

## HALO SUBSCRIBER AGREEMENT

THIS SUBSCRIBER AGREEMENT, (this “**Agreement**”) made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, between \_\_\_\_\_ (the “**Subscriber**”) and Halo Monitoring, Inc. and its subsidiaries or affiliates involved in providing the products and services described herein (“**Halo**”).

### 1. DEFINITIONS

**1.1 Subscriber.** Subscriber shall mean the individual signing this agreement and responsible for payment. By signing this agreement, the Subscriber acknowledges that they are the User, as defined below, or that they are authorized by the User to act on their behalf for purposes of this agreement.

**1.2 User.** User shall mean the individual who will be directly using the Halo Equipment and services. In most cases the User and Subscriber is the same individual.

**1.3 Caregivers.** Caregivers shall mean those individuals the Subscriber designates as entitled to receive certain User Health Data in certain situations.

**1.4 Emergency Personnel.** Emergency Personnel shall mean 911 operators, police, sheriff’s deputies, firefighters, paramedics, and other governmental or volunteer emergency responders.

**1.5 Equipment.** Equipment shall mean the Halo monitoring equipment, including that portion designed to be worn by an individual, which detects and measures certain Health Data and, in emergency situations, transmits the Health Data to Caregivers or Emergency Personnel.

**1.6 Health Data.** Health Data shall mean the data, files, reports and other information collected through and associated with the Equipment. The Health Data shall also mean any information provided by the Subscriber or User to Halo using the User Intake Form or through the Internet Portal.

**1.7 Internet Portal.** Internet Portal shall mean the password-protected Internet website that the Subscriber may access to update and instruct Halo regarding the use of the Health Data. This information is provided initially by the User Intake Form and the Subscriber shall update Halo in writing of any changes in phone numbers for themselves, the User, or the Caregiver(s), and any other changes if they cannot, or chose not to, use the Internet Portal for this purpose.

**1.8 Provider.** Provider shall refer to Halo Monitoring, Inc.

### 2. SUBSCRIBER’S RIGHTS AND OBLIGATIONS

**2.1 Equipment Requirements.** The Subscriber will provide at Subscriber’s sole expense suitable electric, broadband Internet, and/or telephone service to allow installation and operation

of the Equipment. The Subscriber will pay all the charges for such services including taxes if applicable.

**2.2**    License Grant. Subscriber hereby grants Halo a license to access and use the Health Data in connection with the services provided by Halo. The Subscriber also grants Halo the right to access, utilize, create and publish derivative works from any and all Health Data. The derivative works may use Health Data for creating statistics of a larger population. When doing so, Halo does not include any personal identifying information; nor will the Provider be identified. For example, Halo might publish fall statistics or the number of hours the Equipment is worn during sleep for the entire User population.

**2.3**    Authorization. The Subscriber hereby authorizes Halo to share the Health Data, only with entities and individuals for the purpose of providing medical care and for the purpose of sharing information with others selected by the Subscriber. The Subscriber agrees that this authorization permits the disclosure of health or treatment information to Caregivers and Emergency Personnel that may also contain sensitive health information.

This authorization will remain in effect and permit the ongoing disclosure by Halo of the Health Data until the Subscriber deletes the User's profile in the Internet Portal entirely or revokes the authorization by notifying Halo in writing. The Subscriber agrees that any revocation will not apply to actions Halo has already taken in reliance on prior authorization.

**2.4**    User Intake Form. The Subscriber shall use the User Intake Form to designate the identity of the User's Caregivers and place any limitations on the use of Health Data. The Subscriber is responsible for the accuracy and completeness of the information provided to Halo using the User Intake Form. If the Internet Portal is used to subsequently update the information supplied on the User Intake Form, the Subscriber is responsible for the security of his or her passwords and for any use of the Subscriber's account. The Subscriber is at least 18 years of age. The Subscriber's use of the Internet Portal and Equipment shall comply with all applicable laws, regulations, and ordinances, including any laws relating to the export of data or software. The Subscriber shall not disrupt the proper operation of the Equipment or the Internet Portal.

**2.5**    HIPAA. The Subscriber shall only transmit, create or display health or other information that the Subscriber is authorized to use, transmit, create or display. The Subscriber acknowledges that Halo is not a "covered entity" under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder ("**HIPAA**"). As a result, HIPAA does not apply to the transmission of Health Data by Halo to any third party.

**2.6**    Telephone Provider. The Subscriber acknowledges that if the User's telephone line is occupied, the Equipment will not be able to obtain access to the phone line unless the User has his or her telephone provider install a RJ31X jack. If the User has such jack installed, the Subscriber consents to an interrupt of the User's telephone in the event the Equipment detects an emergency or life-threatening situation.

**2.7**     Report. The Subscriber shall report to Halo, as soon as practical, any perceived defect in the Equipment or Internet Portal. The Subscriber shall provide to Halo an evaluation of the Equipment, Internet Portal, and services provided by Halo upon Halo's reasonable request.

**2.8**     Use of Panic Button. The Subscriber agrees that the Equipment's panic button should be used only in the event of an emergency. The Subscriber acknowledges that Caregivers and Emergency Personnel will be notified, even if the panic button was activated accidentally or in error.

### **3. HALO'S RIGHTS AND OBLIGATIONS**

**3.1**     Relay of Health Data. Halo shall use its reasonable best efforts to contact Emergency Personnel and Caregivers in the event the Equipment detects an emergency situation or receives notice that the Equipment's panic button has been activated. Halo will transmit pertinent Health Data to the Caregivers and Emergency Personnel, in accordance with the account settings in the User's Health Data file as established by the Subscriber or User.

### **4. PRIVACY POLICY**

**4.1**     The Subscriber acknowledges that only the Subscriber and User have access to the Health Data. The Subscriber or User are the only individuals who can view and edit the information supplied in the Intake Form or over Internet Portal; and the information will only be shared with others as described in Section 2.0 and section 4.2 below. The Subscriber, User and Caregiver can add or delete a Caregiver for the User's records.

**4.2**     From time to time, Halo may aggregate data to publish trend statistics and associations. Halo may make health information available for research purposes or to better refine the algorithms and services provided through Halo. All health information will be de-identified and no data can be used to personally identify any User.

**4.3**     Halo's servers automatically record log information about Subscriber or Users use of the Internet portal (such as number of sign-ins and number of times a link was clicked). The log information will be used to operate and improve the service.

**4.4**     Halo adheres to the US Safe Harbor privacy principles. For more information about the Safe Harbor framework or our registration, see the Department of Commerce's web site at <http://www.export.gov/safeharbor/>.

### **5. TERM AND TERMINATION**

**5.1**     Term. This Agreement and the Subscriber or User's right to use the Equipment and Internet Portal shall be from the date hereof through one year from such date, if not terminated earlier pursuant to Section 5.2. Upon termination of this Agreement, if the Subscriber has rented the Equipment from Halo, the Subscriber agrees to return the Equipment to Halo in the same condition in which it was received by the Subscriber, with reasonable wear and tear excepted. If

the Subscriber fails to do so within 10 days of termination, the Subscriber will be responsible for the full price of the Equipment.

**5.2** Termination. This Agreement may be terminated a) by either party upon 30 days' written notice; b) upon 10 days' written notice in the event of a material breach by either party that remains uncured for 60 days after reasonable notice.

## **6. PAYMENT TERMS**

**6.1** Fees. The Subscriber agrees to pay a deposit the amount of \_\_\_\_\_ and fees in the amount of \_\_\_\_\_ per month.

**6.2** Payment. The Subscriber shall remit payment of the fees to Halo Monitoring.

Subscriber Initials \_\_\_\_\_

## **7. DISCLAIMERS**

**7.1** Medical Advice. Halo does not offer medical advice. Any content accessed through Halo, the Equipment, or the Internet Portal is for informational purposes only, and is not intended to cover all possible uses, directions, precautions, drug interactions, or adverse effects. The content of the Internet Portal and/or the Equipment should not be used for the diagnosis or treatment of any medical condition. The Subscriber or User should consult his or her doctor or other qualified health care provider if he or she has any questions about a medical condition, or before taking any drug, changing his or her diet or commencing or discontinuing any course of treatment. The Subscriber or User will not ignore or delay obtaining professional medical advice because of information accessed through Halo. The Subscriber or User shall call 911 or his or her doctor for all medical emergencies.

**7.2** Power/Phone Failure. Halo is not responsible for the failure of the User's telephone, internet or power services. In the event of such a failure, the Equipment may not be able to transmit the User's Health Data to Halo.

**7.3** Indemnification. In the event any person, not a party of this Agreement, including Subscriber's and/or User's insurance company, shall make any claim against Provider/Halo for any reason whatsoever, including but not limited to the installation, maintenance, operation or non-operation of the System, the Subscriber agrees to indemnify, defend, and hold Provider/Halo harmless for any and all claims and lawsuits including the payment of all damages, expenses, costs and attorney's fees whether these claims be based upon alleged intentional conduct, active or passive negligence, or strict or product liability, on the part of the Provider, its agent, servants or employees. The Subscriber shall and does hereby indemnify and save Provider/Halo, its distributors and agents harmless from any and all liability resulting from the selection, possession, operation, control, use and maintenance of the Equipment. In the event of litigation, to protect Provider/Halo's rights hereunder, the Subscriber agrees to pay all reasonable attorney's fees, collection agent fees, or court costs resulting from such litigation.

**7.4 Hold Harmless.** Subscriber hereby releases, discharges and agrees to hold Provider/Halo harmless from any and all claims, liabilities, damages, losses or expenses, arising from or caused by any hazard covered by insurance in or on the premises of User whether said claim is made by Subscriber or User, their agents or insurance company, or by any other parties claiming under or through Subscriber or User.

**7.5 Warranty or Representation.** Provider/Halo does not represent or warrant that the Equipment may not be compromised or circumvented or the Equipment will prevent any personal injury, loss of life or property, or damage, or that the Equipment will in all cases provide the protection for which it is maintained or intended. Provider/Halo expressly disclaims any implied warranties, including the implied warranties of merchantability or fitness for a particular purpose, and the Subscriber has not relied upon any representation or warranty. The Subscriber acknowledges that any affirmation of fact or promise made by Provider/Halo or its agents, servants or employees, shall not be deemed to create any express warranty unless included in the Agreement in writing. WITH THE EXCEPTION OF THE HARDWARE WARRANTY DESCRIBED IN ADDENDUM I, NEITHER HALO NOR PROVIDER NOR ANY OF HALO'S LICENSORS MAKE ANY OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE HALO SYSTEM AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL HALO BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSSES, COSTS OR EXPENSES OF ANY KIND, HOWEVER CAUSED AND WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY.

**7.6 Limitation of Liability.** It is understood and agreed that Provider/Halo is not an insurer of person, life, limb or property and that insurance, if any, covering personal injury, life and property loss or damage shall be obtained by the Subscriber, if so desired. Provider/Halo is being paid for the monitoring of Equipment designed to reduce certain risks. Provider/Halo and the Subscriber acknowledge that the amounts being charged are not sufficient to in any way guarantee no loss or damage, and that Provider/Halo is not assuming responsibility for any personal injury, life or property loss or damage, even if due to Provider/Halo's negligent performance or failure to perform any obligation under this Agreement or failure of the Equipment to operate as intended, or for any other reason whatsoever.

**IN NO EVENT SHALL HALO BE LIABLE TO SUBSCRIBER, USER, OR CAREGIVER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSSES, COSTS OR EXPENSES OF ANY KIND, HOWEVER CAUSED AND WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY, EVEN IF SUBSCRIBER, USER, OR CAREGIVER HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, COSTS OR EXPENSES. IN ALL EVENTS, THE LIABILITY OF HALO AND PROVIDER AND SHALL BE LIMITED TO THE FEES PAID FOR THE HALO PRODUCTS AND SERVICES**

**7.7** Third-Party Service Providers. Halo may screen, modify, refuse or remove certain content or third-party services from the Internet Portal, but it is not responsible for and does not endorse any third-party content or services. Halo further does not endorse any third-party service providers, other health care providers, products, services, opinions or websites access through the Internet Portal. USE OF THE SERVICES AND RELIANCE ON THIS CONTENT IS SOLELY AT THE RISK OF THE SUBSCRIBER AND/OR USER. HALO MAY NOT BE HELD LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THE SUBSCRIBER'S AND/OR USER'S USE OF ANY THIRD-PARTY SERVICE OR CONTENT.

## **8. MISCELLANEOUS**

**8.1** Governing Law and Venue. This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Alabama without regard to its conflict of laws provisions. Each Party hereby irrevocably consents to the exclusive jurisdiction of federal and state courts located in Huntsville, Alabama for any dispute relating to or arising from this Agreement.

**8.2** Notices. All notices required or permitted hereunder shall be in writing addressed to the respective parties as set forth herein, unless another address shall have been designated, and shall be delivered by hand or by registered or certified mail, postage prepaid.

If to Halo:                      HALO MONITORING, INC.  
515 Sparkman Drive  
Suite 303  
Huntsville, Alabama 35801

If to Subscriber:                      \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8.3** Agreement Binding on Successors. This Agreement shall be binding on and shall inure to the benefit of the parties hereto, and their heirs, administrators, successors, and assigns.

**8.4** Waiver. No waiver by either party of any default shall be deemed as a waiver of any prior or subsequent default of the same or other provisions of this Agreement.

**8.5** Severability. If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement.

**8.6** Assignability. This Agreement and the rights and obligations thereunder with respect to the Subscriber are personal to the Subscriber and may not be assigned by any act of the Subscriber or by operation of law without the prior written consent of Halo.

**8.7** Integration. This Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents that may be in conflict therewith.

**8.8** Survival of Covenants. The representations and warranties, covenants, and obligations of Subscriber in Sections 6 and 7 shall survive the termination of this Agreement.

**8.9** Governing Law; Dispute Resolution. In the event of any dispute between the parties regarding this Agreement, the parties agree to submit the resolution of such dispute to binding arbitration in accordance with Chapter 1, Title 9, of the United States Code (Federal Arbitration Act). The arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. Judgment upon an award rendered pursuant to the arbitration may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award, and an order of enforcement, as the case may be. The costs and expenses of the arbitration proceeding, including the fees of the arbitrator, legal fees, witness fees, and all other costs and expenses, shall be assessed in the discretion of the arbitrator. The situs of the arbitration shall be Huntsville, Alabama.

**8.10** Waiver of Jury Trial. THE PARTIES ACKNOWLEDGE THAT BY AGREEING TO BINDING ARBITRATION THEY HAVE IRREVOCABLY WAIVED ANY RIGHT THEY MAY HAVE HAD TO A JURY TRIAL BY A COURT WITH REGARD TO A DISPUTE.

IN WITNESS WHEREOF, the parties hereto have caused this Subscriber Agreement to be signed and delivered by, as of the date first hereinabove written.

**“Subscriber” (signature):**\_\_\_\_\_



## **ADDENDUM I: TO HALO SUBSCRIBER AGREEMENT**

### **myHalo Hardware Warranty Information**

Unless otherwise specified, all equipment has a 12-month limited warranty, from the date of purchase, against defects in material and workmanship. Any defective part will be replaced or repaired if used in the manner described in the myHalo Personal Monitoring and Alert System User Guide.

### **Limited Lifetime Warranty on Select Products**

Select products have a limited lifetime warranty. Any defective part will be replaced or repaired if used in the manner described in the User Guide. The warranty does not protect against intentional misuse or damage, including damage during shipment or damage from lightning. The following products are included in this category:

1. Home Gateway
2. Transmitter (does not include battery or fabric electrode strap)

### **Exclusion of Warranties**

Neither Halo, nor provider, nor any of Halo's licensors make any other warranty, expressed or implied, with respect to the Halo system and all other warranties, whether expressed or implied, are hereby disclaimed, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall Halo be liable for any incidental, indirect, special, consequential or punitive damages, losses, costs or expenses of any kind, however caused and whether based in contract, tort, strict liability or any other theory of liability.

### **Contact Information**

You can contact Halo Monitoring online at <http://www.halomonitoring.com>, phone:

1-888-971-HALO (4256), or email: [support@halomonitoring.com](mailto:support@halomonitoring.com).



## ADDENDUM II: TOHALO SUBSCRIBER AGREEMENT

**This form must be completed when the Subscriber Agreement is signed or at Installation if Halo or their representative do the installation for the User.** By signing below I acknowledge the following:

- **Account Activation.** After calling Halo at 1-888-971-4256 and completing the installation process, it will take up to 24 hours for critical events including falls and panic button presses to be monitored and responded to by the Call Center. Also, any subsequent profile updates for the user and/or caregiver may also take up to 24 hours to update and change how and who the Call Center contacts for critical events.
- **Quick Start and User Guide.** I have received and read the myHalo User Guide.
- **RJ31X Jack.** If the User's standard telephone line is occupied, the Equipment will not be able to obtain access to the phone line unless the Subscriber has his or her telephone provider install a RJ31X jack. If the Subscriber has such jack installed, the Equipment will interrupt the User's telephone in the event it detects an emergency or life-threatening situation. This is necessary to ensure the Call Center receives notification of the event. Contact a professional phone line installer for further details. If you have a home alarm system connected to the phone line, the installer will need to coordinate with the alarm system company to ensure that your home alarm service is not disabled or disrupted.
- **Uninterruptible Power Supply.** The Subscriber may wish to use an optional UPS (Uninterruptible Power Supply) in conjunction with the myHalo Equipment. Doing so will provide battery backup power for the myHalo Home Gateway during an AC power failure and can allow continued communication between the Home Gateway and the standard phone line during the power outage. Refer UPS to manufacturer's installation instructions.
- **Surge Protector.** If the Subscriber elects not to use a UPS as described above, it is advised the Subscriber install a UL rated surge protector to protect both the power connection and any phone line connections to the Equipment. In the event of a power surge or line spike, the Equipment may be damaged and prevent its operation otherwise. **YOUR WARRANTY DOES NOT PROTECT AGAINST LIGHTNING DAMAGE.**
- **Caregiver Role.** It is highly recommended that you have at least one family member, friend, neighbor, or professional configured as caregiver for your account. This allows Halo to contact someone you trust to be involved in the case you need assistance.

Subscriber Name \_\_\_\_\_

Subscriber's Signature \_\_\_\_\_ Date \_\_\_\_\_

Installer's Signature \_\_\_\_\_ Date \_\_\_\_\_

## **ADDENDUM III: TO HALO SUBSCRIBER AGREEMENT**

### **Termination of Services Exit Form**

This form is to be completed by the Subscriber to acknowledge that all services to be provided by Halo under the Subscriber Agreement with Halo have been, or are being terminated, at the Subscribers request, or in accordance with other termination provisions of the Subscriber agreement, on the earlier of the date and time indicated here: date\_\_\_\_\_time\_\_\_\_\_, or on the date and time when the Halo Equipment is removed or disconnected from service.

If the Subscriber has rented Halo Equipment, the Subscriber agrees that they will return all Halo Equipment in good repair, shipping prepaid, to Halo at the address indicated below within 10 days of the date indicated above. Halo will return the Equipment deposit within 30 days of receipt of the Equipment in satisfactory repair, less deduction for any missing or damaged Equipment.

Subscriber Name: \_\_\_\_\_

Subscriber's Signature\_\_\_\_\_Date\_\_\_\_\_

Unless otherwise indicated below, the addresses for Notice in the Subscriber Agreement shall be used for return of Equipment and deposit, if applicable.

#### **Address for Equipment Return:**

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#### **Subscriber's Address for Return of Deposit**

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