

TERMS AND CONDITIONS FOR PURCHASE OF CABLE MODEMS

THIS DOCUMENT APPLIES TO YOU ONLY IF YOU PURCHASED YOUR CABLE MODEM FROM BRESNAN COMMUNICATIONS

By accepting delivery of the cable modem you purchased from Bresnan Communications, LLC or its affiliate or subsidiary (referred to as “Bresnan Communications”), you agree to accept the following terms and conditions:

PLEASE READ THIS DOCUMENT CAREFULLY AS IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU. THIS AGREEMENT CONTAINS SPECIFIC TERMS AND CONDITIONS, SOME OF WHICH MAY LIMIT CERTAIN LEGAL RIGHTS AND REMEDIES. THIS AGREEMENT CONTAINS A DISPUTE RESOLUTION CLAUSE.

Section 1. PURCHASE OF EQUIPMENT.

This Agreement sets forth the terms and conditions that apply to your purchase from Bresnan Communications of a cable modem and other hardware and accessories (collectively, the “Equipment”) and of certain software to be used in connection with the Equipment, including all updates and modifications (the “Software”). The Equipment and the Software are sometimes referred to together in this Agreement as the “Products.”

As used in this Agreement, the term “Software” shall mean all software, firmware and middleware (including, without limitation, any third-party software, firmware or middleware) purchased and/or delivered to you by or through Bresnan Communications which is imbedded or incorporated in the Equipment or loaded onto the Equipment and includes any updates,

modifications, enhancements, extensions, upgrades, versions and releases of such programs which are received by you from or through Bresnan Communications from time to time.

Section 2. GENERAL TERMS.

- You agree and represent that you are purchasing the Products solely for your own personal use within the Bresnan Communications service area and only in connection with the Bresnan OnLine cable Internet service (the "Service").
- You agree and represent that you are not purchasing the Products or any component for resale, lease or use for or on behalf of any other person or entity.
- Unless otherwise agreed to by Bresnan Communications, payment in full must be received upon delivery of the Products. You agree to pay by valid credit card accepted by Bresnan Communications or by charge to your Bresnan Communications account unless different payment methods have been arranged.
- You may not sell or transfer possession of the Products. You may not move the Products from the service address to another location without the prior permission of Bresnan Communications.
- Bresnan Communications will only deliver the Products to a street address within its service area; no delivery of your cable modem will be made to a P.O. Box address.
- You agree to timely pay all payments, including monthly payments in connection with the use of the Service and agree to pay Bresnan Communications any administrative late fee(s) and related fees, charges and assessments due to late payments or non-payments. If Bresnan Communications is required to use a collection agency or attorney to collect money owed by you or to assert any other right which Bresnan Communications may have against you, you agree to pay the reasonable costs of collection or other action, including but not limited to the costs of a collection agency, reasonable attorneys' fees and arbitration or court costs. All fees and charges will be posted at

bresnan.net/notices/ and may be revised from time to time to comply with applicable state or local laws, rules or regulations.

- Bresnan Communications shall have the unrestricted right, but not the obligation, to upgrade the Software in the cable modem at any time that Bresnan Communications, in its sole discretion, determines it is necessary or desirable. The Products or any component thereof may be replaced modified or changed by Bresnan Communications at its discretion, at any time, including, in the case of Software, through “downloads” to your modem or computer(s) or otherwise. If we replace your cable modem, the replacement modem that we provide to you does not have to be of the same model or type as the cable modem you originally purchased, and it may be produced by a different manufacturer.

Section 3. LIMITED WARRANTY: EXCLUDED PRODUCTS.

- THE LIMITED WARRANTY MADE BY BRESNAN COMMUNICATIONS APPLICABLE TO YOUR CABLE MODEM (SUBJECT TO THE EXCLUSIONS SET FORTH THEREIN) IS INCLUDED IN THE DOCUMENTATION PROVIDED AT THE TIME THE PRODUCTS ARE DELIVERED.
- THE LIMITED WARRANTY IS SUBJECT TO SPECIFIC EXCLUSIONS THAT ARE DESCRIBED IN THE LIMITED WARRANTY.
- BRESNAN COMMUNICATIONS MAKES NO EXPRESS WARRANTIES EXCEPT THOSE SET FORTH IN THE LIMITED WARRANTY.
- NO MANUFACTURER’S WARRANTIES APPLY TO THE PRODUCTS (EVEN IF A COPY OF A MANUFACTURER’S WARRANTY IS INCLUDED IN THE DOCUMENTATION PROVIDED TO YOU UPON DELIVERY OF THE PRODUCTS).
- ANY REPAIR OR REPLACEMENT OF THE PRODUCTS COVERED BY THE LIMITED WARRANTY FOLLOWING THE EXPIRATION OF THE LIMITED WARRANTY WILL BE YOUR RESPONSIBILITY. THE LIMITED WARRANTY WILL AUTOMATICALLY AND IMMEDIATELY TERMINATE AND EXPIRE IN THE EVENT YOU CEASE TO BE A SUBSCRIBER TO THE SERVICE FOR ANY REASON OR IF YOU TRANSFER POSSESSION OF THE PRODUCTS COVERED BY THE LIMITED WARRANTY.

BRESNAN COMMUNICATIONS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS EXCLUDED FROM THE COVERAGE OF THE LIMITED WARRANTY (THE "EXCLUDED PRODUCTS"), INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE EXCLUDED PRODUCTS ARE, THEREFORE, SOLD OR PROVIDED TO YOU "AS IS" AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, AND ACCURACY OF THE EXCLUDED PRODUCTS IS WITH YOU. FURTHER, THERE IS NO WARRANTY AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE INFORMATION OR AGAINST INFRINGEMENT WITH RESPECT TO THE EXCLUDED PRODUCTS. IF A DISCLAIMER OF IMPLIED WARRANTIES WITH RESPECT TO THE EXCLUDED PRODUCTS IS NOT PERMITTED UNDER APPLICABLE LAW, THEN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL IMPLIED WARRANTIES ON THE EXCLUDED PRODUCTS SHALL BE LIMITED IN DURATION TO THE PERIOD COMMENCING ON THE DATE OF YOUR RECEIPT OF THE EXCLUDED PRODUCTS AND EXPIRING (I) TWO YEARS AFTER SUCH DATE, OR (II) WHEN YOU SELL OR OTHERWISE TRANSFER OWNERSHIP OF THE EXCLUDED PRODUCTS TO ANY OTHER PERSON OR ENTITY. SOME STATES DO NOT ALLOW DISCLAIMERS OF, AND/OR LIMITATIONS ON THE DURATION OF, IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

Section 4. SOFTWARE LICENSE.

All Software is subject to the license terms attached hereto as Exhibit A. Any reference to the Software being "sold" or "purchased" is understood to be a reference in fact to the Software being licensed in accordance with such Software license.

Section 5. DISCLAIMERS; LIMITATIONS OF LIABILITY; AND LIMITATIONS ON THE RIGHT OF INDEMNIFICATION.

EXCEPT AS PROVIDED IN THIS AGREEMENT OR UNDER THE LIMITED WARRANTY, IN NO CIRCUMSTANCE AND UNDER NO LEGAL THEORY SHALL BRESNAN COMMUNICATIONS OR ITS AFFILIATED ENTITIES HAVE ANY LIABILITY TO YOU OR TO ANY OTHER PERSON OR ENTITY FOR:

- (i) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, TREBLE, EXEMPLARY,

PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY NATURE INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF EARNINGS, LOSS OF BUSINESS OPPORTUNITIES AND PERSONAL INJURIES (INCLUDING DEATH), RESULTING DIRECTLY OR INDIRECTLY OUT OF, OR OTHERWISE ARISING IN CONNECTION WITH, YOUR PURCHASE OR USE OF THE PRODUCTS, OR THE INSTALLATION, REPAIR OR SERVICING OF THE PRODUCTS BY BRESNAN COMMUNICATIONS OR ITS AFFILIATED ENTITIES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR

- (ii) ANY LOSSES, CLAIMS, DAMAGES, EXPENSES, LIABILITIES OR COSTS (INCLUDING LEGAL FEES) RESULTING DIRECTLY OR INDIRECTLY OUT OF, OR OTHERWISE ARISING IN CONNECTION WITH, ANY ALLEGATION, CLAIM, SUIT OR OTHER PROCEEDING BASED UPON A CONTENTION THAT THE USE OF THE PRODUCTS BY YOU OR ANY OTHER PERSON OR ENTITY INFRINGES THE COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, CONFIDENTIALITY, PRIVACY, OR OTHER INTELLECTUAL PROPERTY RIGHTS OR CONTRACTUAL RIGHTS OF ANY THIRD PARTY.

THE MAXIMUM LIABILITY OF BRESNAN COMMUNICATIONS AND ITS AFFILIATED ENTITIES ARISING FROM OR RELATING TO THIS AGREEMENT, YOUR PURCHASE OR USE OF THE PRODUCTS, OR ANY SERVICES PERFORMED WITH RESPECT TO THE PRODUCTS, SHALL BE LIMITED TO THE AMOUNT PAID BY YOU FOR THE PURCHASE OF THE PRODUCTS.

THE LIMITATIONS OF LIABILITY SET FORTH ABOVE SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. SIMILARLY, SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN SUCH STATES, THE LIABILITY OF BRESNAN COMMUNICATIONS AND ITS AFFILIATED ENTITIES SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS BRESNAN COMMUNICATIONS AND ITS AFFILIATED ENTITIES FROM ANY CLAIMS MADE BY THIRD PARTIES ARISING OUT OF THE BREACH OF THE LICENSE FOR THE SOFTWARE ATTACHED AS EXHIBIT A HERETO.

Section 6. ENTIRE AGREEMENT.

This Agreement, including all exhibits hereto, and the Limited Warranty represent the complete agreement concerning the subject matter set forth herein and in the Limited Warranty. If any provision of this Agreement is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable.

Section 7. DISPUTE RESOLUTION.

(a) Binding Arbitration.

- The Federal Arbitration Act (“FAA”), not state law, shall govern the arbitrability of all disputes between Bresnan Communications and you regarding this Agreement.
- Except for claims against Bresnan Communications, arising under the limited warranty, any and all disputes arising between you and Bresnan Communications, whether arising before or after the effective date of this agreement, must be resolved by final and binding arbitration in accordance with the rules of the American Arbitration Association (the “AAA”). The rules of the AAA may be found at the AAA’s web site, currently <http://www.adr.org>, or by contacting the AAA at 800-778-7879.
- An award rendered by the arbitrator may be entered in any court having jurisdiction over the parties.

(b) No Class Action or Consolidated Proceedings. All parties to the arbitration must be individually named. There shall be no right or authority for any claims to be arbitrated on a class action or consolidated basis or on bases involving claims brought in a purported representative capacity on behalf of the general public, other purchasers, lessors or users of the products, or other persons similarly situated. You understand and acknowledge that by consenting to submit claims to arbitration pursuant to this Agreement, you may be forfeiting your right to share in any class action awards.

(c) Limitation of Available Damages, Including Punitive or Exemplary Damages, and Attorneys’ Fees. The arbitrator may award only damages

specifically provided for in Section 5 of this Agreement which are supported by admissible evidence (even if greater damages are authorized by statute). The arbitrator cannot award damages that are not expressly authorized by this Agreement. The arbitrator also cannot award attorneys' fees. You and Bresnan Communications both waive any claims for an award of damages or attorneys' fees that are excluded or limited under this Agreement and/or by applicable law.

(d) Arbitration Information and Filing Procedures.

- Before you submit a dispute to arbitration, you must first send written notice to General Counsel, Bresnan Communications, 1 Manhattanville Road, Purchase, New York 10577 and give Bresnan Communications an opportunity to resolve the dispute. Similarly, before Bresnan Communications takes a dispute to arbitration, it must first attempt to contact you at your e-mail or postal address on Bresnan Communications' records, and give you an opportunity to resolve the dispute.
- You agree that if you fail to contact Bresnan Communications within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute, you waive the right to pursue, in any forum, including arbitration or courts, a claim based upon such event, facts or dispute.
- If the dispute cannot be resolved satisfactorily within sixty days from the date you or Bresnan Communications is notified (as set forth above) by the other of a dispute, then either party may contact the AAA in writing at the AAA Case Management Center, 6795 North Palm Avenue, Floor 2, Fresno, CA 93704 and request arbitration of the dispute. You shall send a copy of any such contact with the AAA to General Counsel, Bresnan Communications, 1 Manhattanville Road, Purchase, NY 10577.
- Information about the arbitration process and the AAA's Arbitration Rules and its fees are available from the AAA on the Internet at <http://www.adr.org> or by contacting the AAA at 800-778-7879.
- Neither you nor Bresnan Communications may disclose the existence, content or results of any arbitration or award, except as may be

required by law, or to confirm and enforce an award.

(e) Arbitration not applicable to claims arising under the limited warranty; other limitations; survival of terms.

- Notwithstanding any other provision of this Section 7, this Section 7 shall not apply to claims against Bresnan Communications arising under the limited warranty.
- In conducting the arbitration and making any award, the arbitrator shall be bound by and strictly enforce the terms of this Agreement and may not limit, expand, or otherwise modify its terms.
- If any portion of this Section 7 is determined to be unenforceable, then the remainder of such section shall be given full force and effect. The provisions of this Section 7 shall survive termination, amendment or expiration of this Agreement.

EXHIBIT A

END-USER SOFTWARE LICENSE

1. LICENSE GRANT

Subject to the terms and conditions set forth herein, Bresnan Communications grants to you a perpetual, royalty-free, non-exclusive license to use the Software and any documentation or related technical information furnished by Bresnan Communications to you in connection with the Products. Bresnan Communications reserves all rights in the Software not expressly granted to you in this Agreement.

2. LIMITATIONS ON USE OF SOFTWARE

- You shall use the Software only in conjunction with the Products. You shall not duplicate the Software for any purpose except as may be explicitly authorized in this Agreement.
- You may use the Software to routinely operate and maintain the Products.
- Software provided hereunder may be copied only for back-up or archival purposes, provided any copy must contain all of the original Software's proprietary notices.
- You shall not modify, translate, reverse engineer, decompile, disassemble (except to the extent applicable laws specifically prohibit such restriction), or create derivative works based on the Software, or allow anyone else to do so.
- You shall not sublicense, grant a security interest in, or otherwise transfer rights to the Software.
- You shall not remove any proprietary notices or labels on the Software.

3. TITLE, PROTECTION AND SECURITY

- Title, ownership rights, and intellectual property rights in the Software shall remain with Bresnan Communications' licensors. The Software is protected by the copyright laws and treaties.

- You agree not to remove or alter any copyright notice of any company associated with Software. Use of a copyright notice on the Software does not imply that such has been published or otherwise made generally available to the public.
- You acknowledge that it is your responsibility to take all reasonable measures to safeguard the Software and to prevent its unauthorized use or duplication.

4. TERM

The license of the Software will terminate automatically if you fail to comply with the limitations described herein. On termination of this license, you must destroy all copies of the Software and documentation in your possession or control.

5. LICENSE RIGHTS

Nothing contained herein shall be deemed to grant, either directly or indirectly, any license under any patents or patent applications of Bresnan Communications' suppliers or licensors, except that you shall have a non-exclusive, royalty-free license under the patents and patent applications of Bresnan Communications' suppliers and licensors to use Software supplied hereunder only in the Equipment.

LIMITED WARRANTY

THIS DOCUMENT APPLIES TO YOU ONLY IF YOU PURCHASED YOUR CABLE MODEM FROM BRESNAN COMMUNICATIONS

Bresnan Communications, LLC or its affiliate that sold your modem to you (“Bresnan Communications”) hereby provides the following warranty:

What is Covered

This Limited Warranty covers any defects in materials or workmanship in your cable modem purchased from Bresnan Communications if such defects adversely affect the performance of, or your ability to use, your cable modem. This Limited Warranty applies only to your cable modem if it is purchased and used in the service area of Bresnan Communications in connection with the Bresnan OnLine cable Internet service (the “Service”);, and this Limited Warranty is subject to the exceptions stated below.

Period of Coverage

This Limited Warranty begins on the date you received your cable modem from Bresnan Communications and will end upon the earlier of:

- the sale or transfer of your cable modem to any other person or entity; or
- the termination, for any reason, of your Subscriber Agreement for the Service 3 years after the date you received your cable modem from Bresnan Communications

If your cable modem is repaired or replaced while this Limited Warranty is in effect, the repaired or replaced cable modem will be warranted for the remaining warranty period covering the original cable modem.

ALL IMPLIED WARRANTIES PROVIDED TO YOU UNDER APPLICABLE LAW, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE PERIOD OF COVERAGE UNDER THIS LIMITED WARRANTY. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.

What is Not Covered

This Limited Warranty does not cover:

- Any cords, cabling or software embedded in, or provided in connection with your cable modem.
- Defects, damage or malfunctioning of your cable modem resulting from any of the following:
 - use of your cable modem in other than its normal and customary manner; or
 - use of your cable modem in connection with any activity that violates the acceptable use policy, or any other agreement or terms of your cable Internet service provider applicable to your cable Internet service; or
 - neglect, abuse, or misuse; or
 - accident, fire, flood, lightening or other acts of God, war, or other events beyond our reasonable control; or
 - improper use, application or testing; or
 - changing the calibration of or improper tampering with customer controls; or
 - power fluctuations or surges or improper connection with any other equipment; or
 - improper handling, operation, maintenance, transport, storage, or environmental or site conditions; or
 - unauthorized alterations or repairs, or use of unapproved parts in or with the cable modem; or
 - incompatibility with other equipment; or
 - improper or faulty installation.
- Any cosmetic damage including, but not limited to, plastic surfaces or

any other exposed parts of your cable modem that are scratched or damaged.

- Cable modems which have had the barcode, serial number, or other identifying mark modified, removed or obliterated or which have had the case opened or the equipment seal broken.

What We Will Do

If your cable modem fails to meet the warranty described above:

- We will, at our sole option and at no charge to you, repair or replace your cable modem within a reasonable time, not to exceed 30 days, after you notify us of any problem covered by this Limited Warranty. You will receive a per diem service credit for the time that your modem is out of service.
- We can, at our sole option, either repair your cable modem or replace your cable modem by providing you with a new, used or refurbished modem of similar capability and features. If we replace your cable modem with a new, used or refurbished cable modem, the replacement modem that we provide to you does not have to be of the same model or type as the cable modem you originally purchased, and it may be produced by a different manufacturer.
- We will provide parts and labor to repair or replace your cable modem, if found to be defective, without charge to you during the period of coverage of this Limited Warranty.
- All replaced parts and products will be deemed to be on an exchange basis and will become our property.

How To Get Service

- To obtain warranty service, contact us at 888.909.4357 (HELP). We will first troubleshoot the problem over the phone and instruct you on the steps to take to fix any problem covered by this Limited Warranty.
- If our telephone troubleshooting is not successful in fixing the problem, we will arrange for a service representative to come to your home to correct any problem covered under this Limited Warranty.

Limitations and Disclaimers

THE WARRANTIES DESCRIBED ABOVE ARE THE ONLY EXPRESS WARRANTIES APPLICABLE TO YOUR CABLE MODEM. NO MANUFACTURER'S WARRANTIES APPLY TO YOUR CABLE MODEM.

YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DEFECT IN YOUR CABLE MODEM SHALL BE THE REPAIR OR REPLACEMENT OF YOUR CABLE MODEM UNDER THE TERMS DESCRIBED ABOVE.

WE WILL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES.

No customer service representative, technician or other person is authorized to change or otherwise modify this Limited Warranty or assume any other liability on our behalf.

How State Law Applies

Some states do not allow limitations on how long an implied warranty lasts or the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you. In such states, our liability is limited to the maximum extent permitted by law.

This Limited Warranty gives you specific legal rights, and you may also have other rights that vary from state to state.

TERMS AND CONDITIONS FOR LEASE OF CABLE MODEMS

By accepting delivery of the cable modem you leased from Bresnan Communications, LLC or its affiliate or subsidiary (referred to as “Bresnan Communications”), you agree to accept the following terms and conditions:

PLEASE READ THIS DOCUMENT CAREFULLY AS IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU. THIS AGREEMENT CONTAINS SPECIFIC TERMS AND CONDITIONS, SOME OF WHICH MAY LIMIT CERTAIN LEGAL RIGHTS AND REMEDIES. THIS AGREEMENT CONTAINS A DISPUTE RESOLUTION CLAUSE.

Section 1. LEASE OF EQUIPMENT.

This Agreement sets forth the terms and conditions of your lease from Bresnan Communications of a cable modem and other hardware and accessories (collectively, the “Equipment”) and of certain software to be used in connection with the Equipment, including all updates and modifications (the “Software”). The Equipment and the Software are sometimes referred to together in this Agreement as the “Products.”

As used in this Agreement, the term “Software” shall mean all software, firmware and middleware (including, without limitation, any third-party software, firmware or middleware) delivered to you by or through Bresnan Communications which is imbedded or incorporated in the Equipment or loaded onto the Equipment and includes any updates, modifications, enhancements, extensions, upgrades, versions and releases of such programs which are received by you from or through Bresnan Communications from time to time.

Section 2. GENERAL TERMS.

- You agree and represent that you are leasing the Products solely for your own personal use within the Bresnan Communications service area and only in connection with the Bresnan OnLine cable Internet service (the “Service”).

- You agree and represent that you are not leasing the Products or any component for resale, lease or use for or on behalf of any other person or entity.
- The Products and all documentation are the sole property of Bresnan Communications. Bresnan Communications has no obligation to remove the Products if you terminate your cable Internet service, but it is your responsibility to return the Products to Bresnan Communications at the termination of the modem lease in the same condition in which they were received, allowing for reasonable wear and tear.
- You may not sell or transfer possession of the Products. You may not move the Products to another location without the prior permission of Bresnan Communications.
- Bresnan Communications will only deliver the Products to a street address within its service area; no delivery of your cable modem will be made to a P.O. Box address.
- You agree to timely pay all lease payments and agree to pay Bresnan Communications any administrative late fee(s) and related fees, charges and assessments due to late payments or non-payments. If Bresnan Communications is required to use a collection agency or attorney to collect money owed by you or to assert any other right which Bresnan Communications may have against you, you agree to pay the reasonable costs of collection or other action, including but are not limited to, the costs of a collection agency, reasonable attorneys' fees and arbitration or court costs. All fees and charges will be posted at bresnan.net/notices/ and may be revised from time to time to comply with applicable state or local laws, rules or regulations.
- In addition to all lease payments and fees, you agree to be responsible for any loss or damage to the Products. In addition to any other charges, you will be charged and agree to pay the full replacement value of any lost or damaged Products.
- Bresnan Communications shall have the unrestricted right, but not the obligation, to upgrade the Software in the cable modem at any time that Bresnan Communications, in its sole discretion, determines it is necessary or desirable. The Products or any component thereof may be

removed, modified or changed by Bresnan Communications at its discretion, at any time, including, in the case of Software, through “downloads” to your modem or computer(s) or otherwise. If we replace your cable modem, the replacement modem that we provide to you does not have to be of the same model or type as the cable modem you originally leased, and it may be produced by a different manufacturer.

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- THE LIMITED WARRANTY IS SUBJECT TO SPECIFIC EXCLUSIONS THAT ARE DESCRIBED IN THE LIMITED WARRANTY.
- BRESNAN COMMUNICATIONS MAKES NO EXPRESS WARRANTIES EXCEPT THOSE SET FORTH IN THE LIMITED WARRANTY.
- NO MANUFACTURER’S WARRANTIES APPLY TO THE PRODUCTS (EVEN IF A COPY OF A MANUFACTURER’S WARRANTY IS INCLUDED IN THE DOCUMENTATION PROVIDED TO YOU UPON DELIVERY OF THE PRODUCTS).
- The Limited Warranty will automatically and immediately terminate in the event of the termination of this lease agreement for any reason or if you transfer possession of the Products covered by the Limited Warranty. In addition to any other obligations you may have, if the Limited Warranty terminates, any repair or replacement of the Products will be your responsibility.

BRESNAN COMMUNICATIONS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS EXCLUDED FROM THE COVERAGE OF THE LIMITED WARRANTY (THE “EXCLUDED PRODUCTS”), INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE EXCLUDED PRODUCTS ARE, THEREFORE, LEASED OR PROVIDED TO YOU “AS IS” AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, AND ACCURACY OF THE EXCLUDED PRODUCTS IS WITH

YOU. FURTHER, THERE IS NO WARRANTY AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE INFORMATION OR AGAINST INFRINGEMENT WITH RESPECT TO THE EXCLUDED PRODUCTS. IF A DISCLAIMER OF IMPLIED WARRANTIES WITH RESPECT TO THE EXCLUDED PRODUCTS IS NOT PERMITTED UNDER APPLICABLE LAW, THEN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL IMPLIED WARRANTIES ON THE EXCLUDED PRODUCTS SHALL BE LIMITED IN DURATION TO THE PERIOD COMMENCING ON THE DATE OF YOUR RECEIPT OF THE EXCLUDED PRODUCTS AND EXPIRING (I) TWO YEARS AFTER SUCH DATE, OR (II) WHEN YOU SELL OR OTHERWISE TRANSFER OWNERSHIP OF THE EXCLUDED PRODUCTS TO ANY OTHER PERSON OR ENTITY. SOME STATES DO NOT ALLOW DISCLAIMERS OF, AND/OR LIMITATIONS ON THE DURATION OF, IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

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- (i) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, TREBLE, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY NATURE INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF EARNINGS, LOSS OF BUSINESS OPPORTUNITIES AND PERSONAL INJURIES (INCLUDING DEATH), RESULTING DIRECTLY OR INDIRECTLY OUT OF, OR OTHERWISE ARISING IN CONNECTION WITH, YOUR LEASE OR USE OF THE PRODUCTS, OR THE INSTALLATION, REPAIR OR SERVICING OF THE PRODUCTS BY BRESNAN COMMUNICATIONS OR ITS AFFILIATED ENTITIES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR
- (ii) ANY LOSSES, CLAIMS, DAMAGES, EXPENSES, LIABILITIES OR COSTS (INCLUDING LEGAL FEES) RESULTING DIRECTLY OR INDIRECTLY OUT OF, OR OTHERWISE ARISING IN CONNECTION

WITH, ANY ALLEGATION, CLAIM, SUIT OR OTHER PROCEEDING BASED UPON A CONTENTION THAT THE USE OF THE PRODUCTS BY YOU OR ANY OTHER PERSON OR ENTITY INFRINGES THE COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, CONFIDENTIALITY, PRIVACY, OR OTHER INTELLECTUAL PROPERTY RIGHTS OR CONTRACTUAL RIGHTS OF ANY THIRD PARTY.

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The limitations of liability set forth above shall not apply to liability for death or personal injury to the extent applicable law prohibits such limitation. Similarly, some states do not allow the limitation or exclusion of incidental or consequential damages. In such states, the liability of Bresnan Communications and its affiliated entities shall be limited to the maximum extent permitted by law.

You agree to indemnify, defend and hold harmless Bresnan Communications and its affiliated entities from any claims made by third parties arising out of the breach of the license for the Software attached as Exhibit A hereto.

Section 6. TERMINATION.

Bresnan Communications may terminate this lease and your right to use the Products at any time, in its discretion, including, without limitation, in the event you violate any terms of this lease agreement, or any terms of the Bresnan OnLine Internet Acceptable Use Policy, the Bresnan OnLine Subscriber Agreement or any other agreement with Bresnan Communications or any affiliate thereof.

Section 7. DISPUTE RESOLUTION.

(a) Binding Arbitration.

- The Federal Arbitration Act (“FAA”), not state law, shall govern the arbitrability of all disputes between Bresnan Communications and you regarding this Agreement.

- Except for claims against Bresnan Communications arising under the Limited Warranty, any and all disputes arising between you and Bresnan Communications, whether arising before or after the effective date of this Agreement, must be resolved by final and binding arbitration in accordance with the rules of the American Arbitration Association (the "AAA"). The rules of the AAA may be found at the AAA's web site, currently <http://www.adr.org> or by contacting the AAA at 800-778-7879.
 - An award rendered by the arbitrator may be entered in any court having jurisdiction over the parties.
- (b) No Class Action or Consolidated Proceedings. All parties to the arbitration must be individually named. There shall be no right or authority for any claims to be arbitrated on a class action or consolidated basis or on bases involving claims brought in a purported representative capacity on behalf of the general public, other purchasers, lessors or users of the products, or other persons similarly situated. You understand and acknowledge that by consenting to submit claims to arbitration pursuant to this Agreement, you may be forfeiting your right to share in any class action awards.
- (c) Limitation of Available Damages, Including Punitive or Exemplary Damages, and Attorneys' Fees. The arbitrator may award only damages specifically provided for in Section 5 of this Agreement which are supported by admissible evidence (even if greater damages are authorized by statute). The arbitrator cannot award damages that are not expressly authorized by this Agreement. The arbitrator also cannot award attorneys' fees. You and Bresnan Communications both waive any claims for an award of damages or attorneys' fees that are excluded or limited under this Agreement and/or by applicable law.
- (d) Arbitration Information and Filing Procedures.
- Before you submit a dispute to arbitration, you must first send written notice to General Counsel, Bresnan Communications, 1 Manhattanville Road, Purchase, New York 10577 and give Bresnan Communications an opportunity to resolve the dispute. Similarly, before Bresnan Communications takes a dispute to arbitration, it must first attempt to contact you at your e-mail, or postal address

on Bresnan Communications' records, and give you an opportunity to resolve the dispute.

- You agree that if you fail to contact Bresnan Communications within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute, you waive the right to pursue, in any forum, including arbitration or courts, a claim based upon such event, facts or dispute.
- If the dispute cannot be resolved satisfactorily within sixty days from the date you or Bresnan Communications is notified (as set forth above) by the other of a dispute, then either party may contact the AAA in writing at the AAA Case Management Center, 6795 North Palm Avenue, Floor 2, Fresno, CA 93704, and request arbitration of the dispute. You shall send a copy of any such contact with the AAA to General Counsel, Bresnan Communications, 1 Manhattanville Road, Purchase, NY 10577.
- Information about the arbitration process and the AAA's Arbitration Rules and its fees are available from the AAA on the Internet at <http://www.adr.org> or by contacting the AAA at the above address.
- Neither you nor Bresnan Communications may disclose the existence, content or results of any arbitration or award, except as may be required by law, or to confirm and enforce an award.

(e) Arbitration not applicable to claims arising under the limited warranty; other limitations; survival of terms.

- Notwithstanding any other provision of this Section 7, this Section 7 shall not apply to claims against Bresnan Communications arising under the limited warranty.
- In conducting the arbitration and making any award, the arbitrator shall be bound by and strictly enforce the terms of this Agreement and may not limit, expand, or otherwise modify its terms.
- If any portion of this Section 7 is determined to be unenforceable, then the remainder of such section shall be given full force and effect. The provisions of this Section 7 shall survive termination, amendment or expiration of this Agreement.

Section 8. ENTIRE AGREEMENT.

This Agreement, including all exhibits hereto, and the Limited Warranty represent the complete agreement concerning the subject matter set forth herein and in the Limited Warranty. If any provision of this Agreement is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable.

EXHIBIT A

END-USER SOFTWARE LICENSE

1. LICENSE GRANT

Subject to the terms and conditions set forth herein, Bresnan Communications grants to you a perpetual, royalty-free, non-exclusive license to use the Software and any documentation or related technical information furnished by Bresnan Communications to you in connection with the Products. Bresnan Communications reserves all rights in the Software not expressly granted to you in this Agreement.

2. LIMITATIONS ON USE OF SOFTWARE

- You shall use the Software only in conjunction with the Products. You shall not duplicate the Software for any purpose except as may be explicitly authorized in this Agreement.
- You may use the Software to routinely operate and maintain the Products.
- Software provided hereunder may be copied only for back-up or archival purposes, provided any copy must contain all of the original Software's proprietary notices.
- You shall not modify, translate, reverse engineer, decompile, disassemble (except to the extent applicable laws specifically prohibit such restriction), or create derivative works based on the Software, or allow anyone else to do so.
- You shall not sublicense, grant a security interest in, or otherwise transfer rights to the Software.
- You shall not remove any proprietary notices or labels on the Software.

3. TITLE, PROTECTION AND SECURITY

- Title, ownership rights, and intellectual property rights in the Software shall remain with Bresnan Communications' licensors. The Software is protected by the copyright laws and treaties.

- You agree not to remove or alter any copyright notice of any company associated with Software. Use of a copyright notice on the Software does not imply that such has been published or otherwise made generally available to the public.
- You acknowledge that it is your responsibility to take all reasonable measures to safeguard the Software and to prevent its unauthorized use or duplication.

4. TERM

The license of the Software will terminate automatically if you fail to comply with the limitations described herein. On termination of this license, you must destroy all copies of the Software and documentation in your possession or control.

5. LICENSE RIGHTS

Nothing contained herein shall be deemed to grant, either directly or indirectly, any license under any patents or patent applications of Bresnan Communications' suppliers or licensors, except that you shall have a non-exclusive, royalty-free license under the patents and patent applications of Bresnan Communications' suppliers and licensors to use Software supplied hereunder only in the Equipment.

LIMITED WARRANTY

THIS DOCUMENT APPLIES TO YOU ONLY IF YOU LEASED YOUR CABLE MODEM FROM BRESNAN COMMUNICATIONS

Bresnan Communications, LLC or its affiliate that leased your modem to you (“Bresnan Communications”) hereby provides the following warranty:

What is Covered

This Limited Warranty covers any defects in materials or workmanship in your cable modem leased from Bresnan Communications if such defects adversely affect the performance of, or your ability to use, your cable modem. This Limited Warranty applies only to your cable modem if it is leased and used in the service area of Bresnan Communications in connection with the Bresnan OnLine cable Internet service, and this Limited Warranty is subject to the exceptions stated below.

Period of Coverage

This Limited Warranty begins on the date you received your cable modem from Bresnan Communications and will end upon the earlier of:

- the transfer of your cable modem to any other person or entity; or
- the termination of your modem lease with Bresnan Communications for any reason

If your cable modem is repaired or replaced while this Limited Warranty is in effect, the repaired or replaced cable modem will be warranted for the remaining warranty period covering the original cable modem.

ALL IMPLIED WARRANTIES PROVIDED TO YOU UNDER APPLICABLE LAW, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE PERIOD OF COVERAGE UNDER THIS LIMITED WARRANTY. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.

What is Not Covered

This Limited Warranty does not cover:

- Any cords, cabling or software embedded in, or provided in connection with your cable modem.
- Defects, damage or malfunctioning of your cable modem resulting from any of the following:
 - use of your cable modem in other than its normal and customary manner; or
 - use of your cable modem in connection with any activity that violates the acceptable use policy, or any other agreement or terms of your cable Internet service provider applicable to your cable Internet service; or
 - neglect, abuse, or misuse; or
 - accident, fire, flood, lightening or other acts of God, war, or other events beyond our reasonable control; or
 - improper use, application or testing; or
 - changing the calibration of or improper tampering of customer controls; or
 - power fluctuations or surges or improper connection with any other equipment; or
 - improper handling, operation, maintenance, transport, storage, or environmental or site conditions; or
 - unauthorized alterations or repairs, or use of unapproved parts in or with the cable modem; or
 - incompatibility with other equipment; or
 - improper or faulty installation.
- Any cosmetic damage including, but not limited to, plastic surfaces or

any other exposed parts of your cable modem that are scratched or damaged.

- Cable modems which have had the barcode, serial number, or other identifying mark modified, removed or obliterated, or which have had the case opened or the equipment seal broken.

What We Will Do

If your cable modem fails to meet the warranty described above:

- We will, at our sole option and at no charge to you, repair or replace your cable modem within a reasonable time, not to exceed 30 days, after you notify us of any problem covered by this Limited Warranty.
- We can, at our sole option, either repair your cable modem or replace your cable modem by providing you with a new, used or refurbished modem of similar capability and features. If we replace your cable modem with a new, used or refurbished cable modem, the replacement modem that we provide to you does not have to be of the same model or type as the cable modem you originally leased, and it may be produced by a different manufacturer.
- We will provide parts and labor to repair or replace your cable modem, if found to be defective, without charge to you during the period of coverage of this Limited Warranty.
- All replaced parts and products will be deemed to be on an exchange basis and will become our property.

How To Get Service

- To obtain warranty service, contact us at 888.909.4357 (HELP). We will first troubleshoot the problem over the phone and instruct you on the steps to take to fix any problem covered by this Limited Warranty.
- If our telephone troubleshooting is not successful in fixing the problem, we will arrange for a service representative to come to your home to correct any problem covered under this Limited Warranty.

Limitations and Disclaimers

THE WARRANTIES DESCRIBED ABOVE ARE THE ONLY EXPRESS WARRANTIES APPLICABLE TO YOUR CABLE MODEM. NO MANUFACTURER'S WARRANTIES APPLY TO YOUR CABLE MODEM.

YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DEFECT IN YOUR CABLE MODEM SHALL BE THE REPAIR OR REPLACEMENT OF YOUR CABLE MODEM UNDER THE TERMS DESCRIBED ABOVE.

WE WILL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES.

No customer service representative, technician or other person is authorized to change or otherwise modify this Limited Warranty or assume any other liability on our behalf.

How State Law Applies

Some states do not allow limitations on how long an implied warranty lasts or the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you. In such states, our liability is limited to the maximum extent permitted by law.

This Limited Warranty gives you specific legal rights, and you may also have other rights that vary from state to state.