONS: Subscriber agrees not to tamper with, remove or otherwise interfere with the personal emergency response system. The equipment shall remain in the same home/primary location as first initialized unless prior notice is given to "DEALER", and Subscriber agrees to bear the cost of repairs or replacement to the system made necessary as a result of damage, except for ordinary wear and tear, or defects in manufacture for a period of 1 year, in which event repair or replacement shall be made by "DEALER" without additional charge. Obsolete components are not included in this contract and will be repaired or replaced at Subscriber's expense.

**SEE REVERSE SIDE FOR TERMS AND CONDITIONS OF THIS AGREEMENT WHICH ARE PART OF THIS CONTRACT: READ THEM BEFORE YOU SIGN THIS CONTRACT
SUBSCRIBER ACKNOWLEDGES RECEIVING A COPY OF THIS CONTRACT AT TIME OF SERVICE ACTIVATION.**

I Agree To A Two-Year Service Plan, Subject to the Cancellation

Terms at Right, In Return for a Monthly Service Fee of \$29.95 per

Month

Subscriber Signature

Subscriber agrees to have its credit card automatically charged or to a monthly eCheck debit, using the information previously provided by Subscriber, for all charges under this contract.

NOTICE OF CANCELLATION

I. YOU, THE PURCHASER, MAY CANCEL THIS TRANSACTION WITH OR WITHOUT CAUSE AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRTIETH CALENDAR DAY AFTER THE DATE OF THIS TRANSACTION.

Paragraph II Applies Only If Two-Year Agreement Box Is Checked

II. ON AND AFTER MIDNIGHT OF SUCH THIRTIETH DAY, YOU, THE PURCHASER, MAY CANCEL YOUR AGREEMENT WITH THE SELLER FOR YOU TO RECEIVE PERSONAL EMERGENCY RESPONSE SERVICE MORE THAN 30 DAYS AFTER YOUR NOTIFYING THE SELLER IN WRITING OF YOUR CANCELLING SUCH AGREEMENT, PROVIDED THAT THE USER HAS LEGALLY OBLIGATED HIM OR HERSELF TO BEGIN LIVING IN A NURSING HOME OR OTHER HEALTH-RELATED FACILITY WITHIN SUCH 30-DAY PERIOD FOR WHAT IS EXPECTED TO BE A PERMANENT STAY OR AN EXTENDED STAY FOR AT LEAST 2 MONTHS, OR HAS ALREADY BEGUN LIVING THEREIN EXPECTING HIS OR HER STAY TO BE PERMANENT OR FOR AT LEAST 2 MONTHS, AND PROVIDED THAT THESE FACTS ARE VERIFIED BY A DOCTOR OR BY THE NURSING HOME OR OTHER HEALTH-RELATED FACILITY.

SUBSCRIBER:

Signature (Name must be printed below)

Print Name

9. DAILY CHARGING IS NECESSARY AND SUBSCRIBER'S RESPONSIBILITY: Subscriber acknowledges that the Personal Emergency Response System Transmitter must be charged daily to ensure proper operation, and that said charging is the sole and exclusive responsibility of Subscriber and/or User.

10. LIMITATIONS BASED ON SPECIAL EQUIPMENT: Subscriber acknowledges that the equipment provided pursuant to this agreement relies for its functionality on GSM cell service and GPS satellite information, and that a) the equipment may not operate properly if GSM signal is too weak in the area where an emergency occurs, which could result in no emergency signal being sent; and b) GPS satellite signal must be available and the equipment must have been properly initialized for the equipment to transmit an accurate location. Subscriber and User understand and assume the risks of these inherent limitations of the equipment and waive any claim, defense, damages, suit, or cause of action based in whole or in part thereon.

11. DELAY IN INITIALIZATION: "DEALER" shall not be liable for any damage or loss sustained by Subscriber as a result of delay in initialization, equipment failure, or for interruption of service due to electric failure, lack of availability of cellular or GPS signal, strikes, walk-outs, war, acts of God, or other causes, including "DEALER"'s negligence in the performance of this agreement, and Subscriber shall not be relieved from payments due under this agreement for such period.

12. TESTING AND SERVICE OF PERSONAL EMERGENCY RESPONSE SYSTEM: The parties hereto agree that the personal emergency response system, is in the exclusive possession and control of the Subscriber and/or User, and it is Subscriber's sole responsibility to test the operation of the personal emergency response system and to notify "DEALER" if it is in need of repair or replacement. "DEALER" shall not be required to service or replace the equipment unless the equipment is returned by the subscriber to "DEALER" at "DEALER"'s address. "DEALER" will upon subscriber's request arrange pick up and delivery, at "DEALER"'s expense by UPS or US Postal Service. If "DEALER" fails to repair or replace the personal emergency response system within 7 days after receipt of said written notice, Subscriber shall not be obligated to pay any amount for service from date said written notice is given, until the personal emergency response system is restored to working order unless "DEALER" determines that the equipment is operational and the system failure was the responsibility of Subscriber or the availability of cellular telephone service at subscriber's premises, in which event subscriber shall pay "DEALER"'s cost of shipping and inspection charge of \$75.00. In any lawsuit between the parties in which the condition or operation of the equipment is in issue, the Subscriber shall be precluded from raising the issue that the equipment was not operating unless Subscriber can produce a US Post Office certified or registered receipt, signed by "DEALER", showing that Subscriber requested service.

13. SUBSCRIBER TO INSURE "DEALER"'S EQUIPMENT: Subscriber shall be responsible for any loss occasioned by fire or casualty and the cost of replacing or restoring the personal emergency response system. Notwithstanding the condition of Subscriber's premises, or "DEALER"'s impossibility of performance occasioned by condition of Subscriber's premises, Subscriber shall remain liable for monthly payments for the term of this agreement without offset or reduction.

14. TERMINATION IN THE EVENT OF DEATH: This agreement shall terminate upon Subscriber's death and the return of all "DEALER" equipment by subscriber's representative at subscriber's expense by UPS or US Postal Service, signature required, delivery to "DEALER". "DEALER" shall terminate all services upon death of Subscriber. "DEALER" may also, in its sole and exclusive discretion, elect to terminate this agreement if Subscriber is admitted to a certified nursing care, skilled care, or other aging facility during the term.

15. ASSIGNMENTS/WAIVER OF SUBROGATION RIGHTS: Subscriber shall not be permitted to assign this agreement without written consent of "DEALER". Any such assignment without prior approval shall be deemed a breach of this agreement. "DEALER" shall have the right to assign this contract and shall be relieved of any obligations created herein upon such assignment. Subscriber on its behalf and of any insurance carrier waives any right of subrogation Subscriber's insurance carrier may otherwise have against "DEALER" or "DEALER"'s subcontractors arising out of this agreement or the relation of the parties hereto.

16. INDEMNITY: Subscriber agrees to and shall indemnify and hold harmless "DEALER", its employees, agents and subcontractors, from and against all claims, lawsuits, including those brought by third parties, including reasonable attorneys' fees, and losses asserted against and alleged to be caused by "DEALER"'s performance, negligent performance or failure to perform its obligations under this agreement. User is the only third party beneficiary of this contract.

17. REMOVAL OF PERSONAL EMERGENCY RESPONSE SYSTEM: Upon termination of this agreement "DEALER" shall be permitted to discontinue all monitoring service and subscriber shall at subscriber's expense return, via UPS or US Postal Service, signature required, "DEALER" equipment to "DEALER". If for any reason caused by Subscriber, or the owner of the premises or possessor of the equipment, if other than the Subscriber, said personal emergency response system is not delivered to "DEALER" within 7 days of such termination, subscriber shall be deemed to have purchased the equipment for the agreed value stated in this agreement.

18. LEGAL ACTION: The parties agree that due to the nature of the services to be provided by "DEALER" the payments to be made by Subscriber for the term of this agreement are an integral part of "DEALER"'s anticipated profits, and in the event of Subscriber's breach of this agreement it would be difficult if not impossible to reasonably estimate "DEALER"'s actual damages. Therefore, in the event of Subscriber's default of this agreement Subscriber shall pay to "DEALER" 80% of the balance due for the term of this agreement as liquidated damages, and "DEALER" shall be permitted to terminate all its services under this agreement without relieving Subscriber of any obligation herein. Additionally, in the event of Subscriber's breach of this agreement "DEALER" may, at its option, either remove its equipment or deem same sold to Subscriber for 80% the amount specified as the value of the equipment. The parties waive trial by jury in any action between them. In any action commenced by "DEALER" against Subscriber, Subscriber shall not be permitted to interpose any counterclaim. Any action by Subscriber against "DEALER" must be commenced within one year of the accrual of the cause of action or shall be barred. All actions or proceedings against "DEALER" must be based on the provisions of this agreement. Any other action that Subscriber may have or bring against "DEALER" in respect to other services rendered in connection with this agreement shall be deemed to have merged in and be restricted to the terms and conditions of this agreement. Should "DEALER" refer this contract to an attorney, Subscriber shall pay "DEALER"'s legal fees. This agreement shall be governed by the laws of the State of Utah, exclusive of the choice of law provisions thereof.. Subscriber submits to the jurisdiction of the State of Utah and agrees that any litigation between the parties must be commenced and maintained exclusively in the State of Utah, and in the county where "DEALER"'s principal place of business is located.

19. ADDITIONAL PAYMENTS. In addition to the payments set forth herein, Subscriber agrees to be liable for and pay to "DEALER" any excise, sales, property, or other tax, telephone line charges, and any increases thereof, which may be imposed upon "DEALER" because of this agreement. Should "DEALER" be required by existing or hereafter enacted law to perform any service or furnish any material not specifically covered by the terms of this agreement Subscriber agrees to pay "DEALER" for such service or material.

20. FALSE ALARMS/PERMIT FEES: Subscriber is responsible for all alarm permits and permit fees, agrees to file for and maintain any permits required by applicable law and indemnify or reimburse "DEALER" for any fines relating to permits or false alarms. "DEALER" shall have no liability for permit fees, false alarms, false alarm fines, police or fire response, any damage to personal or real property or personal injury caused by police or fire department response to alarm, whether false alarm or otherwise, or the refusal of the police or fire department to respond. In the event of termination of police or fire response by the municipal police or fire department this contract shall nevertheless remain in full force and Subscriber shall remain liable for all payments provided for herein. Should "DEALER" be required by existing or hereinafter enacted law to perform any service or furnish any material not specifically covered by the terms of this agreement Subscriber agrees to pay "DEALER" for such service or material.

21. "DEALER"'S RIGHT TO SUBCONTRACT SPECIAL SERVICES: Subscriber agrees that "DEALER" is authorized and permitted to subcontract any services to be provided by "DEALER" to third parties who may be independent of "DEALER", and that "DEALER" shall not be liable for any loss, damage or injury sustained by Subscriber by reason of any other cause whatsoever caused by the negligence of third parties. Subscriber acknowledges that this agreement, and particularly those paragraphs relating to "DEALER"'s disclaimer of warranties, exemption from liability, even for its negligence, limitation of liability and indemnification, inure to the benefit of and are applicable to any assignees, subcontractors and communication centers of "DEALER".

22. NO WARRANTIES OR REPRESENTATIONS: SUBSCRIBER'S EXCLUSIVE REMEDY: "DEALER" does not represent nor warrant that the personal emergency response system will prevent any loss, damage or injury to person or property, or that the personal emergency response system will in all cases provide the protection for which it is installed or intended. Subscriber acknowledges that "DEALER" is not an insurer, and that Subscriber assumes all risk for loss or injury to Subscriber's property or person. "DEALER" has made no representation or warranties, and hereby disclaims any warranty of merchantability or fitness for any particular use. Subscriber's exclusive remedy for "DEALER"'s default hereunder is to require "DEALER" to repair or replace, at "DEALER"'s option, any equipment or part of the personal emergency response system which is non-operational.

23. EXCULPATORY CLAUSE: The parties agree that "DEALER" is not an insurer and no insurance coverage is offered herein. Subscriber's payments to "DEALER" are for the installation, rental and service of a personal emergency response system designed to reduce certain risks of loss, though "DEALER" does not guarantee that no loss will occur. "DEALER" is not assuming liability and therefore shall not be liable to Subscriber for any loss or injury sustained by Subscriber as a result of any cause whatsoever, regardless of whether or not such loss or injury was caused by or contributed to by "DEALER"'s negligent performance to any degree or failure to perform any obligation or strict products liability. Subscriber releases "DEALER" from any claims for contribution, indemnity or subrogation.

24. LIMITATION OF LIABILITY: The parties agree that the personal emergency response system is not designed or guaranteed to prevent any loss or injury. If, notwithstanding the terms of this agreement, there should arise any liability on the part of "DEALER" as a result of any cause whatsoever, regardless of whether or not such loss, damage, or personal injury was caused by or contributed to by "DEALER"'s negligence to any degree or failure to perform any obligation or strict products liability, such liability will be limited to an amount equal to six (6) times the monthly payment paid by the Subscriber to "DEALER" at the time such liability is fixed, or to the sum of \$250.00, whichever is greater. If Subscriber wishes to increase "DEALER"'s maximum amount of such limitation of liability, Subscriber may, as a matter of right, at any time, by entering into a supplemental agreement, obtain from "DEALER" a higher limit by paying an additional amount consonant with the increase of liability. This shall not be construed as insurance coverage.

25. PRIVACY: Subscriber understands that the equipment has the ability to track User's whereabouts at any time, and grants permission to "DEALER" to receive, process, and communicate to third parties such information as necessary or convenient in providing the services requested hereunder. Subscriber waives, and agrees to indemnify "DEALER" against, any and all claims (whether by Subscriber or User) of invasion of privacy, intrusion, public disclosure of private facts, false light, and/or any other civil or criminal claim or charge against "DEALER" or affiliates or vendors arising in whole or in part from the transmission of location information. Any medical or other personal information provided by subscriber to "DEALER" may be disclosed by "DEALER" to any personal emergency response personnel or medical personnel requesting same. Subscriber represents and warrants that User is aware of and has consented to the terms of this section.

26. CONFLICTING DOCUMENTS. Should there arise any conflict between this agreement and Subscriber's purchase order or other document, this agreement will govern, whether such purchase order or document is prior to or subsequent to this agreement.

27. FULL AGREEMENT/SEVERABILITY. This agreement constitutes the full understanding of the parties and may not be amended or modified or canceled except in writing signed by both parties. This contract shall be governed by the laws of the State of Utah, exclusive of the choice of law provisions thereof. Should any provisions of this agreement be deemed void, all other provisions will remain enforceable.

28. TRADE SECRETS. Subscriber acknowledges that the Equipment contains proprietary software, hardware, and trade secrets of "DEALER". "DEALER" solely owns and retains all rights, including all intellectual property rights, in the embedded software and hardware. You agree that you will not (a) use, or cause or permit any other person or entity to use, the equipment or associated materials to design, build, market, or sell any similar or substitute product or service, or (b) cause, perform, or permit (i) the copying, decompilation, disassembly, or other reverse engineering of the equipment, (ii) the transferring or purported resale or sublicensing of any equipment or materials, or (iii) the removal, delivery, or exportation of any "DEALER" Materials outside the United States.