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## Residential Services Subscriber Agreement

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### Introduction

(a) This Agreement, the accompanying Work Order, the corresponding Terms of Use and the related Price List(s) (collectively, the "Agreement") sets forth the terms and conditions under which Wave Broadband, together with any of its affiliates and/or distribution partners (collectively, "Wave Broadband" or "we"), agrees to provide the Services described herein. The account holder(s) referred to on the accompanying Wave Broadband Work Order or statement ("I," "me," "my," "you," or "your") agrees that this Agreement sets forth the terms and conditions that govern my receipt of Services from Wave Broadband, which may include, among others, cable, high-speed data, local telephone, long distance and voice-over-internet-protocol telephone Services. By using the Service(s), you (i) agree to abide by, and require others using the Services via your account to abide by the terms of this Agreement, and (ii) represent and warrant that you are at least 18 years of age. If you do not agree with the foregoing, you may not use the Services and must return any installation software, equipment, and all associated materials to Wave Broadband. This Agreement takes effect on the date on which you accept this Agreement, and continues until your subscription is terminated.

(b) Wave Broadband reserves the right to modify the terms of this Agreement and/or prices for the Services and may discontinue or revise any or all other aspects of the Services in its sole discretion at any time by posting changes online. An online version of this Agreement, as so changed from time to time, will be accessible at [www.wavebroadband.com](http://www.wavebroadband.com) or another online location designated by Wave Broadband, or can be obtained by calling your local Wave Broadband office. Your continued use of the Services after changes are posted constitutes your acceptance of this Agreement as modified by the posted changes. The updated, online version of this Agreement shall supersede any prior version of this Agreement that may have been included in any software or related materials provided by Wave Broadband.

(c) Wave Broadband will provide notice of any significant change(s) in this Agreement. Any such changes shall become effective immediately except where applicable law requires a notice period, in which case the change will become effective at the end of the requisite notice period. Upon effectiveness of any change to any of these documents, your continued use of the Services will constitute your consent to such change and your agreement to be bound by the terms of the document as so changed. If you do not agree to any such change, you will cease using the Services and notify Wave Broadband that you are terminating your account.

In consideration of Wave Broadband's provision of the Services that you have requested, subject to applicable law, **YOU AGREE AS FOLLOWS:**

**IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, YOU MUST IMMEDIATELY STOP THE USE OF THE SERVICES AND NOTIFY THE WAVE BROADBAND CUSTOMER SERVICE DEPARTMENT SO THAT YOUR ACCOUNT MAY BE CLOSED.**

## 1. Definitions

(a) "Agreement" means this Services Subscriber Agreement, as it may be amended from time to time by Wave Broadband, the accompanying Work Order, the corresponding Terms of Use and the related Price List(s).

(b) "Cable Service" means video and/or audio programming Services such as basic, standard, digital and premium Services, Services provided on a per-channel or per-program basis, pay-per-play, pay-per-view or VOD.

(c) "Computer" means the personal computer(s) located at my residence that will be used to access the HSD Service, as specified on the accompanying Work Order.

(d) "Customer Equipment" means any equipment provided by me including, but not limited to, a phone handset or equivalent, phone inside wire and outlets, a powered electrical outlet, cable modems, voice-enabled cable modems, remote control units, multimedia terminal adapter ("MTA") and any other equipment provided by me for use in connection with the Services under this Agreement.

(e) "DVR" means a set-top box or other device enabled with a digital video recorder that is provided to me by Wave Broadband.

(f) "HSD Service" and "High Speed Data Service" mean the online content, features, functions and Services (which may include Internet access) of the ISP or OLP selected by me, as provided over Wave Broadband's cable systems.

(g) "Including" or "include" shall mean inclusion, without limitation.

(h) "ISP" means the Internet service provider selected by me from among those offered now or in the future by Wave Broadband for the HSD Service.

(i) "Local Telephone Service" and "Long Distance Telephone Service" are set forth in the Wave Broadband tariffs on file with the appropriate federal and/or state regulatory agencies. In the event a question arises requiring an interpretation of the terms of service in this Agreement, the provisions found in the tariff will take precedence.

(j) "Me," "My," and "I" mean the account holder identified on the Work Order who is authorized by Wave Broadband to access and use the Services.

(k) "MTA" means multimedia terminal adapter.

(l) "On-line Provider" or "OLP" means a provider of on-line content, features, functions and Services that are used in conjunction with my ISP Service (and whose service may be purchased with an ISP Service as part of a combined offering) but that does not itself provide Internet connectivity.

(m) "Price List(s)" means the prices, as maintained pursuant to a pricing schedule that may be updated from time to time, for which Wave Broadband offers Service in my jurisdiction.

(n) "Service" or "Services" means that service or those services provided to me by Wave Broadband, which may include Cable Service, High Speed Data Service, Local Telephone Service, Long Distance Service, VoIP Service and equipment based Services such as digital video recorder Services.

(o) "Software" means the computer software, if any, licensed by ISP or OLP to me to access the HSD Service, or licensed by Wave Broadband to me to facilitate installation or use of my ISP's or OLP's service or any other Services. Software also refers to any executable code that may be included in, downloaded to, or utilized by, any Wave Broadband Equipment.

(p) "Subscriber Materials" means the handbooks, manuals and other guide materials provided by Wave Broadband or any third party (including my ISP or OLP) regarding use of the Services.

(q) "Subscriber Privacy Notice" means the Subscriber Privacy Notice described in Section 13(a), as it may be amended from time to time by Wave Broadband.

(r) "Terms of Use" shall mean all rules, terms and conditions set forth in this Agreement or otherwise established now or hereafter by Wave Broadband regarding permissible or impermissible uses of or activities related to, the HSD Service.

(s) "Wave Broadband," "Wave Broadband Parties" or "we" means WaveDivision Holdings, LLC d/b/a Wave Broadband and any of its affiliates and subsidiaries and their respective directors, officers, employees and agents, as well as the local Wave Broadband-affiliated cable operator that is providing the Services over its cable system, or any person or entity to whom Wave Broadband assigns this Agreement.

(t) "Wave Broadband Equipment" means any equipment provided by Wave Broadband to me including, but not limited to, wire, cable, cable conduit, splitters, junction boxes, converter boxes (also known as "set top" boxes), decoders, terminals, cable modems, voice-enabled cable modems, remote control units, multimedia terminal adapter ("MTA") and any other equipment or materials provided to me by Wave Broadband for use in connection with the receipt of Services.

(u) "VOD" means video on demand.

(v) "VoIP Service" means the provision of access to Wave Broadband's Internet Protocol voice network and the public switched telephone network for the purpose of making and receiving local and/or long distance telephone calls and to access additional features and functions through Wave Broadband's network.

(w) "Work Order" means the Wave Broadband work order provided to me in connection with the installation or commencement of my Service(s).

## **2. Important Information Concerning This Agreement**

(a) This Agreement, as it may be amended from time to time, constitutes the entire agreement between Wave Broadband and me. This Agreement supersedes all previous written or oral agreements between Wave Broadband and me. I am not entitled to rely on any oral or written statements by Wave Broadband's representatives relating to the subjects covered by these documents, whether made prior to the date of my Work Order or thereafter, and Wave Broadband will have no liability to me except in respect of its obligations as described in this Agreement and the other documents referred to above. The use of my Services by any person other than me is also subject to the terms of this Agreement.

(b) Wave Broadband has the right to add to, modify, or delete any term of this Agreement at any time. An online version of this Agreement, the Terms of Use, the Subscriber Privacy Notice and any applicable Price List(s), as so changed from time to time, will be accessible at [www.wavebroadband.com](http://www.wavebroadband.com) or another online location designated by Wave Broadband, or can be obtained by calling my local Wave Broadband office.

(c) Wave Broadband will notify me of any significant change(s) in this Agreement. Any such changes shall become effective immediately except where applicable law requires a notice period, in which case the change will become effective at the end of the requisite notice period. Upon effectiveness of any change to any of these documents, my continued use of the Services will constitute my consent to such change and my agreement to be bound by the terms of the document as so changed. If I do not agree to any such change, I will immediately stop using the Services and notify Wave Broadband that I am terminating my Services account.

(d) My acceptance of Services constitutes my acceptance of the terms and conditions contained in this Agreement. In the event that a portion of my Services is terminated, or any aspect of it is changed, any remaining service or replacement service will continue to be governed by this Agreement.

## **3. Payment; Charges**

(a) I agree to pay Wave Broadband for (i) all use of my Services (including, if Wave Broadband is

the party billing me for ISP or OLP Service, for my subscription to my choice of ISP or OLP, as applicable), (ii) installation and applicable service charges, (iii) Wave Broadband Equipment, and (iv) all applicable local, state and federal fees and taxes. Charges for the Services are the sum of a base price as set forth on the applicable Price List(s) that I have received or have access to and a regulatory administration recovery charge in the amount of 2% of each base price applicable to the Services I use. I will be billed monthly in advance for recurring monthly charges. Other charges will be billed in the next practicable monthly billing cycle following use, or as otherwise specified in the applicable Price List(s). Wave Broadband may change both the fees and the types of charges (e.g., periodic, time-based, use-based) for my Services. If I participate in a promotional offer that requires a minimum time commitment and I terminate early, I agree that I am responsible for early termination fees associated with such promotion.

(b) If I receive VoIP Service, the fees and charges for VoIP Service begin to accrue on the Billing Commencement Date. I understand that if Wave Broadband installs my MTA, the Billing Commencement Date is the day of installation. I understand that if I self-install an MTA that Wave Broadband has shipped to me, the Billing Commencement Date is the earlier of (i) the day I install the MTA or (ii) five (5) days after the shipment date. I understand that if I self-install an MTA that I obtained from a source other than Wave Broadband, the Billing Commencement Date is the day my order for Service is entered into Wave Broadband's systems. The option to self-install an MTA and/or to use a non-Wave Broadband-supplied MTA is subject to availability.

(c) Charges for installation of Services and related equipment available from Wave Broadband for a standard Services installation are as described in the applicable Price List(s). Non-standard installations, if available, may result in additional charges as described in the applicable Price List(s). In addition, I agree to pay charges for repair service calls resulting from my misuse of Wave Broadband Equipment or for failures in equipment not supplied by Wave Broadband.

(d) If my Services account is past due and Wave Broadband sends a collector to my premises, a field collection fee may be charged. The current field collection fee is on the price list or can be provided on request. I will also be responsible for all other expenses (including reasonable attorneys' fees and costs) incurred by Wave Broadband in collecting any amounts due under this Agreement and not paid by me.

(e) All charges are payable on the due date specified, or as otherwise indicated, on my bill. I agree that late charges may be assessed, subject to applicable law, on amounts that are past due. My failure to deliver payment by the due date is a breach of this Agreement. The current late fees are on the price list or can be provided upon request and, if applicable, will not exceed the maximum late fees as set forth by applicable law. Wave Broadband reserves the right to change the late fees.

(f) I agree that if my Services account with Wave Broadband is past due, Wave Broadband may terminate any of my Services or accounts, including VoIP Service, in accordance with applicable law. If I have a credit due to me or a deposit is being held on any account with Wave Broadband, I agree that the credit or deposit may be used to offset amounts past due on any other account I may have with Wave Broadband without notice to me. To reconnect any terminated Services, I may be required, in addition to payment of all outstanding balances on all accounts with Wave Broadband, to pay reconnect charges or trip charges (where applicable) and/or security deposits before reconnection.

(g) Wave Broadband may verify my credit standing with credit reporting agencies and require a deposit based on my credit standing or other applicable criteria. Wave Broadband may require a security deposit, or a bank or credit card or account debit authorization from me as a condition of providing or continuing to provide Services. If Wave Broadband requires a security deposit, the obligations of Wave Broadband regarding such security deposit will be governed by the terms of the deposit receipt provided by Wave Broadband to me at the time the deposit is collected. I agree that Wave Broadband may deduct amounts from my security deposit, bill any bank or credit card submitted by me, or utilize any other means of payment available to Wave Broadband, for any past due amounts payable by me to Wave Broadband, including in respect of damaged or unreturned Equipment.

(h) If I have elected to be billed by credit card, debit card or ACH transfer, I agree that I will automatically be billed each month for any amounts due under this Agreement. If I make payment by check, I authorize Wave Broadband and its agents to collect this item electronically.

(i) Wave Broadband may charge fees for all returned checks and account debit, bank card or charge card charge-backs. The current return/charge-back fees are listed in the list of charges on the applicable Price List(s) or can be provided on request. Wave Broadband reserves the right to change return/charge-back fees.

(j) If I subscribe to HSD Service, I acknowledge that, even if Wave Broadband is billing for the HSD Service, my ISP or OLP may require a bank or credit card or account debit authorization or other assurance of payment from me, including for charges for additional or continuing Services outside the HSD Service billed by Wave Broadband that are payable under the ISP Terms. I agree that Wave Broadband or ISP (and, if applicable, OLP) may bill any bank or credit card submitted by me to ISP or OLP, or utilize any other means of payment available to ISP or OLP for any past due amounts payable by me to Wave Broadband. I also agree that responsibility for billing for my HSD Service subscription may be changed between Wave Broadband and ISP or OLP upon notice to me.

(k) All use of my Services, whether or not authorized by me, will be deemed my use and I will be responsible in all respects for all such use, including for payment of all charges attributable to my account (e.g., for VOD movies, merchandise ordered via Internet, international long distance charges, etc.). Wave Broadband is entitled to assume that any communications made through my Services or from the location at which I receive the Services are my communications or have been authorized by me. I am legally responsible for all costs and charges associated with communications made through my Services or from the location at which I receive the Services whether made by me or a third party. My Services may contain or make available information, content, merchandise, products and Services provided by third parties and for which there may be charges payable to third parties (which may include my choice of ISP or OLP and/or entities affiliated with Wave Broadband). I agree that all such charges incurred by me or attributed to my account will be my sole and exclusive responsibility and agree to pay the same when due, and shall indemnify and hold harmless the Wave Broadband Parties for all liability for such charges. I agree that Wave Broadband is not responsible or liable for the quality of any content, merchandise, products or Services (or the price thereof) made available to me via the Services, for the representations or warranties made by the seller or manufacturer of any such item, or for damage to or injury, if any, resulting from the use of such item.

(l) I acknowledge that currently, and from time to time, there is uncertainty about the regulatory classification of some of the Services Wave Broadband provides and, consequently, uncertainty about what fees, taxes and surcharges are due from Wave Broadband and/or its customers. Accordingly, I agree that Wave Broadband has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, and/or to pay and pass them through to me. I further agree to waive any claims I may have regarding Wave Broadband's collection or remittance of such fees, taxes and surcharges. I further understand that I may obtain a list of the fees, taxes and surcharges that my local Wave Broadband office currently collects or passes through by writing to Wave Broadband at the following address and requesting same: Wave Broadband, 401 Parkplace Center, Suite 500, Kirkland, WA, 98033; Attention: Legal Department - Subscriber Tax Inquiries.

(m) I agree that it is my responsibility to report Wave Broadband billing errors within 30 days from receipt of the bill so that service levels and all payments can be verified. If not reported within 30 days, I agree that the errors are waived.

#### **4. Installation; Equipment and Cabling**

(a) If I am not the owner of the house, apartment or other premises upon which Wave Broadband Equipment and Software are to be installed, I warrant that I have obtained the consent of the

owner of the premises for Wave Broadband personnel and/or its agents to enter the premises for the purposes described in Section 4(d). I agree to indemnify and hold the Wave Broadband

Parties harmless from and against any claims of the owner of the premises arising out of the performance of this Agreement (including costs and reasonable attorneys' fees).

(b) I authorize Wave Broadband to make any preparations to the premises necessary for the installation, maintenance, or removal of equipment. Wave Broadband shall not be liable for any effects of normal Services installation and workmanship, such as holes in walls, etc., which may remain after installation or removal of the Wave Broadband Equipment, except for damage caused by the gross negligence or willful misconduct on the part of Wave Broadband.

(c) The Wave Broadband Equipment is and at all times shall remain the sole and exclusive personal property of Wave Broadband, and I agree that I do not become an owner of any Wave Broadband Equipment by virtue of the payments provided for in this Agreement or the attachment of any portion of the Wave Broadband Equipment to my residence or otherwise. Upon termination of any Services, subject to any applicable laws or regulations, Wave Broadband may, but shall not be obligated to, retrieve any associated Wave Broadband Equipment not returned by me as required under Section 4(f) below. Wave Broadband will not be deemed to have "abandoned" the Wave Broadband Equipment if it does not retrieve such equipment.

(d) I agree to provide Wave Broadband and its authorized agents access to my premises during regular business hours upon reasonable notice during the term of this Agreement and after its termination to install, connect, inspect, maintain, repair, replace, alter or disconnect or remove the Wave Broadband Equipment, to install Software, to conduct service theft audits, or to check for signal leakage. I agree that Wave Broadband may have reasonable access to easements and Wave Broadband Equipment located on my grounds.

(e) Wave Broadband shall have the right to upgrade, modify and enhance Wave Broadband Equipment and Software from time to time through "downloads" from Wave Broadband's network or otherwise. Without limiting the foregoing, Wave Broadband may, at any time, employ such means to limit or increase the throughput available through individual cable modems whether or not provided by Wave Broadband.

(f) If the Services are terminated, I agree that I have no right to possess or use the Wave Broadband Equipment related to the terminated Services. I agree that I must arrange for the return of Wave Broadband Equipment to Wave Broadband, in the same condition as when received (excepting ordinary wear and tear), upon termination of the Services. If I do not promptly return the Wave Broadband Equipment or schedule with Wave Broadband for its disconnection and removal, Wave Broadband may enter any premises where the Wave Broadband Equipment may be located for the purpose of disconnecting and retrieving the Wave Broadband Equipment. I will pay any expense incurred by Wave Broadband in any retrieval of the unreturned Wave Broadband Equipment. Wave Broadband may charge me a continuing monthly fee until any outstanding Wave Broadband Equipment is returned, collected by Wave Broadband or fully paid for by me in accordance with Section 4(g). The current fee is listed in the list of charges on the price list or can be provided on request.

(g) I agree to pay Wave Broadband liquidated damages in the amount demanded by Wave Broadband, but not to exceed that specified in the then-current Price List, for the replacement cost of the Wave Broadband Equipment without any deduction for depreciation, wear and tear or physical condition of such Wave Broadband Equipment if (i) I tamper with, or permit others to tamper with, Wave Broadband Equipment, (ii) the Wave Broadband Equipment is destroyed, lost, or stolen, whether or not due to circumstances beyond my reasonable control, and even if I exercised due care to prevent such destruction, loss, or theft, or (iii) the Wave Broadband Equipment is damaged (excluding equipment malfunction through no fault of my own) while in my possession, whether or not due to circumstances beyond my reasonable control, and even if I

exercised due care to prevent such damage. I agree that these liquidated damages are reasonable in light of the problem of theft of cable Services; the ability of third parties to steal Services with unlawfully obtained Wave Broadband Equipment, causing loss of revenues for installation and service fees; and the difficulty in determining the actual damages that arise from the unauthorized tampering with, loss, destruction, or theft of Wave Broadband Equipment. I agree to return any damaged Wave Broadband Equipment to Wave Broadband.

(h) I agree that Wave Broadband may place equipment and cables on my premises to facilitate the provision of Services to me and to other locations in my area. The license granted under this

Section will survive the termination of this Agreement until the date that is one year from the date on which I first notify Wave Broadband in writing that I am revoking such license.

(i) In order to use the VoIP Service, I understand I am required to provide certain equipment such as a phone handset or equivalent, phone inside wire and outlets, and a powered electrical outlet. I understand I may wish to provide a cordless phone if I live in an apartment or a similar multi-tenant dwelling. If Wave Broadband cannot get access to my inside phone wiring, I understand that I will need a cordless phone to use Wave Broadband's Services throughout my dwelling. To use the VoIP Service, I understand I will also need an MTA certified by Wave Broadband. I understand that I can lease an MTA from Wave Broadband, in which case it will be Wave Broadband Equipment (as defined below). Or, in some areas, I understand that Wave Broadband may permit me to use the Services with an MTA which I have purchased, in which case the MTA will be Customer Equipment. Depending on availability in my area, I understand I may have an option to install the MTA myself ("self-installation") or to have Wave Broadband install it for me.

(j) I represent that I either own the Customer Equipment or have the right to use that equipment in connection with the Services. Wave Broadband shall have no obligation to provide, maintain, or service the Customer Equipment (including but not limited to any MTA that I have purchased). I acknowledge that any Customer Equipment that I use in connection with the Services must meet Wave Broadband's current minimum technical and other requirements. Those requirements are posted on the website at [www.wavebroadband.com](http://www.wavebroadband.com) (or on an alternative site if we so notify you). The requirements may be revised by Wave Broadband from time to time. I acknowledge that if I install or use in connection with the Services Customer Equipment that does not meet the minimum technical or other requirements described above (a "Non-Recommended Configuration"), I agree (i) that I will not be entitled to customer support relating to any issues other than the quality of the signal delivered to the MTA, and (ii) that the following limitation of liability shall apply: NEITHER WAVE BROADBAND NOR ANY OF ITS AFFILIATES OR AGENTS WARRANT THAT A NON-RECOMMENDED CONFIGURATION WILL ENABLE ME TO SUCCESSFULLY INSTALL, ACCESS, OPERATE, OR USE THE SERVICES. I ACKNOWLEDGE THAT ANY SUCH INSTALLATION, ACCESS, OPERATION, OR USE COULD CAUSE DAMAGE TO CUSTOMER EQUIPMENT. NEITHER WAVE BROADBAND NOR ANY OF ITS AFFILIATES OR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY SUCH FAILURE OR DAMAGE. The foregoing limitation of liability is in addition to and shall not limit any other limitation of liability set forth in this Agreement.

(k) Wave Broadband Equipment will at all times remain the property of Wave Broadband or its designee. I acknowledge that Wave Broadband Equipment is merely a means for Wave Broadband to provide me the Services and that Wave Broadband may remove or change it at its discretion. I acknowledge that I am not to use Wave Broadband Equipment for any purpose other than to use the Services in accordance with this Agreement. Wave Broadband will repair and maintain all Wave Broadband Equipment during the term of this Agreement. I acknowledge that I will not allow the Wave Broadband Equipment to be serviced by anyone other than Wave Broadband employees or agents. I acknowledge that I will not sell, transfer, lease, encumber, or assign all or any part of the Wave Broadband Equipment to any third party. If any Wave Broadband Equipment or part thereof is lost, stolen, unreturned, damaged, sold, transferred, leased, encumbered, or assigned, I agree to pay Wave Broadband the full manufacturer's suggested retail price for its replacement, together with any incidental costs that we incur relating to its replacement. I acknowledge that I will not relocate Wave Broadband Equipment to any other location. At my

request, Wave Broadband may relocate the Wave Broadband Equipment within the Premises for an additional charge, at a time agreeable to me and to Wave Broadband. If I change residences, I understand that I must contact Wave Broadband for information on whether the Wave Broadband Equipment and Services can be transferred to my new residence and what the relocation will cost. If I wish to disconnect the Services, I understand I must contact Wave Broadband for information on the necessary procedures and cost.

## **5. Use of Services; Wave Broadband Equipment and Software**

(a) I agree that Wave Broadband has the right to add to, modify, or delete any aspect, feature or requirement of the Services (including content, price, equipment and system requirements). I further agree that my ISP (and, if applicable, OLP) has the right to add to, modify, or delete any aspect, feature or requirement of the HSD Service (including content, price and system requirements). If Wave Broadband changes its equipment requirements with respect to any Services, I acknowledge that I may not be able to receive such Services utilizing my then-current equipment. Upon any such change, my continued use of Services will constitute my consent to such change and my agreement to continue to receive the relevant Services, as so changed, pursuant to this Agreement. If I participate in a promotional offer for any Service(s) that covers a specified period of time, I agree that I am assured only that I will be charged the promotional price for such Service(s) during the time specified. I agree that Wave Broadband shall have the right to add to, modify, or delete any aspect, feature or requirement of the relevant Service(s), other than the price I am charged, during such promotional period.

(b) I agree that the Services I have requested are residential Services, offered for reasonable personal, non-commercial use only. I will not resell or redistribute (whether for a fee or otherwise) the Services, or any portion thereof, or charge others to use the Services, or any portion thereof. Among other things:

(i) If I receive Cable Service, I agree not to use the Services for the redistribution or retransmission of programming or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of the Services to transmit or distribute the Cable Service, or any portion thereof, to (or to provide or permit access by) persons outside the location identified in the Work Order (even if to a limited group of people or to other residences that I own or have the right to use), will constitute an enterprise purpose. I acknowledge that programs and other materials that I receive as part of the Cable Service remain part of the Cable Service even if I record or capture all or a portion of any such program or material in a data file or on a hard drive, DVR or similar device.

(ii) If I receive Local Telephone Service, Long Distance Telephone Service or VoIP Service, I agree not to use the Services for telemarketing, call center, medical transcription or facsimile broadcasting Services or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of the Services to make available my VoIP Service, or any portion thereof, to (or to provide or permit access by) persons outside the location identified in the Work Order (even if to a limited group of people or to other residences that I own or have the right to use), will constitute an enterprise purpose. Also, I understand that I assume the risk of high-risk activities. I understand that VoIP Services are not represented as fail-safe. I understand they are not designed for use in situations where error-free or uninterrupted service is essential. I acknowledge that I expressly assume the risk of any damages from high-risk activities involving vital communications in which an error or interruption in the Services could lead to material injury to business, persons, property, or the environment. I acknowledge that I will not service, alter, modify, or tamper with Wave Broadband Equipment or with the VoIP Service, or permit any other person (not expressly authorized by Wave Broadband) to do so. I agree that the MTA and VoIP Service will only be used at my service address appearing in Wave Broadband's records. I understand and acknowledge that if I attempt to install or use the Wave Broadband Equipment or VoIP Service at another location, the VoIP Service, including but not limited to 911/E911, may fail to function or may function improperly. I understand and acknowledge that if I move the MTA or VoIP Service to another location without complying with Section 4(k), I will be doing so in violation of this Agreement and at my own risk. I understand that

if I violate any of the restrictions in Section 5(b), Wave Broadband reserves the right to terminate VoIP Service immediately and without notice, leaving me responsible for all outstanding charges, which immediately become due and payable.

(iii) VoIP Service and Wave Broadband Equipment, including any firmware or software embedded in the Wave Broadband Equipment or used to provide the VoIP Service, are protected by trademark, copyright, and/or other intellectual property laws and international treaty provisions. I understand that I am granted a revocable license to use such firmware and software in object code form (without making any modification thereto) strictly in accordance with this Agreement. I acknowledge and understand that I am not granted any other license to use the firmware or software embedded in the Wave Broadband Equipment or used to provide the VoIP Service. I expressly agree that I will use the Wave Broadband Equipment exclusively in connection with the VoIP Service. I acknowledge that I shall not reverse compile, disassemble, or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software. If I decide to use VoIP Service through an interface device not provided by Wave Broadband, which Wave Broadband reserves the right to prohibit in particular cases or generally, I warrant and represent that I possess all required rights to use that interface device with the VoIP Service, including all software and firmware licenses. I acknowledge that I will indemnify and hold harmless Wave Broadband against any and all liability arising out of my use of such interface device with the VoIP Service.

(iv) If I receive HSD Service, I agree not to use the HSD Service for operation as an Internet service provider, for the hosting of websites (other than as expressly permitted as part of the HSD Service) or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of any form of transmitter or wide area network that enables persons or entities outside the location identified in the Work Order to use my Services, whether or not a fee is sought, will constitute an enterprise purpose. Furthermore, if I use a wireless network within my residence, I will limit wireless access to the HSD Service (by establishing and using a secure password or similar means) to the members of my household.

(c) Theft or willful damage, alteration, or destruction of Wave Broadband Equipment, or unauthorized reception, theft or diversion of Services, or assisting such theft, diversion, or unauthorized reception is a breach of this Agreement and potentially punishable under law (including by way of statutory damages, fine and/or imprisonment). Nothing in this Agreement, including, Section 4(g) above, shall prevent Wave Broadband from enforcing any rights it has with respect to theft or unauthorized tampering of Services or Wave Broadband Equipment under applicable law.

(d) I will not, nor will I allow others to, open, alter, misuse, tamper with or remove the Wave Broadband Equipment as and where installed by Wave Broadband or use it contrary to this Agreement. I will not, nor will I allow others to, remove any markings or labels from the Wave Broadband Equipment indicating Wave Broadband ownership or serial or identity numbers. I will safeguard the Wave Broadband Equipment from loss or damage of any kind, including accidents, breakage or house fire, and will not permit anyone other than an authorized representative of Wave Broadband to perform any work on the Wave Broadband Equipment.

(e) I agree that to the extent any Software is licensed (or sublicensed) to me by Wave Broadband, such Software is provided for the limited purpose of facilitating my use of the Services as described in this Agreement. I will not engage in, or permit, any additional copying, or any translation, reverse engineering or reverse compiling, disassembly or modification of or preparation of any derivative works based on the Software, all of which are prohibited. I will return or destroy all Software provided by Wave Broadband and any related written materials promptly upon termination of the associated Services to me for any reason. Software licensed to me by my ISP or OLP, for instance my ISP's or OLP's client or browser software, is licensed under the ISP Terms or OLP Terms, as applicable, and is not the responsibility of Wave Broadband.

(f) I agree that I will use the Services for lawful purposes only, and in accordance with this Agreement.

(g) I agree to be responsible for protecting the confidentiality of my screen names, passwords,

personal identification numbers (PINs), parental control passwords or codes, and any other security measures made available, recommended or required by Wave Broadband. I also acknowledge that Wave Broadband's Services may from time to time include interactive features, the use of which may result in the transmission to, and use by, Wave Broadband or certain third parties of information that may constitute personally identifiable information (as such term is used in the Communications Act of 1934) about me and for which Wave Broadband may be required, under the Communications Act of 1934, to obtain my consent. I agree that Wave Broadband may seek such consents (or indications of my election to "opt in" to certain Wave Broadband programs) electronically, including through the use of a "click through" screen.

Any such consent or opt in election communicated through my Services or from the location at which I receive the Services may be treated by Wave Broadband as my consent or opt in election for the use of personally identifiable information.

(h) I agree that Wave Broadband has no liability for the completeness, accuracy or truth of the programs or information it transmits.

## **6. Special Provisions Regarding VoIP Service**

**(a) CAREFULLY READ THE INFORMATION BELOW. YOU ACKNOWLEDGE AND ACCEPT ANY LIMITATIONS OF 911/E911. YOU AGREE TO ADVISE ALL PERSONS WHO MAY HAVE OCCASION TO PLACE CALLS OVER VoIP SERVICE OF THESE LIMITATIONS.**

(b) VoIP Service includes 911/Enhanced 911 dialing ("911/E911") that may differ from the 911 or Enhanced 911 dialing furnished by other providers. As such, it may have certain limitations.

(c) I acknowledge that the voice-enabled cable modem used to provide VoIP Service is electrically powered and that the VoIP Service, including the ability to access 911 Services and home security and medical monitoring Services, may not operate in the event of an electrical power outage or if my broadband cable connection is disrupted or not operating. I acknowledge that, in the event of a power outage in my home, any battery included in my voice-enabled cable modem may enable back-up service for a limited period of time or not at all, depending on the circumstances, and that inclusion of the battery does not ensure that VoIP Service will be available in all circumstances, and that performance of any battery is not guaranteed. I also acknowledge that, in the event of a loss of power that disrupts my local Wave Broadband cable system, the battery in my voice-enabled cable modem will not provide back-up service and VoIP Service will not be available. I acknowledge and understand that my MTA may not have battery backup or another power source of its own.

(d) I agree that Wave Broadband will not be responsible for any losses or damages arising as a result of the unavailability of the VoIP Service, including the inability to reach 911 or other emergency Services, or the inability to contact my home security system or remote medical monitoring service provider. I acknowledge that Wave Broadband does not guarantee that VoIP Service will operate with my home security and/or medical monitoring systems, and that I must contact my home security or medical monitoring provider in order to test my system's operation with the VoIP Service. I agree that I am responsible for the cost of any such testing or any fees for configuring my home security or medical monitoring system to work with the VoIP Service.

(e) The location and address associated with my VoIP Service will be the address identified on the Work Order. I acknowledge that, under Section 4(k) and 5(d) of this Agreement, I am not permitted to move Wave Broadband Equipment from the location at the address in which it has been installed. Furthermore, if I move my voice-enabled cable modem to an address different than that identified on the Work Order, calls from such modem to 911 will appear to 911 emergency service operators to be coming from the address identified on the Work Order and not the new address.

(f) I acknowledge that the existing telephone wiring inside my home may not support both VoIP

Service and digital subscriber line (DSL) service. Therefore, if I intend to use VoIP Service on all of my phone jacks, I may be required to maintain separate wiring, not provided by Wave Broadband, within my home specifically for DSL service or to disconnect my DSL service prior to receiving VoIP Service over my existing in-home wiring.

(g) I agree to provide Wave Broadband and its authorized agents with access to my telephone inside wiring at the Network Interface Device or at some other minimum point of entry in order to provide Local Telephone Service, Long Distance Telephone Service or VoIP Service over my existing in-home wiring.

(h) I acknowledge that VoIP Service may not be compatible with certain data transmission Services, including but not limited to fax transmissions and dial-up Internet access and that I may be required to maintain a separate telephone line, not provided by Wave Broadband, in order to access such Services.

(i) For 911/E911 to work in accordance with Wave Broadband's specifications, I understand that Wave Broadband must have a correct service address for the location of my MTA. I understand that if I do not provide the correct address when I register for VoIP Service or if I relocate my MTA to a new address and do not register the new address with Wave Broadband, 911/E911 may fail in two ways: (i) 911/E911 calls may be misdirected to the wrong emergency authorities, and (ii) emergency authorities will be given the wrong address for the origin of my E911 calls. If I wish to relocate the MTA and continue to use VoIP Service including 911/E911, I understand that I must comply with Sections 4(k), seek authorization for VoIP Service at my new service address (if available), and update my service address with Wave Broadband. I understand 911/E911 may not function if VoIP Service are interrupted for any reason, including but not limited to failure of my MTA, incorrect configuration of my MTA, a power outage, failure of our network or facilities, or suspension or disconnection of my services because of nonpayment.

**(j) I ACKNOWLEDGE AND UNDERSTAND THAT WAVE BROADBAND WILL NOT BE LIABLE FOR ANY VoIP SERVICE OUTAGE, INABILITY TO DIAL 911 USING THE VoIP SERVICE, AND/OR INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL DUE TO THE 911/E911 FEATURE OR LIMITATIONS SET FORTH IN THIS AGREEMENT. I AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS WAVE BROADBAND, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AND AGENTS, AND ANY OTHER PROVIDER WHO FURNISHES SERVICES TO ME IN CONNECTION WITH THE VoIP SERVICE, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, ME OR ANY THIRD PARTY OR USER OF VoIP SERVICE RELATING TO THE FAILURE, OUTAGE OR MALFUNCTION OF THE VoIP SERVICE, INCLUDING THOSE RELATED TO 911/E911 OR THE FAILURE, OUTAGE OR MALFUNCTION OF THE WAVE BROADBAND EQUIPMENT OR FACILITIES.**

## **7. Special Provisions Regarding HSD Service**

(a) I acknowledge that the HSD Service is offered on a tiered basis and that each tier has "throughput" limits (i.e., limits on the maximum rate at which I may send and receive data at any time), "consumption" limits (i.e., limits on the amount of data that I may send or receive during the course of a month or over shorter periods) and other similar limits, all as set forth in the price list or the Terms of Use. I agree that Wave Broadband or ISP may change the throughput, consumption and other applicable limits of any tier(s) by amending the price list or Terms of Use. My continued use of the HSD Service will constitute my acceptance of any new limits. I also agree that Wave Broadband may use technical means, including but not limited to suspending or reducing the speed of my service, to ensure compliance with these limits and the Terms of Use, and that Wave Broadband or ISP may move me to a higher tier of HSD service (which may result in higher monthly charges) or impose other charges and fees if my use exceeds these limits. I further agree that Wave Broadband and ISP have the right to monitor my usage patterns to facilitate the provision of the HSD Service and to ensure my compliance with the Terms of Use. Wave

Broadband or ISP may take such steps as it determines appropriate in the event my usage of the HSD Service does not comply with the Terms of Use, including applicable consumption limits.

(b) Republication.

(i) I acknowledge that material posted or transmitted through the HSD Service may be copied, republished or distributed by third parties, and that the Wave Broadband Parties will not be responsible for any harm resulting from such actions.

(ii) I grant to Wave Broadband, and I represent, warrant and covenant that I have all necessary rights to so grant, the non-exclusive, worldwide, royalty-free, perpetual, irrevocable, right and license to use, reproduce, modify, adapt, publish, translate, distribute, perform and display in any media all material posted on the public areas of the HSD Service via my account and/or to incorporate the same in other works, but only for purposes consistent with operation and promotion of the HSD Service.

(iii) I agree that unsolicited email, or "spam," is a nuisance and that Wave Broadband and my ISP (and, if applicable, my OLP) are entitled to establish limits on the volume of email that I send. Such volume limits may be set by reference to a number of emails per day, week, month or year.

(c) In order to provide continuity of service to me, if my choice of ISP is no longer available over my local Wave Broadband cable system, I agree that Wave Broadband may provide me with an alternative ISP. In such event, Wave Broadband will notify me of the date as of which I will begin receiving service from the alternative ISP, the provision of which shall also be governed by this Agreement, and Wave Broadband will provide to me a price list for such alternative ISP service. I will have the right at any time to terminate the alternative ISP or to change my subscription to any other ISP then offered by Wave Broadband.

(d) I acknowledge that the ISP Service provides a connection to the Internet that may be unfiltered, and that the Wave Broadband Parties neither control nor assume responsibility for any content on the Internet or content that is posted by a subscriber. Although Wave Broadband or my ISP or OLP may make available certain parental control features, I acknowledge that such parental control features may not be entirely effective or foolproof and that, notwithstanding such features, I or members of my household may be exposed to unfiltered content.

(e) I agree that Wave Broadband and/or my ISP and/or OLP has the right, but not the obligation, to edit, refuse to post or transmit, request removal of, or remove or block any material transmitted through, submitted to or posted on the HSD Service, if it determines in its discretion that the material is unacceptable or violates the terms of this Agreement, any Wave Broadband consumption limits or any other Terms of Use. Such material might include personal home pages and links to other sites. In addition, I agree that, under such circumstances, Wave Broadband may suspend my account, take other action to prevent me from utilizing certain account privileges (e.g., home pages) or cancel my account without prior notification. I also agree that Wave Broadband and/or ISP and/or OLP may suspend or cancel my account for using all or part of the HSD Service to post content to the Internet or to engage in "peer to peer" file exchanges or other forms of file exchanges that violate this Agreement or the Terms of Use.

(f) Each of Wave Broadband and my ISP (and, if applicable, my OLP) has responsibilities for the HSD Service. I acknowledge that each of my ISP and OLP may have one or more separate agreements, policies or other terms covering my rights and obligations with regard to the HSD Service ("ISP Terms" or "OLP Terms," as applicable) that are also binding on me. This Agreement does not cover any ISP or OLP features or Services that are not dependent upon distribution over Wave Broadband's cable systems (for example, dial up access or my use of ISP or OLP software that enables access to ISP or OLP features or Services through non-Wave Broadband access means) or that may otherwise be provided to me by ISP or OLP separately from the HSD Service under the ISP Terms or OLP Terms, as applicable. In the event of termination of the HSD Service, I must also contact my ISP (and, if applicable, my OLP) to ensure that these other features or Services (such as dial-up access) are properly continued or discontinued.

(g) I agree that each Computer will need to meet certain minimum hardware and software requirements that will be specified for the HSD Service, and that such requirements may be changed from time to time by Wave Broadband or my ISP or OLP.

## **8. Support; Service and Repairs**

(a) My Services include the right to request reasonable service and maintenance calls to check and correct problems with the Services. Wave Broadband will, at its own expense, repair damage to or, at Wave Broadband's option, replace Wave Broadband Equipment, and otherwise attempt to correct interruptions of the Services, due to reasonable Wave Broadband Equipment wear and tear, or technical malfunction of the system or network operated by Wave Broadband. The Subscriber Materials contain details on contacting Wave Broadband for this support.

(b) Unless I have obtained a Wave Broadband service protection plan (if available in my area), I agree that I am responsible for all wiring, equipment and related software installed in my residence that is not Wave Broadband Equipment or Wave Broadband-licensed Software and Wave Broadband will have no obligation to install, connect, support, maintain, repair or replace any Computer, television, telephone or telephone answering device, audiovisual recording or playback device (e.g., VCR, DVR, DVD), audio equipment, any software, or any cable modem, cabling or other equipment (other than Wave Broadband Equipment or Wave Broadband-licensed Software). Wave Broadband will not support, repair, replace, or maintain any Network Interface Card, regardless of whether provided and installed by Wave Broadband.

(c) I agree that Wave Broadband has no responsibility for the operation of any equipment, software or service other than the Services, the Wave Broadband Equipment and the Wave Broadband-licensed Software. For instance, I acknowledge that certain commercially available televisions, converter boxes and recording devices, which may be identified by their manufacturers as "cable ready" or "digital cable ready," may not be able to receive or utilize all available Services without the addition of a Wave Broadband converter box or other Wave Broadband Equipment for which a fee may be charged. If I receive HSD Service, Wave Broadband has no responsibility to support, maintain or repair any equipment, software or service that I elect to use in connection with the HSD Service, whether provided by my ISP, my OLP or a third party. For assistance with technical problems arising from such equipment, software or Services, I should refer to the Subscriber Materials for information regarding the technical support provided by my ISP or OLP or to the support area of the ISP or OLP or to the relevant third party's material.

(d) If Wave Broadband determines that non-Wave Broadband cabling or equipment connecting my residence to Wave Broadband Equipment installed on the side of or adjacent to my residence (i.e., at a ground block) is the cause of a service problem, I agree that Wave Broadband may charge me to resolve such service problem. If available from Wave Broadband in my area, I may subscribe to a Wave Broadband service protection plan that covers service related calls within my residence. If any other support Services are available from Wave Broadband, such Services will be at additional charges as described in Wave Broadband's price list.

## **9. Service Interruptions; Force Majeure**

(a) I agree that Wave Broadband has no liability for delays in or interruption to my Services, except that if for reasons within Wave Broadband's reasonable control, for more than twenty-four (24) consecutive hours, (i) service on all cable channels is interrupted, (ii) there is a complete failure of the HSD Service or (iii) there is a complete failure of the VoIP Service, Wave Broadband will give me a prorated credit for the period of such interruption or failure if I request one within 30 days of the interruption or failure. Notwithstanding the above, Wave Broadband will issue credits for VOD, pay-per-view and pay-per-play events for service problems where a credit request is made within 30 days of the interruption or failure. In no event shall Wave Broadband be required to credit me an amount in excess of applicable service fees. Wave Broadband will make any such credit on the next practicable bill for my Services. State and local law or regulation may impose other outage credit requirements with respect to some or all of my Services. In such event, the relevant law or regulation will control.

(b) I acknowledge that Wave Broadband may conduct maintenance from time to time that may result in interruptions of my Services.

(c) The Wave Broadband Parties shall have no liability, except for the credit as set forth in Section 9(a), for interruption of the Services due to circumstances beyond its reasonable control, including acts of God, flood, natural disaster, vandalism, terrorism, regulation or governmental acts, fire, civil disturbance, electrical power outage, computer viruses or worms, strike or weather.

(d) Wave Broadband is only obligated to provide the above-referenced credits for loss of HSD Service if Wave Broadband is billing me for the HSD Service at the time of the outage. If my ISP or OLP is billing me, I will look solely to my ISP or OLP, as applicable, for a credit with respect to the HSD Service.

## **10. Review and Enforcement**

(a) Wave Broadband may suspend or terminate all or a portion of my Services without prior notification if Wave Broadband determines in its discretion that I have violated this Agreement or any of the Terms of Use, even if the violation was a one-time event. If all or a portion of my Services are suspended, I will not be charged for the relevant Services during the suspension. If my account is terminated, I will be refunded any pre-paid fees minus any amounts due Wave Broadband.

(b) If I receive HSD Service, I acknowledge that Wave Broadband has the right, but not the obligation, to review content on public areas of the HSD Service, including chat rooms, bulletin boards and forums, in order to determine compliance with this Agreement and the Terms of Use.

(c) I agree that Wave Broadband shall have the right to take any action that Wave Broadband deems appropriate to protect the Services, Wave Broadband's facilities or Wave Broadband Equipment.

## **11. Term; Termination of Service**

(a) This Agreement will remain in effect until terminated by either party or superseded by a revised Subscription Agreement.

(b) Either Wave Broadband or I may terminate all or any portion of my Services at any time for any or no reason, in its sole discretion, in accordance with applicable law and the terms of any marketing offer(s) specified in this Agreement.

(c) If I am moving or wish to terminate all or any portion of my Services for any reason, I will notify Wave Broadband by phone, by mail, or electronically as instructed in the Subscriber Materials in order to set up a disconnect appointment and provide Wave Broadband with access to my premises to disconnect the relevant Services and recover the Wave Broadband Equipment specified on the Work Order on a DATE PRIOR TO the last day of residency. This also applies if I am receiving a period of free or discounted Services. In other words, at the end of the free or discounted period, Wave Broadband is entitled to begin billing me for the usual charges associated with the relevant Services unless I take the appropriate steps to terminate the Services as described in this paragraph. If I wish to transfer my phone number to another provider, I will follow the procedures in Section 17. All applicable fees and charges will accrue until the date of termination, but Wave Broadband will refund all prepaid monthly service fees charged for Services after the date of termination (less any outstanding amounts due Wave Broadband for the Services, affiliate services, equipment, or other applicable fees and charges).

(d) I cannot terminate my Services by writing "Canceled" (or any other messages) on my bill or check, or by making a disconnect appointment that does not result in Wave Broadband's physical recovery of the Wave Broadband Equipment. In addition, I agree that any restrictive endorsements (such as "paid in full"), releases or other statements on or accompanying checks or other payments accepted by Wave Broadband shall have no legal effect.

(e) If I subscribe to HSD Service, I acknowledge that notice given by me to Wave Broadband of

termination of my HSD Service may not be sufficient to terminate billing by my ISP or OLP for additional or continuing Services under the ISP Terms or OLP Terms (for example, "dial up" access). I agree that I am solely responsible for contacting my ISP or OLP in addition to Wave Broadband to ensure that all such Services are terminated in accordance with the ISP Terms or OLP Terms, as applicable.

(f) Wave Broadband may suspend Service or terminate this Agreement for any reason. I understand that if Wave Broadband suspends Service or terminate this Agreement, Wave Broadband will give such notice as provided by applicable law, if any. I understand that if Wave Broadband suspends Service or terminate this Agreement for a reason other than my violation of this Agreement, all applicable fees and charges will accrue until the date of suspension or termination, but we will refund all prepaid monthly service fees charged for Services after the date of termination (less any outstanding amounts due Wave Broadband for the Services, affiliate services, equipment, or other applicable fees and charges). I understand and acknowledge that all Wave Broadband VoIP Service, including 911/E911, will be disabled because of termination of my account.

## **12. Disclaimer of Warranty; Limitation of Liability**

(a) I AGREE THAT THE SERVICES ARE PROVIDED BY WAVE BROADBAND ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE OR NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES THAT ARE IMPLIED BY, AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER, THE LAWS APPLICABLE TO THIS AGREEMENT. WAVE BROADBAND MAKES NO WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THE WAVE BROADBAND EQUIPMENT WILL OPERATE AS INTENDED. IN PARTICULAR, I AGREE THAT MY USE OF THE HSD SERVICE (INCLUDING THE CONTENT, INFORMATION, SERVICES, EQUIPMENT AND SOFTWARE, THE PURCHASE OF MERCHANDISE AND SERVICES, THE TRANSMISSION OF INFORMATION AND OTHER COMMUNICATIONS BY AND TO ME AND THE DOWNLOADING OF COMPUTER FILES) IS AT MY SOLE RISK. I FURTHER AGREE THAT WAVE BROADBAND IS NOT RESPONSIBLE FOR THE RECORDING OF OR FAILURE TO RECORD ANY PROGRAM OR PORTION THEREOF, OR FOR THE CONTENT OF ANY PROGRAM OR CONTENT ON MY DVR.

WITHOUT LIMITING THE FOREGOING:

(i) ANY AND ALL PRODUCTS AND SERVICES PROVIDED BY WAVE BROADBAND AND/OR ISP AND/OR OLP AND/OR ANY LONG DISTANCE PROVIDER TO ME THAT ARE NOT PART OF THE SERVICES AS DEFINED HEREIN ARE OUTSIDE THE SCOPE OF THIS AGREEMENT AND THE WAVE BROADBAND PARTIES HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY SUCH PRODUCTS OR SERVICES; AND

(ii) NONE OF THE WAVE BROADBAND PARTIES MAKES ANY WARRANTIES AS TO THE SECURITY OF MY COMMUNICATIONS VIA WAVE BROADBAND'S FACILITIES OR THE SERVICES (WHETHER SUCH COMMUNICATIONS ARE DIRECTED WITHIN THE SERVICES, OR OUTSIDE THE SERVICE TO OR THROUGH THE INTERNET), OR THAT THIRD PARTIES WILL NOT GAIN UNAUTHORIZED ACCESS TO OR MONITOR MY COMPUTERS(S) OR ONLINE (INCLUDING VOICE) COMMUNICATIONS. I AGREE THAT NONE OF THE WAVE BROADBAND PARTIES WILL BE LIABLE FOR ANY SUCH UNAUTHORIZED ACCESS. I HAVE THE SOLE RESPONSIBILITY TO SECURE MY COMPUTER AND ONLINE (INCLUDING VOICE) COMMUNICATIONS.

(b) I ACKNOWLEDGE THAT WAVE BROADBAND'S OR MY INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT OR REMOVAL OF THE SERVICES, WAVE BROADBAND EQUIPMENT AND SOFTWARE MAY RESULT IN DAMAGE TO MY COMPUTER(S), TELEPHONES AND TELEPHONE ANSWERING DEVICES, TELEVISIONS, RECORDING AND PLAYBACK DEVICES, AUDIO EQUIPMENT, OR ANY CABLE MODEM, CA-

BLING OR OTHER EQUIPMENT OR HARDWARE, INCLUDING SOFTWARE AND DATA FILES STORED THEREON. I SHALL BE SOLELY RESPONSIBLE FOR BACKING UP ALL EXISTING COMPUTER OR OTHER SOFTWARE OR DATA FILES PRIOR TO THE PERFORMANCE OF ANY OF THE FOREGOING ACTIVITIES. NONE OF THE WAVE BROADBAND PARTIES, OR THEIR VENDORS, LICENSEES OR PROGRAMMERS, SHALL HAVE ANY LIABILITY, AND EACH EXPRESSLY DISCLAIMS ANY RESPONSIBILITY WHATSOEVER, FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY EQUIPMENT, SOFTWARE, HARDWARE, DATA OR FILES RESULTING FROM A VIRUS, ANY OTHER HARMFUL FEATURE, OR FROM ANY ATTEMPT TO REMOVE IT.

(c) EXCEPT FOR THE CREDIT AS EXPRESSLY PROVIDED IN SECTION 9(A), IN NO EVENT (INCLUDING NEGLIGENCE) WILL ANY WAVE BROADBAND PARTY OR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE SERVICES (INCLUDING THE CONTENT INCLUDED THEREIN OR THE SERVICES ACCESSED THEREBY) OR EQUIPMENT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICES, INCLUDING THE USE OF OR INABILITY TO USE EMERGENCY 911 SERVICES, OR FOR ANY ACTION TAKEN BY WAVE BROADBAND TO PROTECT THE SERVICES OR THE BREACH BY WAVE BROADBAND OF ANY WARRANTY.

(d) I AGREE THAT THE PROVISIONS OF THIS SECTION 12 SHALL APPLY TO ALL CONTENT OR SERVICES INCLUDED IN, OR ACCESSIBLE THROUGH, THE SERVICES, AND ARE FOR THE BENEFIT OF, AND MAY BE ENFORCED BY, WAVE BROADBAND.

(e) I UNDERSTAND THE LIMITATIONS IN THIS SECTION SHALL APPLY WHERE WAVE BROADBAND MAKE AVAILABLE A DIRECTORY LISTING AND/OR PUBLICATION OPTION. IF (I) ANY PHONE NUMBER FOR WHICH I HAVE REQUESTED UNLISTED STATUS IS PUBLISHED IN ANY DIRECTORY; (II) ANY PHONE NUMBER FOR WHICH I HAVE REQUESTED NON-PUBLISHED STATUS IS INCLUDED IN ANY DIRECTORY, ANY DIRECTORY ASSISTANCE DATABASE, OR IS OTHERWISE DISCLOSED TO ANY UNAUTHORIZED PERSON; (III) ANY PHONE NUMBER WHICH I REQUESTED BE PUBLISHED OR LISTED IN ANY DIRECTORY OR DIRECTORY ASSISTANCE DATABASE IS NOT SO PUBLISHED OR LISTED, AND/OR (IV) ANY PUBLISHED OR LISTED PHONE NUMBER CONTAINS MATERIAL ERRORS OR OMISSIONS, THEN THE TOTAL LIABILITY OF WAVE BROADBAND, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AFFILIATES, ITS/THEIR AGENTS, AND ANY OTHER PROVIDER IN CONNECTION WITH THE DESCRIBED ERROR OR OMISSION SHALL NOT IN THE AGGREGATE EXCEED THE MONTHLY CHARGES, IF ANY, WHICH I HAVE ACTUALLY PAID TO WAVE BROADBAND TO LIST OR NOT TO LIST OR TO PUBLISH OR NOT PUBLISH THE NUMBER FOR THE AFFECTED PERIOD. I ACKNOWLEDGE THAT I SHALL HOLD WAVE BROADBAND, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AFFILIATES, ITS/THEIR AGENTS, AND ANY OTHER PROVIDER WHO FURNISHES SERVICES TO ME IN CONNECTION WITH THIS AGREEMENT HARMLESS AGAINST ANY AND ALL CLAIMS FOR DAMAGES CAUSED OR CLAIMED TO HAVE BEEN CAUSED, DIRECTLY OR INDIRECTLY, BY THE ERRORS AND OMISSIONS DESCRIBED ABOVE.

### **13. Privacy**

(a) My privacy interests, including my ability to limit disclosure of certain information to third parties, are addressed by, among other laws, the Communications Act of 1934, as amended, and the Electronic Communications Privacy Act. Personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in the Subscriber Privacy Notice delivered to me by Wave Broadband. I acknowledge receipt of the Subscriber Privacy Notice, which is deemed to form a part of this Agreement, as it may be amended from time to time.

(b) I agree that, in addition to actions and disclosures specifically authorized by law or statute or authorized elsewhere in this Agreement, Wave Broadband shall have the right (except where prohibited by law notwithstanding my consent), but not the obligation, to disclose any information

to protect their respective rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril. I consent to such actions or disclosures.

(c) If I am a Local Telephone Service, Long Distance Telephone Service and/or VoIP Service customer, I consent to Wave Broadband's disclosure of my name, address and/or telephone number to the general public in connection with Caller ID functions, telephone directories, and 411 and 911 Services. I also consent to Wave Broadband's disclosure of personally identifiable information to the telephone companies serving those end users to whom I make calls so that the calls can be completed. If I wish to have Wave Broadband remove this information from one or more of these Services, I understand that I may notify Wave Broadband to do so, subject to any applicable fees.

#### **14. Consent to Phone and Email Contact**

(a) I consent to Wave Broadband calling the phone numbers I supply to it for any purpose, including the marketing of its current and future Services. I agree that these phone calls may be made using any method, including an automatic dialing system or an artificial or recorded voice. Upon my request, the phone numbers I have previously provided will be removed from Wave Broadband's phone marketing list. I can make this request by calling or writing my local Wave Broadband office and asking to be placed on Wave Broadband's Do Not Call List.

(b) I acknowledge that being included in any state or federal "do not call" registry will not be sufficient to remove me from Wave Broadband's phone marketing list.

(c) I consent to Wave Broadband emailing me, at any email address, including that of a wireless or mobile device, that I provide to Wave Broadband (or that Wave Broadband issues to me in connection with the HSD Service), for any purpose, including the marketing of Wave Broadband's current and future Services. If my wireless or mobile provider charges me for receipt of such messages, I acknowledge and agree that I am responsible for paying such charges. I may revoke this authorization insofar as it relates to marketing messages at any time by calling or writing my local Wave Broadband office.

#### **15. Arbitration**

EXCEPT FOR CLAIMS FOR INJUNCTIVE RELIEF, AS DESCRIBED BELOW, ANY PAST, PRESENT, OR FUTURE CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE RESOLVED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES, INCLUDING, IF APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR THE RESOLUTION OF CONSUMER RELATED DISPUTES. CONSOLIDATED OR CLASS ACTION ARBITRATIONS SHALL NOT BE PERMITTED. THE ARBITRATOR OF ANY DISPUTE OR CLAIM BROUGHT UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT HAVE THE POWER TO AWARD INJUNCTIVE RELIEF; INJUNCTIVE RELIEF MAY BE SOUGHT SOLELY IN AN APPROPRIATE COURT OF LAW. NO CLAIM SUBJECT TO ARBITRATION UNDER THIS AGREEMENT MAY BE COMBINED WITH A CLAIM SUBJECT TO RESOLUTION BEFORE A COURT OF LAW. THE ARBITRARINESS OF DISPUTES SHALL BE DETERMINED BY THE ARBITRATOR. JUDGMENT UPON AN AWARD MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION. IF ANY PORTION OF THIS SECTION IS HELD TO BE UNENFORCEABLE, THE REMAINDER SHALL CONTINUE TO BE ENFORCEABLE.

#### **16. Indemnification**

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD WAVE BROADBAND, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AFFILIATES, ITS/THEIR AGENTS, AND ANY OTHER PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH THIS AGREEMENT, HARMLESS FROM CLAIMS OR DAMAGES RELATING TO OR ARISING OUT OF YOUR BREACH OF THIS AGREEMENT OR YOUR AND YOUR USERS' USE OF THE SERVICES OR ANY WAVE BROADBAND EQUIPMENT, INCLUDING BUT NOT LIMITED TO ANY CLAIMS OR DAMAGES ARISING OUT

OF THE MALFUNCTION OR LACK OF 911/E911 OR DIALING ASSOCIATED WITH A SECURITY SYSTEM. YOU AGREE THAT WAVE BROADBAND SHALL NOT BE RESPONSIBLE FOR ANY THIRD-PARTY CLAIMS AGAINST US THAT ARISE FROM YOUR USE OF THE SERVICES OR THE WAVE BROADBAND EQUIPMENT. FURTHERMORE, YOU AGREE TO REIMBURSE US FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS.

#### **17. Transfer of My Phone Number(s)**

(a) I understand that if I am switching to Wave Broadband's Local Telephone Service or VoIP Service from another service provider, I may transfer my existing phone number (if any) to Wave Broadband's Local Telephone Service or VoIP Service, provided that: (i) I request the phone number transfer when I place my order for Wave Broadband's Local Telephone Service or VoIP Service; (ii) my current service provider releases my existing phone number, at our request, without delay or charge; (iii) the transfer of my existing phone number to Wave Broadband's Local Telephone Service or VoIP Service would not, in Wave Broadband's view, violate applicable law or Wave Broadband's processes and procedures; (iv) when applicable, I acknowledge and agree that if my MTA is set up before the date that the number transfer becomes effective ("Port Effective Date"), I may only be able to make limited outgoing calls over the phone that I have connected to the MTA. In that event, I understand I should keep another phone connected to an existing phone extension at my service location to receive incoming calls until the Port Effective Date, after which I will be able both to make and to receive calls using Wave Broadband Service; and (v) I acknowledge and agree that to avoid an interruption in my phone service, it is extremely important that I have the phone or MTA installed on or before the Port Effective Date. I understand that my existing phone service for the number I am transferring will be disconnected on the Port Effective Date; I understand that if my MTA or phone is not yet activated, I will not have access to our VoIP or Local Telephone Services. I acknowledge therefore, I will not have VoIP or Local Telephone Service for that phone number. Wave Broadband will provide me with an estimate of the Port Effective Date at the time of service ordering or via e-mail following my completion of the ordering process.

(b) I understand that in order to transfer my phone number from Wave Broadband to another service provider, I must terminate Local Telephone Service or VoIP Service and place the transfer order through my new service provider (and not through Wave Broadband). I understand that Wave Broadband will release my phone number to my new service provider, provided that (i) my new service provider requests the transfer upon termination of my account; (ii) my new service provider is willing to accept transfer of the phone number without delay or charge; and (iii) transfer of my existing phone number to the new service provider would not, in our view, violate applicable law or our processes and procedures.

#### **18. Interpretation; Severability**

This Agreement is, and shall be interpreted as, subject to applicable law and regulation and to any applicable franchise agreement between a governmental authority and Wave Broadband. In the event that any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties as set forth herein, and the remainder of this Agreement shall remain in full force and effect.

#### **19. Consent to Electronic Notice**

I agree that unless otherwise specified, all notices required or contemplated hereunder will be provided by Wave Broadband by such means as Wave Broadband shall determine in its discretion. Without limiting the foregoing, I agree that Wave Broadband may provide any notices required or contemplated hereunder or by applicable law, including notice of changes to this Agreement, the Terms of Use, the Price List(s) or the Privacy Notice, by electronic means (for example, email or online posting). An online version of this Agreement, the Terms of Use, the Subscriber Privacy Notice and any applicable Price List(s), as so changed from time to time, will be accessible at [www.wavebroadband.com](http://www.wavebroadband.com) or another online location designated by Wave Broadband, or can be obtained by calling my local Wave Broadband office.

## **20. Assignment**

I understand that my Services are being provided only to the location identified on my Work Order and that I am not allowed to transfer all or any portion of the Services, or Wave Broadband's Equipment, to any other person, entity or location, including a new residence. I agree that I may not assign or transfer this Agreement. Wave Broadband may transfer or assign any portion or all of this Agreement at any time without notice to me, and I waive any such notice which may be required.

## **21. Effect of Applicable Law; Reservation of Rights**

This Agreement, the Work Order and the Terms of Use are subject to all applicable federal, state or local laws and regulations in effect in the relevant jurisdiction(s) in which I receive my Services. If any provision of this Agreement, the Work Order or the Terms of Use contravene or are in conflict with any such law or regulation, or if I am entitled to more favorable rights under any such law or regulation than are set forth in any provision in this Agreement, the Work Order or the Terms of Use, then the terms of such law or regulation, or the rights to which I am entitled under such law or regulation, shall take priority over the relevant provision of this Agreement, the Work Order or the Terms of Use. If the relevant law or regulation applies to some but not all of my Service(s), then such law or regulation will take priority over the relevant provision of this Agreement, the Work Order or the Terms of Use only for purposes of those Service(s) to which the law or regulation applies. Except as explicitly stated in this Agreement, nothing contained in this Agreement shall constitute a waiver by me or Wave Broadband of any rights under applicable laws or regulations pertaining to the installation, operation, maintenance or removal of the Services, facilities or equipment. No waiver by either party of any breach or default shall be deemed to be a waiver of any preceding or subsequent breach or default.

## **22. Parental Control Device**

I acknowledge that I have been advised of the availability of Wave Broadband's parental control device which can filter or block certain programming. Additional information about the device is available at the Wave Broadband contact number in the Subscriber Materials.

## **23. Conflicting Terms**

In the event of a conflict in the terms and conditions between this Services Subscriber Agreement and the accompanying Work Order, then the terms and conditions of this Services Subscriber Agreement shall control.

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