

## **PERSONAL EMERGENCY RESPONSE SYSTEM MONITORING AGREEMENT**

This Personal Emergency Response System Monitoring Agreement (hereafter the “Agreement”) is made as of the day the Subscriber’s order is placed by and between ResQ USA, LLC, a West Virginia Limited Liability Company, and the Subscriber and Payer as identified in the Subscriber’s order.

### **PLEASE READ THE ENTIRE AGREEMENT**

By signing this Agreement, you are agreeing to the terms and conditions herein. Please read this Agreement carefully. These terms and conditions contain IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT WILL APPLY TO YOU, INCLUDING AN ARBITRATION AGREEMENT THAT WAIVES YOUR RIGHT TO A JURY TRIAL, A CLASS ACTION WAIVER, A CHOICE OF LAW PROVISION AND A FORUM SELECTION CLAUSE. **If you do not agree to these terms and conditions, do not sign this Agreement.**

In consideration of the mutual promises and agreements contained herein, the parties agree as follows:

1. **Monthly Charges.** The Subscriber agrees to pay ResQ USA, LLC, its employees, agents, related businesses and assigns (hereafter collectively “ResQ LLC”) the sum of \$24.95, plus all applicable sales tax, charges and/or fees, per month for the monitoring services described hereunder prepaid for a period of twelve (12) months from the date the personal emergency response system (hereafter the “PERS”) is activated and monitoring commences (hereafter the “activation date”). This Agreement shall automatically renew after the initial twelve (12) month period under and subject to the same terms and conditions herein on a month-to-month basis until and unless terminated by either party in the manner set forth herein. ResQ USA shall have the right to increase the monthly charges herein at any time or times after twelve (12) months from the date of this Agreement provided that the Subscriber is given notice through the Subscriber’s designated email address no less than thirty (30) days in advance of the effective date of any such increase. If the Subscriber is unwilling to pay any such increased monthly charge, the Subscriber must notify ResQ USA at [CustomerService@ResQUSA.com](mailto:CustomerService@ResQUSA.com) no less than fifteen (15) days prior to the effective date of any such increase and this Agreement will be terminated as of the effective date of any such increase and neither party will have any further obligations under this Agreement, except that ResQ USA may rescind any such increased monthly charge thereby binding the Subscriber to the terms and conditions of this Agreement, including any renewal terms hereof. Time is of the essence as to all terms and conditions set forth in this paragraph.

ResQ USA is hereby authorized to periodically draw payment under its pre-authorized payment plan from the Subscriber’s and/or Payer’s credit card account to pay all amounts due under this Agreement. The Subscriber and/or Payer agree to immediately notify ResQ USA of any change in credit card information and/or expiry date. All such notifications shall be sent to [CustomerService@ResQUSA.com](mailto:CustomerService@ResQUSA.com).

In the event of a change to the Subscriber's and/or Payer's telephone number or designated email address, the Subscriber and/or Payer shall immediately notify ResQ USA of any such changes at CustomerService@ResQUSA.com.

2. **The Subscriber is the Only Authorized User.** The Subscriber understands and agrees that the Subscriber is the only authorized user of the PERS assigned to the Subscriber and only the Subscriber is entitled to the benefits of this Agreement, including the monitoring services provided herein. No other person is authorized to use the PERS assigned to the Subscriber and the Subscriber will take all steps necessary to assure that no other person uses the PERS assigned to the Subscriber. The Subscriber understands and agrees that none of the monitoring services contemplated in and by this Agreement will inure to the benefit of any person other than the Subscriber.

**3. DISCLAIMER AND LIMITATION OF LIABILITY. SUBSCRIBER AGREES AND UNDERSTANDS THAT NEITHER RESQ USA NOR ITS DIRECTORS, OFFICERS, MEMBERS, PARTNERS, PRINCIPALS, AGENTS, SERVANTS OR EMPLOYEES AND/OR THEIR SUCCESSORS, ASSIGNS, HEIRS AND PERSONAL REPRESENTATIVES (HEREAFTER INDIVIDUALLY AND COLLECTIVELY THE "BUSINESS") IS AN INSURER AND THAT IT IS THE SPECIFIC INTENT OF THE PARTIES HERETO THAT (I) INSURANCE COVERING ALL LOSS, DAMAGE AND EXPENSES ARISING OUT OF OR FROM, IN CONNECTION WITH OR RESULTING FROM PERSONAL INJURY INCLUDING, WITHOUT LIMITATION, MEDICAL DISABILITY, AND OTHER INSURANCE FOR PHYSICAL MENTAL AND EMOTIONAL CONDITIONS, LIFE INSURANCE, AND REAL OR PERSONAL PROPERTY INSURANCE, SHALL BE OBTAINED AND MAINTAINED BY THE SUBSCRIBER AT THE SUBSCRIBER'S EXPENSE, (II) RECOVERY FOR ALL SUCH LOSS, DAMAGE AND EXPENSE SHALL BE LIMITED TO ANY SUCH INSURANCE COVERAGE ONLY AND (III) RESQ USA AND THE BUSINESS ARE EXPRESSLY RELEASED BY THE SUBSCRIBER FROM ANY AND ALL LIABILITY FOR ALL SUCH LOSS, DAMAGE AND EXPENSE AND (IV) THAT RESQ USA AND THE BUSINESS, EXCEPT AS MAY BE SET FORTH HEREIN, MAKE NO GUARANTEE, REPRESENTATION OR WARRANTY INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE OF THE PERS OR MONITORING SERVICES PROVIDED TO THE SUBSCRIBER. THE SUBSCRIBER AGREES AND UNDERSTANDS THAT THE PERS PROVIDED TO THE SUBSCRIBER AND THE MONITORING SERVICES PROVIDED TO THE SUBSCRIBER ARE DESIGNED TO REDUCE , BUT NOT ELIMINATE, CERTAIN RISKS OF PERSONAL INJURY AND LOSS AND THAT THE AMOUNTS BEING CHARGED BY RESQ USA ARE NOT SUFFICIENT TO WARRANT OR GUARANTEE THAT NO PERSONAL INJURY OR LOSS WILL OCCUR TO ANY EXTENT, DEGREE OR AMOUNT BY USE OF THE PERS PROVIDED TO THE SUBSCRIBER OR THE MONITORING SERVICES PROVIDED TO THE SUBSCRIBER. THE SUBSCRIBER AGREES THAT RESQ USA AND THE BUSINESS ARE NOT AND WILL NEVER BE LIABLE FOR ANY PERSONAL INJURY OR LOSS OR DAMAGE WHICH MAY OCCUR PRIOR TO, CONTEMPORANEOUS WITH, OR SUBSEQUENT TO THE EXECUTION OF THIS AGREEMENT EVEN IF DUE TO THE IMPROPER**

**PERFORMANCE OF OR FAILURE TO PERFORM OF THE PERS PROVIDED TO THE SUBSCRIBER OR THE MONITORING SERVICES PROVIDED TO THE SUBSCRIBER, BREACH OF CONTRACT, EXPRESSED OR IMPLIED, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BY LOSS OR DAMAGE TO OR MALFUNCTION OF FACILITIES NECESSARY TO OPERATE THE PERS OR MONITORING CENTER, OR TO TRANSMIT ANY SIGNAL OR TO OPERATE ANY MONITORING CENTER. THE SUBSCRIBER AGREES THAT SHOULD THERE ARISE ANY LIABILITY OF THE PART OF RESQ USA OR THE BUSINESS FOR PERSONAL INJURY, INCLUDING DEATH, OR PROPERTY DAMAGE, REAL OR PERSONAL, WHICH IS IN CONNECTION WITH, ARISES OUT OF OR FROM, RESULTS FROM, IS RELATED TO OR IS A CONSEQUENCE OF THE DESIGN, SALE, LEASE, INSTALLATION, REPAIR, INSPECTION, TEST, SERVICE, MAINTENANCE, TRANSMISSION OF SIGNALS, ELECTRONIC COMMUNICATION SERVICES, VERIFICATION SERVICES, OR MONITORING OF ANY EQUIPMENT OR SYSTEM, THE FAILURE OR IMPROPER DISPATCH OF INDIVIDUALS, THE FAILURE OR FAULTY OPERATION OF THE SYSTEM, EQUIPMENT, TRANSMISSION FACILITIES OR MONITORING CENTER, OR THE ACTIVE OR PASSIVE SOLE, JOINT OR SEVERAL NEGLIGENCE (INCLUDING NEGLIGENCE PER SE) OF RESQ USA, ITS EMPLOYEES AND AGENTS, OR THE BUSINESS OR THEIR SUPPLIERS OR SUBCONTRACTORS, INCLUDING, WITHOUT LIMITATION, ACTS, ERRORS OR OMISSIONS WHICH OCCUR PRIOR TO, CONTEMPORANEOUSLY WITH OR SUBSEQUENT TO THE EXECUTION OF THIS AGREEMENT OR ANY CLAIM(S) BROUGHT IN PRODUCT OR STRICT LIABILITY, BREACH OF WARRANTY, EXPRESS OR IMPLIED, BREACH OF CONTRACT, EXPRESS OR IMPLIED, OR FOR CONTRIBUTION OR INDEMNIFICATION, WHETHER IN CONTRACT, TORT OR EQUITY, INCLUDING, WITHOUT LIMITATION, ANY GENERAL, DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, STATUTORY OR CONSEQUENTIAL DAMAGES, IRRESPECTIVE OF CAUSE, SUCH LIABILITY SHALL BE LIMITED TO THE MAXIMUM SUM OF \$1,000.00 COLLECTIVELY FOR RESQ USA, ITS EMPLOYEES OR AGENTS, AND THE BUSINESS, AND THIS LIABILITY SHALL BE EXCLUSIVE. IN THE EVENT THAT THE SUBSCRIBER WISHES TO INCREASE THE MAXIMUM AMOUNT OF SUCH LIMITED LIABILITY, SUBSCRIBER MAY, AS A MATTER OF RIGHT, OBTAIN A HIGHER LIMIT BY PAYING AN ADDITIONAL AMOUNT FOR THE INCREASE IN SUCH LIMIT OF LIABILITY, BUT THIS HIGHER LIMITATION SHALL IN NO WAY BE INTERPRETED TO HOLD RESQ USA OR THE BUSINESS AS AN INSURER.**

4. **Transmission of Data, GPS.** The Subscriber understands and agrees that transmission of signals from the Subscriber's PERS shall be made via cellular phone, mobile phone and/or GPS systems, networks or related services to the monitoring center. The Subscriber understands and agrees that if there are any problems or deficiencies of any kind with the cellular phone, mobile phone and/or GPS systems, networks or services, or if you are in a location where you do not have cellular phone, mobile phone and/or GPS service, your PERS will not be monitored and neither ResQ USA nor the monitoring center will be aware that assistance is required in the event that you utilize your PERS. While these problems exist or

when you are in a location that does not have cellular phone, mobile phone and/or GPS service, neither ResQ USA nor the monitoring center will have any means or obligation to perform its services under this Agreement. The Subscriber understands and agrees that GPS systems rely on certain other systems, including but not limited to Bluetooth, cellular and global position satellites, which may not always be available, accurate or within range. Neither ResQ USA nor the Business is in any way responsible for any disruption in service to the cellular phone, mobile phone and/or GPS systems, networks or services for any reason.

The Subscriber understands and agrees that the use of cellular phone, mobile phone and/or GPS systems, networks and services include additional risks associated with the quality and reliability of such systems, networks or services. Such systems, networks or services may be affected by a number of factors outside of ResQ USA's and the monitoring center's control and may be impaired or blocked by building construction style, building materials, atmospheric conditions (i.e., weather), distance from the said systems, networks or services, surrounding terrain, battery life, signal strength, cellular traffic, cellular tower conditions and interference from other cellular devices. The Subscriber understands and agrees that the said systems, networks and services are not controlled by ResQ USA and/or the monitoring center.

5. **Release of Insured Losses.** In addition to and in no way limited the Disclaimer and Limitation of Liability herein, the Subscriber hereby releases ResQ USA from and against any and all losses, damages and expenses arising out of or related to hazards covered by insurance or bond, including all deductible and retained limits as well as loss, damages and expenses in excess of the Subscriber's available insurance policy limits.

6. **Waiver of Subrogation.** No insurance company, insurer or bonding company or their successors or assigns shall have any right of subrogation against ResQ USA.

7. **INDEMNIFICATION. IN ADDITION TO AND IN NO WAY LIMITING THE DISCLAIMER AND LIMITATION OF LIABILITY HEREIN, THE SUBSCRIBER AGREES TO PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS RESQ USA FROM AND AGAINST AND PAY (WITHOUT ANY CONDITION OR OBLIGATION THAT RESQ USA FIRST PAY) ALL CLAIMS, DEMANDS, SUITS, LIABILITIES, DAMAGES, JUDGMENTS, LOSSES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, WHICH MAY BE ASSERTED AGAINST OR INCURRED BY RESQ USA BY OR DUE TO ANY PERSON NOT A PARTY TO THIS AGREEMENT, INCLUDING THE SUBSCRIBER'S INSURANCE OR BONDING COMPANY, FOR ANY EXPENSE, LOSS OR DAMAGE INCLUDING, WITHOUT LIMITATION, STATUTORY CIVIL DAMAGES, PERSONAL INJURY, DEATH OR PROPERTY DAMAGE, REAL OR PERSONAL, ARISING OUT OF OR FROM, IN CONNECTION WITH, AS A RESULT OF, RELATED TO OR AS A CONSEQUENCE OF THE DESIGN, SALE, LEASE, INSTALLATION, REPAIR, SERVICE, FAILURE OR IMPROPER DISPATCH OF PERSONS TO THE PREMISES, INSPECTION, MAINTENANCE, MONITORING, ELECTRONIC COMMUNICATION SERVICES, VERIFICATION SERVICES, RECORDING OF COMMUNICATIONS, OPERATION OR NON-OPERATION OF THE EQUIPMENT SYSTEM OR CENTRAL STATION FACILITIES, WHETHER DUE TO THE ACTIVE, OR PASSIVE SOLE, JOINT OR**

**SEVERAL NEGLIGENCE (INCLUDING NEGLIGENCE PER SE) OF BUSINESS OR COMPANY OR ITS SUPPLIERS OR SUBCONTRACTORS , BREACH OF CONTRACT, EXPRESS OR IMPLIED, BREACH OF WARRANTY, EXPRESS OR IMPLIED, PRODUCT OR STRICT LIABILITY, OR ANY CLAIM FOR CONTRIBUTION OR INDEMNIFICATION, WHETHER IN CONTRACT, TORT OR EQUITY.**

8. **Delays.** The Subscriber acknowledges and agrees that ResQ USA makes no representation of timely delivery of equipment or commencement of services by any particular date, and ResQ USA is released by the Subscriber from any loss, damage or expenses to the Subscriber due to any delay in delivery of equipment or commencement of any and all services related thereto.

9. **Suspension or Termination of Services, Damages, Risk of Loss.** Should the Subscriber default hereunder, or upon termination of monitoring services for any reason, or if the PERS becomes a “runaway” system, or the PERS excessively signals the monitoring center providing monitoring services pursuant to and/or related to this Agreement without apparent reason, the Subscriber authorizes ResQ USA to, without limitation, to deactivate and render the PERS incapable of signaling or communicating with the monitoring center.

10. **Subscriber Duties and Responsibilities.** It is the sole responsibility of the Subscriber to immediately report to ResQ USA the need for any repair service to the PERS, which shall be performed by ResQ USA at its sole and absolute discretion and upon the written terms and conditions agreed to by ResQ USA and the Subscriber. The Subscriber agrees not to use the services provided pursuant to this Agreement for any fraudulent, unlawful, or abusive purpose, or in any way that interferes with the providing of services to ResQ USA and other subscribers. If the Subscriber does any of these things, the Subscriber agrees to be solely responsible for any amounts anyone else claims from ResQ USA, plus any and all other expenses and liabilities, resulting from the Subscriber’s actions. The Subscriber is solely responsible for maintaining the content and accuracy of the Subscriber’s personal emergency profile with ResQ USA and any changes thereto shall be provided to ResQ USA at CustomerService@ResQUSA.com. The Subscriber shall pay for all services and charges provided pursuant to this Agreement when due and on time and (unless the law provides otherwise) in full. The Subscriber is responsible for directly paying all charges for services provided to the Subscriber by others (such as emergency service providers). The Subscriber shall pay all federal, state and local taxes, and other fees and service charges that ResQ USA is required by law to collect and remit to the appropriate government agency(ies) for the services provided pursuant to this Agreement. These charges may change from time to time without advance notice. The Subscriber is solely responsible for any use of the PERS provided to the Subscriber. While the use of the PERS assigned to the Subscriber by anyone other than the Subscriber is expressly prohibited, in the event that a person other than the Subscriber utilizes the PERS the Subscriber is still liable and responsible for said use and the services requested, even if the Subscriber claims the use was not authorized by the Subscriber. The Subscriber agrees that ResQ USA and the monitoring center may share your information with any authorized person calling ResQ USA and/or the monitoring center on your behalf.

11. **Fees, etc., False Alarm.** In the event your PERS is utilized for any reason whatsoever, including but not limited to a false alarm, the Subscriber shall pay without recourse or reimburse ResQ USA for any fees, costs, expenses and penalties assessed against the Subscriber or ResQ USA, its related businesses or assigns by any court or local, state or federal government, governmental agency or any other agency as a result thereof.

12. **Forced Entry.** The Subscriber agrees and understands that if emergency response units or any other response person(s) are sent to the location from which an emergency signal has been received or any other related location forced entry may be required to respond appropriately to the emergency situation. The Subscriber agrees and understands that the Subscriber shall indemnify and hold harmless any party involved in such an occurrence under any and all circumstances and the Subscriber agrees and understands that the Subscriber shall pay without recourse or reimburse ResQ USA for any fees, costs, expenses and penalties assessed against the Subscriber or ResQ USA by any court or local, state or federal government, governmental agency or any other agency as a result thereof.

13. **Default of Subscriber.** In the event of any default by the Subscriber, without limiting the rights of ResQ USA, under this Agreement or at law or equity, ResQ USA shall be entitled to retain all prepayments received and the Subscriber shall immediately pay to ResQ USA, its related business or assigns (a) all payments then due and payable, and (b) 100% of all payments which would be due hereunder for the unexpired term of this Agreement as liquidated damages and not as a penalty and neither ResQ USA shall have any further obligation to perform under this Agreement.

14. **Binding Agreement, Applicable Law.** The Agreement becomes binding upon ResQ USA only (i) when signed by an authorized representative of ResQ USA, who must be a member/manager or authorized agent thereto if (a) there are any additions to this Agreement or (b) any of the printed terms and conditions have been altered, deleted or substituted by other wording, or (ii) upon commencement of services provided hereunder. This Agreement is binding on the Subscriber's heirs, executors and/or administrators, and shall be governed by and construed according to the laws of the State of West Virginia.

15. **Assignability of Agreement.** This Agreement is not assignable by the Subscriber except upon the written consent of ResQ USA, which shall be in ResQ USA's sole and absolute discretion. This Agreement or any portion thereof is assignable by ResQ USA in its sole and absolute discretion.

16. **No Waiver of Breach, Payment of Attorneys' Fees.** If ResQ USA shall waive any breach by the Subscriber, it shall not be construed as a waiver of any subsequent breach, and ResQ USA's failure to exercise any rights hereunder shall not be construed as a waiver of any breach unless specifically waived by ResQ USA in writing. ResQ USA's right hereunder shall be cumulative, and any rights hereunder may be exercised concurrently or consecutively and shall include all remedies available under law and equity even though not expressly related to herein. The Subscriber shall pay to ResQ USA all costs and expenses including and without limitations actual attorneys' fees incurred by ResQ USA in any dispute in connection with, arising out of or from, as a result of, related to or as a consequence of the relationship, rights,

duties, responsibilities or obligations of the parties created by this Agreement.

17. **Monitoring Service.** Except as otherwise provided herein, the monitoring service provided hereunder consists solely of the calling by telephone of third party professional or emergency agencies and the telephone numbers of the emergency contacts supplied in writing by the Subscriber (as set forth herein) upon receipt of signals transmitted from the PERS or voice communications from the PERS. No monitoring service shall be rendered for voice communication which does not request assistance (such as when the Subscriber advises that the signals transmitted was a false alarm).

ResQ USA and/or the monitoring center shall telephone third party professional and/or emergency agencies no more than once every fifteen (15) minutes for no more than one (1) hour upon receipt of an emergency signal transmitted from the PERS and, in such event, there shall be no liability of ResQ USA for (i) false alarm fines, (ii) failure to telephone third party professional or emergency agencies at lesser intervals, or (iii) failure to telephone third party professional or emergency agencies at all after receiving advice of dispatch from said agencies. Provided the Subscriber, or others as directed in writing by the Subscriber, are notified of a voice communication upon initial receipt by the monitoring center, ResQ USA and/or the monitoring center shall telephone the Subscriber, or others as directed in writing by the Subscriber, no more than once every hour for no more than four (4) hours, ResQ USA and/or the monitoring center shall have no liability for failure to telephone the Subscriber, or others, at lesser intervals or for a greater period of time.

ResQ USA's and/or the monitoring center's efforts to notify third party professional or emergency agencies shall be satisfied by advice by telephone to any person answering the telephone number(s) of same or by leaving a message with a telephone answering service or any mechanical, electrical, electronic or other technology permitting the recordation of voice or data communications. Further, ResQ USA's and/or the monitoring center's efforts to notify the Subscriber's emergency contacts shall be satisfied by advice by telephone to any person answering the telephone number(s) of same or by leaving a message with a telephone answering service or any mechanical, electrical, electronic or other technology permitting the recordation of voice or data communications. Upon making contact with one of the Subscriber's emergency contacts, neither ResQ USA nor the monitoring center shall have any obligation to contact any of the Subscriber's other emergency contacts. ResQ USA and/or the monitoring center shall have no obligation to make more than one call to Subscriber's emergency contacts in the event that no one answers and there is no mechanism by which to leave a voicemail or message.

The monitoring service provided hereunder is only available in the United States. The monitoring service provided hereunder IS NOT A SUBSTITUTE FOR 9-1-1 and, in fact, if the monitoring service provided hereunder conferences in 9-1-1 emergency services on your behalf, there could be a delay in reaching 9-1-1 emergency services. The monitoring services provided hereunder will only work if the Subscriber's account is current on payment and if the Subscriber's device is charged, turned on, has cellular phone, mobile phone and GPS service and network availability and if the PERS is charged and enabled. The monitoring service provided hereunder may not be available in remote or enclosed areas and will not be available at any location where you do not have cellular phone, mobile phone and GPS service and network

availability. In the event the Subscriber is in a location where there is cellular phone, mobile phone and GPS service and network availability and monitoring service is available, once the Subscriber activates the PERS and it is charged and enabled, the Subscriber will be able to be tracked to the Subscriber's approximate location and this information can be provided to third party service providers and/or emergency contacts that you designate in case of an emergency or service incident. However, ResQ USA and/or the monitoring center cannot and will not guarantee that the Subscriber can be tracked to an exact location and, in some cases, the monitoring center may only be able to provide the information provided in your personal profile. The monitoring center may link, conference or transfer the Subscriber to other service providers such as the police, fire department, ambulance service or 9-1-1 emergency services. All reasonable efforts to contact appropriate service providers for help will be used when you ask for it, but ResQ USA and/or the monitoring center cannot guarantee that any service provider will respond in a timely manner or at all, or that you will be provided with the best service provider or any level of service from any such service provider. The laws in some places require an emergency situation to be confirmed before emergency service providers will provide service. The monitoring center will not contact emergency service providers in these locations in response to a signal from the Subscriber's PERS if we cannot hear your request for assistance or otherwise confirm that an emergency exists.

18. **Self-Protection.** The Subscriber understands and agrees that the PERS and related monitoring services is used to help the Subscriber protect his or her person, but neither the PERS nor the related monitoring services assure such protection. The Subscriber understands and agrees that the Subscriber shall use all other reasonable available means to protect himself or herself.

19. **Representations and Warranties:** The Subscriber understands and acknowledges that ResQ USA is acting strictly as a re-seller of equipment for the manufacturer. All products include manufacturer warranties as described by the manufacturer, and subject to terms and conditions as outlined by the manufacturer unless otherwise indicated. Batteries are not covered under these warranties. Equipment which has been subject to abuse, misuse, alteration, unauthorized repair, or damage as a result of Acts of God beyond the control of ResQ USA is not covered by the warranty. ResQ USA shall have the right of final determination of the existence and cause of defect.

20. **Suspension and Termination of Service.** The Subscriber agrees that ResQ USA's obligations hereunder are waived and released automatically without notice and without liability to ResQ USA in case the monitoring center, cellular phone, mobile phone and/or GPS network, equipment, or facilities necessary to operate the monitoring system or monitoring center are destroyed, damaged, inoperable or malfunction for any reason whatsoever, for the duration of such interruption of service, and the Subscriber shall be entitled to reimbursement of the pro rata cost paid for the period of interruption on request of the Subscriber and this shall be the limit of ResQ USA's liability for the occurrences described in this paragraph. ResQ USA may terminate the services provided hereunder without cause, in which case we will give you notice thirty (30) days prior to the effective date of termination after which the Subscriber's account will be deactivated and the Subscriber's service will terminate. This means that ResQ USA can decide to cease providing the services provided hereunder to the Subscriber at any time and for any



reason, even for reasons unrelated to the Subscriber or the Subscriber's account. In such a case, the Subscriber will be refunded any amounts paid in advance as of the effective date of termination. Also, the Subscriber's service provided hereunder may be terminated without prior notice to the Subscriber for any good cause. This means, for example, the Subscriber's service can be terminated immediately if the Subscriber breaches any part of this Agreement, including failing to pay all amounts due under this Agreement by the date due (time is of essence), if the Subscriber interferes with the efforts to provide monitoring service, interferes with the business of ResQ USA, or if the service is used for illegal or improper purposes. The Subscriber has no right to have the monitoring service reactivated, even if the Subscriber cures any of these problems or issues. Your monitoring service hereunder can be suspended for any reason, including but not limited to network or system maintenance or improvement, network congestion, or if it is suspected that the Subscriber's monitoring service is being used for any purpose that cause ResQ USA to desire to terminate it at their sole discretion.

**21. Subscriber's Contractual Limitation of Actions, Jurisdiction, Choice of Law.** In addition to and in no way limited the Disclaimer and Limitation of Liability, in the event the Subscriber believes it may have any claim(s), action(s) or proceeding(s), legal or equitable, (hereafter collectively "claims") against ResQ USA, the parties hereto agree that any such claim(s) shall be resolved through confidential binding arbitration. The parties agree that any such claims will be resolved by one neutral arbitrator pursuant to the applicable rules and procedures of the American Arbitration Association (hereafter the "AAA"). There is no judge or jury in arbitration. Arbitration procedures are generally simpler and more limited than rules applicable in state and federal courts, and review of the arbitrator's ruling, award or judgment is limited. But you are entitled to a fair hearing and the arbitrator's decisions are as enforceable as any court order. Arbitration shall be subject to the Federal Arbitration Act and not any state arbitration law. The arbitration will be governed by the AAA's arbitration rules (collectively the "Rules and Procedures"). The parties agree that: (a) the arbitration shall be held at a location in Morgantown, West Virginia, or as otherwise determined by AAA pursuant to the Rules and Procedures (provided that such location is reasonably convenient for you), or at such other location as may be mutually agreed upon by the parties; (b) ANY CLAIMS BROUGHT BY THE SUBSCRIBER MUST BE BROUGHT IN THE SUBSCRIBER'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING; (c) THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, (d) in the event that you are able to demonstrate that the costs of arbitration will be prohibitive as compared to costs of litigation, ResQ USA will pay as much of your filing and hearing fees in connection with the arbitration as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive as compared to the cost of litigation, (e) ResQ USA also reserves the right in its sole and exclusive discretion to assume responsibility for all of the costs of the arbitration; (f) the arbitrator shall honor claims of privilege and privacy recognized at law; and (g) a decision by the arbitrator (including any finding of fact and/or conclusion of law) against any party hereto shall be confidential unless otherwise required to be disclosed by law or by any administrative body and may not be collaterally used against any party hereto in existing or subsequent litigation or arbitration involving any other person/customer.

With the exception of subparts (b) and © in the paragraph above (prohibiting arbitration on a class or collective basis), if any part of this arbitration provision is deemed to be invalid, unenforceable or illegal, or otherwise conflicts with the Rules and Procedures, then the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained in these terms of conditions of use. If, however, either subpart (b) or © is found to be invalid, unenforceable or illegal, then the entirety of this arbitration provision shall be null and void, and no party hereto shall be entitled to arbitration.

In the event this agreement to arbitrate is held unenforceable, or in the event AAA refuses to arbitrate the dispute, all controversies, disputes, demands, counts, claims, or causes of action between the parties hereto shall be exclusively brought in the state or federal courts located in Monongalia County, West Virginia, or the District Court for the Northern District of West Virginia, respectively. Further, in the event any party hereto brings an action in a court seeking provisional interim equitable relief pending resolution of an arbitration, such provisional interim relief must be exclusively sought in the state or federal courts located in Monongalia County, West Virginia, or the District Court for the Northern District of West Virginia, respectively.

For more information on AAA, its Rules and Procedures, and how to file an arbitration claim, you may call AAA at 800-778-7879, write the AAA at 1633 Broadway, 10th Floor, New York, New York 10019, or visit the AAA website at <http://www.adr.org>.

To the fullest extent permitted by law, and except as explicitly provided otherwise, this Agreement and any disputes arising out of or relating to it will be governed by the laws of the state of West Virginia, in accordance with the Federal Arbitration Act, without regard to its conflict of law principles, and by any applicable tariffs, wherever filed.

**22. No Special Relationship Between the Parties.** This Agreement does not create any fiduciary relationships between ResQ USA and the Subscriber, nor does it create any relationship of principal and agent, partnership, or employer and employee.

**23. Integrated Agreement; Modifications.** This instrument contains the entire Agreement between the parties hereto with respect to the transactions described herein and supersedes all previous and contemporaneous negotiations, commitments, contracts, express or implied, warranties, express or implied, statements and representations, whether written or oral, pertaining thereto, all of which shall be deemed merged into this Agreement. Neither party has authority to make or claim any representation, term, promise, condition, statement, warranty, or inducement which is not expressed herein. Should any provisions hereof (or portion hereof), or its application to any circumstances, be held illegal, invalid or unenforceable to any extent, the validity and enforceability of the remainder of the provision and this instrument, or of such provision as applied to any other circumstances, shall not be affected thereby, and shall continue in full force and effect as valid, binding and subsisting. All changes or amendments to this Agreement must be in writing and signed by the parties to be binding on the parties.

**24. Right to Subcontract.** ResQ USA may subcontract for the provision of monitoring

or other services under this Agreement. The Subscriber agrees and acknowledges that the provisions of this Agreement inures to the benefit of and are applicable to any subcontractors engaged by ResQ USA to provide any service set forth herein to the Subscriber, and bind the Subscriber to said subcontractor(s) with the same force and effect as they bind the Subscriber to ResQ USA.

25. **Authorization to Record Communications.** The Subscriber acknowledges that ResQ USA and/or the monitoring center may record video, wire and oral transmissions or communications between ResQ USA, its employees and agents, and/or the monitoring center, the Subscriber and/or the Subscriber's agents, employees or representatives. The Subscriber agree that ResQ USA, its employees and agents, and/or the monitoring center, its employees and agents, may share your information with any person calling the service on your behalf and any professional or emergency service provider and any other person that ResQ USA, its employees and agents, and/or the monitoring center, its employees and agents, reasonably related to the services provided herein in their sole discretion.

26. **General Emergency Signals.** The Subscriber acknowledges and agrees that it is the Subscriber's specific intent that all alert signals shall be deemed by the parties to be general emergency signals and NOT signals denoting any medical emergency requiring ResQ USA and/or the monitoring center to contact or dispatch medical, hospital, ambulance, or other like entity, person or service (hereinafter "Medical Assistance") The Subscriber agrees that it is the Subscriber's sole responsibility to (I) prepare for any medical emergency, and (ii) contact or dispatch, and/or make other arrangements to contact or dispatch, Medical Assistance if and when necessary by means other than through ResQ USA and/or the monitoring center.

27. **Paragraph Headings.** The paragraph titles used herein are for convenience of the parties only and shall not be considered in construing the provision of this Agreement.

28. **Cancellation.** If this Agreement was entered into in a face-to-face transaction with an employee or agent of ResQ USA, the Subscriber may cancel this Agreement at any time prior to midnight on the third (3) business day after the Subscriber's execution of this Agreement. Any such cancellation must be by email to customerservice@resqusa.com. Any such cancellation is subject to the Subscriber returning the PERS in the same exact condition in which it was received to ResQ USA at its address above at the Subscriber's sole shipping expense.

THE SUBSCRIBER SPECIFICALLY ACKNOWLEDGES AND ACCEPTS ALL PARAGRAPHS HEREIN. ALL TERMS AND CONDITIONS HEREIN ARE AN INTEGRAL PART OF THIS CONTRACT. THE SUBSCRIBER ACKNOWLEDGES RECEIPT OF A COPY OF CONTRACT ALTHOUGH THE SUBSCRIBER'S COPY MAY NOT INCLUDE THE PARTIES' SIGNATURES THEREON. THE SUBSCRIBER MAY PRINT THIS AGREEMENT OUT AT RESQUSA.COM AT THE TIME OF THE SUBSCRIBER'S EXECUTION OF SAME.

IN THE EVENT THAT THE PAYER IS A PERSON DIFFERENT FROM THE SUBSCRIBER, THE PAYER SHALL SIGN WHERE INDICATED BELOW AND SHALL BE LIABLE FOR ALL PAYMENT OBLIGATIONS PROVIDED HEREIN. THE SUBSCRIBER

AND/OR THE PAYER, AS THE CASE MAY BE, AUTHORIZES RESQ USA TO UPDATE ANY CREDIT CARD EXPIRATION DATE SO AS TO PERMIT CONTINUED BILLING OF THE CREDIT CARD.

HAVING READ THE ENTIRE AGREEMENT AND BEING IN FULL AGREEMENT WITH ALL TERMS AND CONDITIONS HEREIN, THE PARTIES EXECUTE THIS AGREEMENT ON THE DATE FIRST ABOVE WRITTEN.