

Bresnan OnLine Internet Service

Subscriber Agreement and Acceptable Use Policy

The Bresnan OnLine cable Internet Service (the "Service") is provided to you (the "Customer") by Bresnan Communications, LLC ("Bresnan Communications") in accordance with the terms of this Agreement (the "Agreement"). Please read this Agreement very carefully, because by accepting the Service, you agree to all of these terms.

The Service is delivered over the cable system and accessed by your personal computer using a cable modem. The term "Customer" or "Subscriber" includes you and also each member of your household and any other individual who uses the Service whether or not the individual is named on the account or owns, rents or uses the Premises on which the computer used to access the Service is located. You agree that you are responsible for all individuals using the Service and for ensuring that they understand and comply with the terms of this Agreement. You also agree that you shall be liable for any and all breaches of the terms and conditions of this Agreement by anyone accessing the Service from your computer.

1. Equipment; Access.

- (a.) ***Required Equipment.*** The Service requires certain equipment provided by Customer such as a personal computer, an Ethernet device, if required, and an appropriate operating system (the "Customer Equipment"). The Service also requires certain equipment provided by Bresnan Communications or its designee such as software and external wiring and related electronic equipment installed by Bresnan Communications ("Bresnan Communications Equipment"). Cable modems leased from Bresnan Communications shall be Bresnan Communications Equipment. Cable modems purchased by Customer (whether from Bresnan Communications or from a third party) shall be Customer Equipment. Whether Customer Equipment or Bresnan Communications Equipment, Bresnan Communications shall have the unrestricted right, but not the obligation, to upgrade the firmware in the cable modem at any time that Bresnan Communications, in its sole discretion, determines it is necessary or desirable. The Bresnan Communications Equipment may be removed or changed by Bresnan Communications at its discretion, at any time, including through "downloads" to Customer's modem or computer(s) or otherwise.

(b.) **Access to Customer's Premises.** Bresnan Communications and its employees, agents, contractors, and representatives are authorized to enter Customer's Premises at which the Service will be accessed (the "Premises") in order to install, maintain, inspect, repair and remove the Bresnan Communications Equipment and the Service, and any equipment used in connection with the Service. Bresnan Communications will arrange access without undue inconvenience and at times agreeable to the Customer. Customer warrants and represents that: Customer is the owner of, or a tenant in, the Premises; Customer has the authority to enter into this Agreement; and, if Customer is not the owner of the Premises, Customer will, upon request, supply Bresnan Communications with the owner's name and address and evidence that Customer is authorized to grant access to the Premises on the owner's behalf (including, if requested, written consent from the owner of the Premises).

(c.) **Bresnan Communications Equipment.** The Bresnan Communications Equipment is the sole property of Bresnan Communications or its designee, and is provided to Customer merely as a means through which the Service may be provided. Customer acknowledges that it has no ownership in the Bresnan Communications Equipment. Customer agrees:

- not to use the Bresnan Communications Equipment for any purpose other than to use the Service pursuant to this Agreement.
- not to sell, transfer, lease, encumber or assign all or part of the Bresnan Communications Equipment to any third party.
- not to relocate the Bresnan Communications Equipment outside the Premises. (Upon Customer request, Bresnan Communications may relocate the Bresnan Communications Equipment within the Premises, but additional charges will apply.)
- to notify Bresnan Communications if Customer changes residences. Bresnan Communications will advise Customer concerning the possibility, costs and procedures for transferring the Bresnan Communications Equipment and Service to Customer's new residence, but it has no obligation to do so.

If any Bresnan Communications Equipment is lost, stolen, not returned, damaged, sold, transferred, leased, encumbered or assigned, then, in addition to any other remedies available to

Bresnan Communications, Customer agrees to pay to Bresnan Communications the full manufacturer's suggested retail price for the replacement of any such equipment together with any reasonable costs relating to the replacement of the Bresnan Communications Equipment.

(d.) **Customer Equipment.** Customer agrees to provide, maintain and service all Customer Equipment, and represents to Bresnan Communications that Customer owns or has the right to use the Customer Equipment in connection with the Service. The current minimum technical and other requirements for Customer Equipment (including without limitation required computer hardware) and the list of approved modems used in connection with the Service are posted at the Bresnan Communications web site, **bresnan.net/notices/** or may be posted on another web site about which Customer has been or will be notified. Such minimum requirements may be revised by Bresnan Communications from time to time. It is the responsibility of the Customer to insure that the Customer Equipment complies with all applicable requirements. If Customer installs and/or uses the Service or attempts to install or use the Service with Customer Equipment that does not meet minimum requirements posted by Bresnan Communications, (a "Non-Recommended Configuration"), then Customer agrees that Customer will be liable for and assume all risks of damage and other losses and that Customer will not be entitled to customer support relating to any issues other than the quality of the signal delivered to the cable modem. In addition, and without limiting the foregoing, the following limitation of liability shall apply:

NEITHER BRESNAN COMMUNICATIONS NOR ANY OF ITS AFFILIATED ENTITIES WARRANT THAT A NON-RECOMMENDED CONFIGURATION WILL ENABLE CUSTOMER TO SUCCESSFULLY INSTALL, ACCESS, OPERATE, OR USE THE SERVICE. CUSTOMER ACKNOWLEDGES THAT ANY SUCH INSTALLATION, ACCESS, OPERATION OR USE COULD CAUSE DAMAGE TO CUSTOMER EQUIPMENT, INCLUDING WITHOUT LIMITATION THE CUSTOMER'S COMPUTER, PERIPHERALS, SOFTWARE OR DATA. NEITHER BRESNAN COMMUNICATIONS NOR ANY OF ITS AFFILIATES SHALL HAVE ANY LIABILITY, DIRECT OR INDIRECT, OF ANY NATURE 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.

2. Intellectual Property Rights.

- (a.) **End-User Licenses.** Customer agrees to comply with the terms and conditions of all end-user license agreements accompanying any software or plug-ins to such software distributed or used in connection with the Service as such agreements may be amended from time to time. All such agreements are incorporated in this Agreement by reference. All end-user licenses will terminate upon the termination of this Agreement, and, at such time, Customer shall destroy all versions and copies of all software received by it in connection with the Service.
- (b.) **Ownership of Addresses.** Customer acknowledges that use of the Service does not give Customer any ownership or other rights in any Internet/online addresses provided to Customer, including but not limited to Internet Protocol ("IP") addresses, domain names, e-mail addresses and web addresses. Bresnan Communications may modify or change such addresses at any time and shall in no way be required to compensate Customer for such changes. Bresnan Communications will, however, use reasonable efforts to try to avoid any unnecessary change in Customer e-mail addresses.
- (c.) **Authorization.** Bresnan Communications does not claim any ownership of any material that Customer publishes, transmits or distributes using the Service. By using the Service to publish, transmit or distribute material or content, Customer (i) is warranting that the material or content complies with the provisions of this Agreement, (ii) is authorizing Bresnan Communications, its agents and affiliates to reproduce, publish, distribute, and display such content worldwide and (iii) is warranting that Customer has the right to provide such authorization. Customer acknowledges that material posted or transmitted using the Service may be copied, republished or distributed by third parties, and Customer agrees to indemnify, defend and hold harmless Bresnan Communications, its agents and affiliates for any harm resulting from such actions.
- (d.) **Copyright in the Service.** Title and intellectual property rights to the Service are owned by Bresnan Communications, its agents, suppliers or affiliates or their licensors or otherwise by the owners

of such material and are protected by copyright laws and treaties. The copying, redistribution, reselling or publication of any part of the Service without express prior written consent from Bresnan Communications or other owner of such material is prohibited.

- (e.) **Material Downloaded from the Service.** In addition to any content that may be provided by Bresnan Communications, Customer may also access material through the Service that is not owned by Bresnan Communications. With respect to material downloaded from the Service:
- All such material may be downloaded only for Customer's personal, non-commercial use.
 - Customer is not allowed to redistribute that material over any network (other than a residential home network located in the Premises).
 - Customer may not sell or offer for sale downloaded material.
 - Consistent with these limitations, Customer may make: (a) one machine-readable copy, (b) one backup copy, and (c) one print copy of any material downloaded from the Service. Any other copying, or any redistribution or publication of any downloaded material, including, without limitation, posting to any other communications service, must be with the express permission of the relevant copyright holder.
 - In any permitted copying, redistribution or publication of copyrighted material, any changes to or deletion of any copyright notice are prohibited.

3. Payment Terms.

- (a.) **Fees and Charges.** Customer agrees to pay all charges and fees for the Service, including applicable monthly service fees, charges for the use of Bresnan Communications Equipment, installation charges, charges for service calls and other charges and all applicable federal, state and local fees and taxes. Customer acknowledges receipt of the schedule of applicable fees and charges delivered on the date of installation of the Service. The current applicable schedule of fees and charges is also posted on the Service web site bresnan.net/notices/ or on another web site about which Customer has been notified. Bresnan Communications shall have the right from time to time to change the amount of fees and charges and/or its method of

billing for services at its discretion and upon reasonable advance notice. Such changes may include imposing separate charges for bandwidth usage, data storage or other services. In addition Bresnan Communications may impose additional charges for exceeding bandwidth usage, data storage and other limitations on the Service that are in effect from time to time and may impose separate charges or penalties (including limiting or terminating Customer's Service) for reducing transmission speed or other Service parameters. Monthly service, equipment and other fees shall be payable monthly in advance. Installation and other charges will be billed according to Bresnan Communications' then current billing policies.

- (b.) **Credit Card.** Subject to acceptance by Bresnan Communications, Customer may opt to authorize Bresnan Communications to charge all amounts payable by Customer to Bresnan Communications to Customer's credit card. By choosing this option and providing appropriate credit card information, Customer authorizes Bresnan Communications to continue charging the credit card for all monthly fees (including without limitation monthly service fees and equipment charges, as well as applicable taxes and fees) payable to Bresnan Communications, and any other charges incurred by Customer and payable to Bresnan Communications pursuant to this Agreement. Monthly service fees and equipment fees may be charged up to thirty (30) days in advance of the first day of the month for which the charges relate. Customer agrees to inform Bresnan Communications immediately of any change in credit card information (including without limitation a change in expiration date). Customer acknowledges and agrees that Customer use of the credit card and rights and liabilities in connection with that use are governed solely by Customer's credit card agreement. Customer also unconditionally guarantees payment of any amounts billed by Bresnan Communications on Customer's credit card; if Bresnan Communications does not receive payment from Customer's credit card issuer or its agents, for any reason, Customer agrees to pay all amounts due upon demand by Bresnan Communications.
- (c.) **Late Payments; Failure to Pay.** Customer agrees to timely pay Bresnan Communications for all fees and all other charges due to Bresnan Communications under this Agreement, including any administrative late fee(s) and related fees, charges and

assessments due to late payments or non-payments. Customer agrees that the following terms and conditions shall apply to late payments:

- If Customer does not pay all charges by the due date, Customer may be charged late fees and other charges and assessments and the Service may be disconnected. If the Service is dis-connected, Customer may be required to pay a reconnect fee in addition to all past due charges before the Service is reconnected. Bresnan Communications may also pursue any other remedies available to it under this Agreement or applicable law.
- Any administrative late fee(s) and related fees, charges and assessments due to late payment and non-payment are not penalties. Rather, they are liquidated damages intended to be a reasonable advance estimate of Bresnan Communications' costs resulting from Customer's late payments or non-payments. These costs will not be readily ascertainable, and will be difficult to predict or calculate, at the time that such administrative late fee(s) and related charges are set because it would be difficult to know in advance: (a) whether Customer will pay for the Service on a timely basis, (b) if Customer does pay late, when Customer will actually pay, if ever, and (c) what costs Bresnan Communications will incur because of Customer's late payment or non-payment.
- Bresnan Communications does not anticipate that Customer will fail to pay for the Service on a timely basis. Bresnan Communications does not extend credit to customers and the administrative fee(s), related fees, charges and assessments are not interest, a credit service charge or a finance charge.
- Customer will be notified of the amount of all fees and other separate or additional charges by posting notice of such charges on the Service web site **bresnan.net/notices/** or on another web site about which Customer has been notified, or by sending notice via e-mail or first-class U.S. postal mail to Customer's address of record or e-mail address on Bresnan Communications' account records. Customer will be notified in advance either by mail or a posting on the Service web site of any new or changed fees.

Bresnan Communications' late fee policies and practices may be revised to comply with applicable state or local laws, rules or regulations. If Bresnan Communications is required to use a collection agency or attorney to collect money owed by Customer or to assert any other right which Bresnan Communications may have against Customer, Customer agrees to pay the reasonable costs of collection or other action, including, but not limited to, the costs of a collection agency, (including, without limitation, fees charged by the collection agency based on a percentage of the late payment owing by Customer) reasonable attorneys' fees and arbitration or court costs.

- (d.) **Additional Charges.** By using the Service, Customer will also have access to the Internet and various content providers, providers of services, online services and other information. As a result of such access or usage, Customer acknowledges that Customer may incur additional charges separate and apart from the amounts charged by Bresnan Communications. Customer may also incur charges as a result of accessing online services or purchasing or subscribing to other offerings via the Internet or otherwise. Customer fully understands and agrees that all such charges payable to third parties, including all applicable taxes, are the sole responsibility of Customer. Customer also acknowledges that it is Customer's sole responsibility to protect the security of personal and financial information (including credit card information) provided by Subscriber in connection with such transactions.
- (e.) **Billing On Behalf of Third Parties.** Bresnan Communications may enter into arrangements to provide billing services for third parties such as content or service providers. In such cases, Bresnan Communications only acts in the limited capacity as the billing agent of such independent third party. Bresnan Communications shall not be responsible for or have any liability with respect to any dispute regarding any charges or other matters between Customer and any third party for whom Bresnan Communications bills. These matters are governed pursuant to any contract or other arrangement between Customer and the third party and must be resolved at Customer's expense independently of Bresnan Communications.
- (f.) **Credit Inquiries.** By subscribing to the Service, Customer accepts the terms of this Agreement and authorizes Bresnan Communications to make inquiries and to receive information about Customer's credit experience from others, to enter this information in Customer's file, and to disclose such information concerning Customer to appropriate third parties for reasonable business purposes.

- (g.) **Billing Errors.** Subject to applicable law, Customer must notify Bresnan Communications, in accordance with the provisions of this Agreement, of any billing errors or other requests for refund within six (6) months of the date on which the error occurred.
- (h.) **Account Access.** In order to protect the privacy of Customer's account information, Bresnan Communications may assign each Customer a unique security code and require that Customer use a security code to confirm Customer's identity when requesting or otherwise accessing account information, making changes to the Service or performing other functions related to the Service.

4. Customer Information and Privacy.

- (a.) **Customer Privacy.** Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, is governed by federal law and regulation, including, among other laws, the subscriber privacy provisions of the Communications Act of 1934, as amended (the "Cable Act"), and the Electronic Communications Privacy Act. Customer's rights under the Cable Act and Bresnan Communications' privacy practices are described in the Subscriber Privacy Notice posted at the Bresnan Communications web site, bresnan.net/legal/. Such practices and policies may be revised by Bresnan Communications from time to time. Customer acknowledges that the current Bresnan Communications Subscriber Privacy Notice was delivered to Customer at the time of the original installation of the Service.
- (b.) **Information Provided To Third Parties.** The Service will allow Customer to directly and indirectly access third parties, including without limitation, content providers, online services and other providers of goods, services and information. Such third parties may request or require Customer to provide certain personally identifiable information such as name, address, telephone number, and credit card number. Bresnan Communications is not, under any circumstances, responsible for any such information provided by Customer to third parties, and such information is not subject to the privacy provisions of this Agreement or the Subscriber Privacy Notice. The Customer assumes all risks of providing any personally identifiable or other information to third parties. Customer must refer to individual third party privacy policies, if any, to determine any privacy protections applicable to personally identifiable information provided by Customer to third parties.

5. Prohibited Uses of the Service; Acceptable Use Policy.

The following uses of the Service are prohibited:

- Customer shall not use the Bresnan Communications Equipment or the Service, directly or indirectly, to undertake or accomplish any unlawful purpose.
- Customer shall not use the Bresnan Communications Equipment or the Service, directly or indirectly, in violation of any posted Bresnan Communications policy applicable to the Service, including without limitation, any Bresnan Communications Acceptable Use Policy (the "AUP") or other policy posted on the Service web site bresnan.net/notices/ or posted on another web site about which Customer has been notified.

Customer acknowledges that the terms of the AUP and any such other policies may be put into effect or revised from time to time without notice by posting a new version of the AUP or such other policy on the Service web site as set forth above. Accordingly, Customer and other users of the Service should consult the AUP and such other posted policies regularly to conform to the most recent version.

6. Representations and Warranties of Customer.

Customer acknowledges that Bresnan Communications is relying upon Customer's representations and warranties in order to offer the Service to Customer in accordance with the terms of this Agreement.

Customer represents and warrants that:

- (a.) **Age.** He or she is at least 18 years of age.
- (b.) **Customer Information.** All information provided by Customer to Bresnan Communications is complete and accurate in all respects, including, without limitation, Customer's legal name, address, telephone number(s), the number of computers on which the Service is being accessed, and credit card and payment information. Customer agrees to keep all information current and accurate and to promptly notify Bresnan Communications of any change. Failure to comply with these terms will constitute a breach of this Agreement.
- (c.) **Multiple Users.** The Service and the Bresnan Communications Equipment shall be used only by Customer and by members of Customer's immediate household living with Customer at the same address. Customer additionally acknowledges and agrees that:

- Customer is executing this Agreement on behalf of all persons who use the Bresnan Communications Equipment and/or Service by means of the Customer Equipment.
- Customer shall have sole responsibility for ensuring that all such other users understand and comply with the terms and conditions of this Agreement.
- Customer is solely responsible for and liable for any and all breaches of the terms and conditions of this Agreement, whether such breach is by Customer or by any other user of the Customer Equipment.
- Customer agrees to indemnify, defend and hold harmless Bresnan Communications and its affiliates against all claims and expenses (including reasonable attorney fees) arising out of the use of the Service and/or the Bresnan Communications Equipment or the breach of this Agreement by Customer or any other user of the Customer Equipment.

- (d.) **Export Laws.** Customer will comply with all export and re-export control laws, including but not limited to the Export Administration Act, the Arms Export Control Act and their implementing regulations, and Customer will not transfer, by electronic transmission or otherwise, any content derived from the Service to either a foreign national or a foreign destination without first obtaining any required government authorization. Customer further agrees not to upload to the Service any data or software that cannot be exported without prior written government authorization. The terms "export" and "re-export" mean transferring or releasing technology to another country or to a national of another country by any means – physical, electronic or otherwise. This includes the electronic transmission of information and software to foreign countries and to certain foreign nationals.
- (e.) **No Tampering.** The Bresnan Communications Equipment and the Service are the sole property of Bresnan Communications and its affiliates and may only be serviced or modified by Bresnan Communications or its authorized representatives. Customer will not service, alter, modify or tamper with the Bresnan Communications Equipment or with the Service (including, without limitation, altering a cable modem to change the downloading or uploading transmission speed of the cable modem) or permit any unauthorized person to do so.

- (f.) **IP Addresses.** Bresnan Communications will provide Customer with dynamic IP connection(s) as a component of the Service. Upon termination, disconnection or other discontinuance of the Service or this Agreement, Bresnan will, if applicable, take back any dynamic IP connections. Customer will not alter, modify, or tamper with such dynamic IP connection(s) or those of any other customer. Customer agrees not to use a dynamic DNS to associate a host name with such dynamic IP connection(s) for any commercial purpose. Customer also agrees not to use any software on or in conjunction with any computer(s) or network device connected to the Service that provides for static IP connection(s).
- (g.) **Theft of Service.** Customer acknowledges that any unauthorized receipt of the Service constitutes theft of service, which is a violation of federal law and can result in both civil and criminal penalties. Customer will not, directly or indirectly, engage in or knowingly permit others to engage in any activity that constitutes theft of the Service. Without limitation, Customer shall not connect the Service or any Bresnan Communications Equipment to more computers, either on or outside of the Premises, than are reflected in Customer's account with Bresnan Communications. In addition, if the violations are willful and for commercial advantage or private financial gain, the penalties may be increased.

7. Termination and Expiration.

- (a.) **Term.** This Agreement will continue in effect until terminated by either party according to the terms of this Agreement or until superceded by a revised Subscriber Agreement.
- (b.) **Termination by Customer.** Customer may terminate this Agreement for any reason at any time by giving notice to Bresnan Communications. Upon termination by Customer, Customer will be responsible for any and all applicable fees and charges up to and including the date of termination. Prepaid monthly service fees for Service not received will be refunded.
- (c.) **Termination by Bresnan Communications.** Bresnan Communications may terminate this Agreement immediately at any time for any reason, whether or not Customer has violated this Agreement. Without in any way limiting the scope of Bresnan Communications' right to terminate this Agreement for any reason, Customer understands and agrees it is the policy of Bresnan Communications to terminate a subscriber's account in the case of repeat copyright infringement. In the event Bresnan

Communications terminates the Service for any reason, Customer will be responsible for any and all applicable fees and charges up to and including the date of termination. Prepaid monthly service fees for Service not received will be refunded.

- (d.) **Customer Obligations Upon Termination.** Upon termination of this Agreement, by Customer or Bresnan Communications, Customer agrees that:
 - Customer immediately will cease use of the Service and the Bresnan Communications Equipment, and destroy all copies of any software provided to Customer pursuant to this Agreement or otherwise used by Customer to access the Service.
 - Customer will pay in full for Customer's use of the Service and the Bresnan Communications Equipment up to the effective date of termination of this Agreement or the date on which the Service and the Bresnan Communications Equipment have been disconnected, whichever is later. Monthly service charges for use of the Bresnan Communications Equipment or the Service will be paid by Customer on a pro-rata basis.
 - Within 10 days following the termination of this Agreement, Customer shall return the Bresnan Communications Equipment (including the modem if Customer is leasing a modem from Bresnan Communications and any other equipment supplied or provided in connection with the Service) to Bresnan Communications, by any method reasonably requested by Bresnan Communications. In addition, Customer will, upon request of Bresnan Communications, arrange an agreeable time to permit Bresnan Communications, and its employees, agents, contractors, and representatives, to access Customer's Premises during regular business hours to remove the Bresnan Communications Equipment and other material provided by Bresnan Communications. If any Bresnan Communications Equipment is not returned, Customer agrees that Bresnan may bill Customer for the charges referred to in Section 1(c) above, and may charge Customer's credit card if applicable. Any failure by Bresnan Communications to remove its equipment shall not be considered abandonment of the Bresnan Communications Equipment.

- Upon termination of this Agreement, Bresnan Communications and its suppliers reserve the right to delete all Customer’s data, files, electronic messages or other Customer information that is stored on servers or systems of Bresnan Communications or its suppliers.
 - Upon termination, Customer may forfeit all components of his/her account including, without limitation, user name and all e-mail, IP and web space addresses.
- (e.) **Retention of Rights.** Nothing contained in this Agreement shall be construed to limit any rights or remedies of Bresnan Communications available at law or in equity.
- (f.) **Survival.** All representations, warranties, indemnifications and limitations of liability contained in this Agreement shall survive the termination of this Agreement, as well as any other obligations of the parties hereunder which, by their terms, would be expected to survive such termination or which relate to the period prior to termination.

8. Limitation of Liability; No Warranties; Warnings.

- (a.) **Limited Warranty.** THE BRESNAN COMMUNICATIONS EQUIPMENT AND THE SERVICE ARE PROVIDED “AS IS” WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER BRESNAN COMMUNICATIONS NOR ITS AFFILIATES WARRANT THAT ANY CONNECTION TO, TRANSMISSION OVER, OR RESULTS OF THE BRESNAN COMMUNICATIONS EQUIPMENT OR THE SERVICE WILL MEET CUSTOMER’S REQUIREMENTS OR WILL PROVIDE UNINTERRUPTED USE OR WILL OPERATE AS REQUIRED, UNINTERRUPTED OR ERROR FREE. CUSTOMER’S SOLE REMEDY FOR SERVICE INTERRUPTION SHALL BE LIMITED TO A PRORATED CREDIT UPON REQUEST ONLY IN THE EVENT OF COMPLETE FAILURE OF THE SERVICE DUE TO A TECHNICAL MALFUNCTION CAUSED BY BRESNAN COMMUNICATIONS FOR TWENTY-FOUR (24) CONSECUTIVE HOURS OR MORE. TO QUALIFY FOR SUCH CREDIT, CUSTOMER MUST REQUEST THE CREDIT FROM BRESNAN COMMUNICATIONS WITHIN THIRTY (30) DAYS OF THE FAILURE. CREDITS SHALL BE APPLIED ONLY AGAINST FUTURE FEES PAYABLE BY CUSTOMER FOR THE SERVICE. WITHOUT LIMITING THE FOREGOING, NO CREDITS WILL BE ISSUED FOR ANY OTHER FAILURES DUE TO ANY OTHER CAUSES; FOR EXAMPLE, EVENTS SUCH AS *FORCE MAJEURE* OR THE INABILITY TO ACCESS THE SERVICE FOR REASONS OTHER THAN A

- TECHNICAL FAILURE CAUSED BY BRESNAN COMMUNICATIONS SHALL NOT ENTITLE SUBSCRIBER TO ANY CREDIT. NEITHER BRESNAN COMMUNICATIONS NOR ITS AFFILIATES WARRANT THAT ANY DATA OR FILES SENT BY OR TO CUSTOMER WILL BE TRANSMITTED IN UNCORRUPTED FORM OR WITHIN A REASONABLE PERIOD OF TIME. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY EXCLUDED.
- (b.) **Limitation of Liability.** Except as specifically provided in this Agreement, in no circumstance and under no legal theory (including without limitation tort, contract, and otherwise), shall Bresnan Communications or its affiliates have any liability to Customer or to any person or entity for (i) any direct, indirect, incidental, special, treble, punitive, exemplary or consequential losses or damages, 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, the installation, maintenance, failure, removal or use of the Service or the Bresnan Communications Equipment or Customer’s reliance on or use of the Bresnan Communications Equipment or the Service, including without limitation, any mistakes, omissions, interruptions, computer or other hardware or software failure or malfunction, deletion or corruption of files, work stoppage, errors, defects, delays in operation, delays in transmission, or failure of performance of the Bresnan Communications Equipment or the Service; 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 Bresnan Communications Equipment or the Service by Customer 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. In addition to, and without limiting any other limitation of liability contained herein, Bresnan Communications shall have no liability whatsoever as the result of the loss of any Customer files, messages, names or addresses or other data of any nature resulting from the deletion of such data upon termination of this Agreement.

(c.) **No Liability For Viruses.** NEITHER BRESNAN COMMUNICATIONS NOR ITS AFFILIATES SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY HARDWARE, SOFTWARE, FILES OR DATA RESULTING FROM ANY VIRUS OR OTHER HARMFUL FEATURE OR FROM ANY ATTEMPT TO REMOVE IT.

- It is Customer's sole responsibility to protect Customer's computers and hardware from damage to its software, files or data as a result of any virus or other harmful feature, and Bresnan Communications makes no representation or warranty that any software or content installed on Customer's computer(s) or downloaded from the Service does not contain such virus or other harmful feature.
- In its sole discretion, Bresnan Communications may, in certain instances, install or run virus check software on Customer's computer(s) or on certain systems that may filter harmful attachments; however Customer agrees that Bresnan Communications makes no representation or warranty that such virus check software will detect or correct any or all viruses or any other harmful feature.
- Bresnan Communications may, but is not required to, terminate all or any portion of the installation or operation of the Service if a virus is found to be present on Customer's system. Customer agrees that Bresnan Communications is not required to provide Customer with any assistance in removal of the virus.
- Customer agrees to pay any additional charges for any service call made or required on account of any problem related to a virus or other harmful feature detected on Customer's system.

(d.) **Customer's Hardware and Software.**

- Customer understands that the installation, use, inspection, maintenance, repair and removal of the Bresnan Communications Equipment and certain Customer Equipment used in connection with the Service may result in service outage or potential damage to Customer's computer(s) and other Customer Equipment. EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY BRESNAN COMMUNICATIONS, NEITHER BRESNAN COMMUNICATIONS NOR ANY OF ITS AFFILIATES SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY

DAMAGE, LOSS OR DESTRUCTION TO THE CUSTOMER EQUIPMENT [INCLUDING WITHOUT LIMITATION CUSTOMER'S COMPUTER(S) AND PERIPHERALS]. In the event of such gross negligence or willful misconduct by Bresnan Communications, Bresnan Communications shall pay for the repair or replacement of the damaged parts UPTO A MAXIMUM OF \$1,000 and Customer agrees to accept such payment as Customer's sole remedy relating to such activity.

- Customer understands and agrees that the installation process for the software and other components of the Service may modify certain system files on Customer's computer(s). Customer specifically understands and agrees that Bresnan Communications does not represent, warrant or covenant that such modifications will not cause the loss of files or disrupt the normal operations of any Customer Equipment including without limitation Customer's computer(s). FOR THESE AND OTHER REASONS, IT IS RECOMMENDED THAT CUSTOMER BACK-UP ALL FILES TO ANOTHER STORAGE MECHANISM PRIOR TO SUCH ACTIVITIES, AND CUSTOMER ASSUMES ALL RISKS AND TAKES FULL RESPONSIBILITY FOR NOT DOING SO. NEITHER BRESNAN COMMUNICATIONS NOR ANY OF ITS AFFILIATES SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY SOFTWARE, FILES OR DATA.
- Customer understands and agrees that his or her computer may need to be opened, either by Customer or by Bresnan Communications or its agents, in connection with the installation or repair of the Service. The opening of Customer's computer may void warranties provided by the computer manufacturer or other parties relating to the computer's hardware or software. NEITHER BRESNAN COMMUNICATIONS NOR ANY OF ITS AFFILIATES SHALL HAVE ANY LIABILITY WHATSOEVER AS THE RESULT OF THE VOIDING OF ANY SUCH WARRANTIES.

(e.) **Not Liable For Third Parties.**

- Customer acknowledges that the Service may contain services, equipment and infrastructure, content and other components licensed from or otherwise provided by independent third parties. In addition, Customer will be able to use the Service to access the services and content of third parties.

- Customer agrees that Bresnan Communications is not responsible for and has no liability whatsoever for the performance (or non-performance) of any services, equipment, infrastructure or content of third parties. Additionally, services, equipment, infrastructure and content that are not provided by Bresnan Communications are not the responsibility of Bresnan Communications, and Bresnan Communications shall have no liability with respect to such services, equipment, infrastructure and content. All questions concerning third-party services, equipment, infrastructure and content must be addressed to the creators or providers of such services, equipment, infrastructure and content. Bresnan Communications does not endorse or warranty any third-party products, services or content that are distributed or advertised over the Service.
- (f.) **Customer Responsibility for Content.** Customer acknowledges that there is some content and material on the Internet or otherwise available through the Service which may be offensive to some individuals, may be unsuitable for children, may violate federal, state or local laws, rules or regulations or may violate the protected rights of Customer or others. Bresnan Communications assumes no responsibility for such content or material. All content and material accessed by Customer or others through the Service is accessed and used by Customer or such others at their own risk, and neither Bresnan Communications nor its affiliates shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to access to such content or material by Customer or others. Questions or complaints regarding content or material should be addressed to the content or material provider. Customer acknowledges that software programs claiming to be capable of restricting access to sexually explicit material on the Internet are commercially available. Bresnan Communications makes no representation or warranty regarding the effectiveness of such programs.
- (g.) **Monitoring of Postings and Transmissions.** Bresnan Communications shall have no obligation to monitor postings or transmissions made in connection with the Service. However, Customer acknowledges and agrees that Bresnan Communications and its agents shall have the right to monitor any such postings and transmissions, including without limitation e-mail, newsgroups, chat, IP audio and video, and web space content, from time to time and to disclose them in accordance with the terms of this Agreement, applicable law or government request.

Customer further acknowledges and agrees that Bresnan Communications reserves the right to refuse to upload, post, publish, transmit or store any information or material, in whole or in part, that, in its sole discretion, is unacceptable, undesirable or in violation of this Agreement or applicable law.

- (h.) **Eavesdropping.** The Customer's use of the Service may be subject to eavesdropping by other persons or entities, including other subscribers to the Service, that use the Bresnan Communications facilities. This means that other persons or entities may be able to access and/or monitor Customer's use of the Service. This risk of eavesdropping also exists on the Internet and other services to which access is provided as a part of the Service. Any sensitive or confidential information posted, stored, transmitted or distributed by Customer is done so at Customer's sole risk, and neither Bresnan Communications nor its affiliates shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions by Customer. Customer acknowledges that software programs claiming to be capable of encryption are commercially available, but that Bresnan Communications makes no representation or warranty regarding the effectiveness of such programs.
- (i.) **FTP/HTTP Service Setup.** Certain data transfer protocols, such as FTP (File Transfer Protocol) and HTTP (Hyper Text Transfer Protocol), may allow other Service and Internet users to gain access to the Customer's computer and stored data. Each Customer is solely responsible for the security of his or her Customer Equipment and any other equipment Customer chooses to use in connection with the Service and for any stored data, and any unauthorized access resulting from his or her use of such transfer protocols or otherwise. Neither Bresnan Communications nor its affiliates shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings resulting from, arising out of or otherwise relating to the use of such applications by Customer, or the access by others to the Customer Equipment or other equipment of Customer.
- (j.) **File and Print Sharing.** Use of the Service presents the risk that other persons or entities may be able to gain access to the Customer Equipment and other equipment connected to the Customer Equipment.

- The Service functions in some ways as a Local Area Network (LAN) with each Customer constituting a node on the network. As such, users outside of the Premises may be able to access the Customer Equipment and other equipment connected in some way to the Customer Equipment.
- Some available software includes capabilities that will permit other users to gain access to the Customer Equipment and other equipment connected in some way to the Customer Equipment, and to the software, files and data stored on such equipment. For example, operating systems such as Windows and Macintosh include file sharing and print sharing capabilities which, when enabled, will permit other users to gain access to the Customer Equipment and other equipment connected in some way to the Customer Equipment, even if Customer is not using the Service.

Bresnan Communications recommends that Customer disable file and print sharing and other capabilities that allow outside users to gain access to the Customer Equipment. Customer acknowledges and agrees that if Customer chooses to run such applications, Customer should take appropriate security measures, and that any failure by Customer to follow this recommendation is at Customer's sole risk. Neither Bresnan Communications nor its affiliates shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings resulting from, arising out of or otherwise relating to access by others of the Customer Equipment or any other equipment connected in some way to the Customer Equipment, or to the software, files and data stored on such equipment.

- (k.) **Cookies and Other Tracking Technologies.** Customer acknowledges that accessing certain web sites through the Service may result in an http header (commonly known as a "cookie") being stored or entered into the memory of Customer's browser that may track all or part of a Customer's Internet usage. If Customer does not want such "cookies" to be used or does not want a web site operator to use other methods to track Customer's usage, it is the sole responsibility of Customer to determine if any such methods are used by any web site visited and to prevent or disable them through whatever procedures, if any, are available on Customer's browser.
- (l.) **High-Risk Activities.** The Service is not fail-safe and is not designed or intended for use in situations where absolutely accurate data or information is required. Bresnan Communications is not liable for

any consequence if the Service is used for such activities, even if such consequence results from an error or Service interruption or failure.

- (m.) **Sole Remedy.** Customer's sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement. Some states do not allow the exclusion or limitation of implied warranties, and some states do not allow the limitations or exclusion of incidental or consequential damages, so certain of the above exclusions may not apply. In such states, the liability of Bresnan Communications and its affiliates is limited to the maximum extent permitted by law.

9. Arbitration.

- (a.) **Binding Arbitration.** ANY AND ALL DISPUTES ARISING BETWEEN CUSTOMER AND BRESNAN COMMUNICATIONS (WHETHER BASED IN CONTRACT, STATUTE, REGULATION, ORDINANCE, TORT - INCLUDING, BUT NOT LIMITED TO, FRAUD, ANY OTHER INTENTIONAL TORT OR NEGLIGENCE, - COMMON LAW, CONSTITUTIONAL PROVISION, RESPONDEAT SUPERIOR, AGENCY OR ANY OTHER LEGAL OR EQUITABLE THEORY), WHETHER ARISING BEFORE OR AFTER THE EFFECTIVE DATE OF THIS AGREEMENT, MUST BE RESOLVED BY FINAL AND BINDING ARBITRATION. THIS INCLUDES ANY AND ALL DISPUTES BASED ON ANY PRODUCT, SERVICE OR ADVERTISING CONNECTED TO THE PROVISION OR USE OF THE SERVICE. The Federal Arbitration Act ("FAA"), not state law, shall govern the arbitrability of all disputes between Bresnan Communications and Customer regarding this Agreement and the Service. Bresnan Communications and Customer agree, however, that New York or federal law shall apply to and govern, as appropriate, any and all claims or causes of action, remedies, and damages arising between Customer and Bresnan Communications regarding this Agreement and the Service, whether arising or stated in contract, statute, common law, or any other legal theory, without regard to New York's choice of law principles. A single arbitrator will be selected in accordance with the rules of the American Arbitration Association (the "AAA"). The arbitration will be conducted under the applicable procedures and rules of the AAA that are in effect on the date the arbitration is filed unless this Section 9 is inconsistent with those procedures and rules, in which case, this Section 9 will prevail. These procedures and rules may limit the amount of

discovery available to Customer or Bresnan Communications. The arbitrator will apply applicable statutes of limitation, will honor claims of privilege recognized by law, and will take reasonable steps to protect Customer account information and other confidential or proprietary information, including the use of protective orders to prohibit disclosure outside the arbitration, if requested to do so by Customer or Bresnan Communications. The arbitrator will make any award in writing, but need not provide a statement of reasons unless requested by a party. Upon a request by Customer or Bresnan Communications, the arbitrator will provide a brief statement of the reasons for the award. An award rendered by the arbitrator may be entered in any court having jurisdiction over the parties. If any portion of this Section 9 is determined to be unenforceable, then the remainder of such section shall be given full force and effect. The provisions of this Section 9 shall survive termination, amendment or expiration of this Agreement. The arbitration of any dispute involving \$10,000 or less shall be conducted in accordance with the Consumer Arbitration Rules of the AAA, as modified by this Agreement, which are in effect on the date a dispute is submitted to the AAA. The AAA's Commercial Arbitration Rules and fee schedules will apply to any disputes in excess of \$10,000. Both Customer and Bresnan Communications have the right to be represented by counsel in an arbitration. 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.

- (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 (such as a private attorney general), other subscribers, or other persons similarly situated. Customer understands and acknowledges that by consenting to submit claims to arbitration pursuant to this Agreement, Customer may be forfeiting his or her right to share in any class action awards. This Section 9 will not apply to any individual claims filed by Customer in a lawsuit prior to the effective date of this Agreement or to the claims of a class certified prior to the effective date of this Agreement. This Section 9 will apply to all other claims, including class claims where a class has not yet been certified, even if the facts and circumstances

upon which the claims are based occurred or existed before the effective date of this Agreement.

- (c.) **Limitation of Available Damages, Including Punitive or Exemplary Damages, and Attorneys' Fees.** The arbitrator may award only damages specifically provided for in Section 8 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. Customer 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. Notwithstanding the limitations set forth in this subsection, should it become necessary to resort to court proceedings to enforce a party's compliance with the dispute resolution and arbitration process set forth herein, and the court directs, orders or otherwise requires compliance herewith, then all of the costs and expenses, including its reasonable attorneys' fees, incurred by the party requesting such enforcement shall be reimbursed by the non-complying party to the requesting party. This Section 9 does not prevent either party from seeking interim injunctive relief from a court in order to preserve the status quo or to protect assets until the arbitration has been commenced and the arbitrator has an opportunity to consider the matter of interim relief.
- (d.) **Arbitration Information and Filing Procedures.** Before Customer submits a dispute to arbitration, Customer must first send written notice to Bresnan Communications Legal Department, 1 Manhattanville Road, Purchase, NY 10577, Attention: General Counsel (or to such other address posted on the Service web site, [bresnan.net/notices/](https://www.bresnan.net/notices/), or posted on another web site about which Customer has been notified) 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 Customer at Customer's e-mail or postal address on Bresnan Communications' account records, and give Customer an opportunity to resolve the dispute. Customer agrees that if Customer fails to contact Bresnan Communications within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute (except with respect to billing disputes which are subject to the shorter time limitation set forth in Section 3(g))

above), Customer waives 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 Customer 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. Customer shall send a copy of any such contact with the AAA to Bresnan Communications Legal Department, 1 Manhattanville Road, Purchase, NY 10577, Attention: General Counsel, [or to such other address posted on the Service web site, bresnan.net/notices/, or posted on another web site about which Customer has been notified]. 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. The arbitration will be based on written submissions of the parties and the documents relating to the dispute, unless either party requests that the arbitration be conducted using the AAA's telephone or in-person procedures. Additional charges may apply for these procedures. Any in-person arbitration shall take place at a location that the AAA selects in the state in which the Premises is located. Any arbitration shall remain confidential. Neither Customer 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.) **Fees and Expenses of Arbitration.** Customer must pay the applicable AAA filing fee when Customer submits a written request for arbitration to the AAA. The AAA's filing fee and administrative expenses for a document arbitration will be allocated according to the AAA's Rules, except that for claims of less than \$1,000, Customer will only be obligated to pay a filing fee of \$15 and Bresnan Communications will pay all of the AAA's other costs and fees. If Customer elects an in-person arbitration process, Customer must pay his or her share of the higher administrative fee and the additional costs for this process. Unless applicable substantive law provides otherwise, each party will pay its own expenses to participate in the arbitration, including attorneys' fees and expenses for witnesses, document production and presentation of evidence. The prevailing party may, however, seek to recover the AAA's fees and the expenses of the arbitrator from the other party.

10. Miscellaneous.

- (a.) **Notice.** Notices to Customers from Bresnan Communications may be delivered by: posting the notice on the Service web site bresnan.net/notices/; by posting the notice on another web site about which Customer has been notified; or by sending notice via first-class U.S. postal mail, or overnight courier service to Customer's address of record or via e-mail to the e-mail address listed on the Bresnan Communications account. Customer agrees that any one of the foregoing will constitute sufficient notice. Customer acknowledges that, from time to time, Bresnan Communications may notify Customer about important information regarding the Service and the Agreement using one or more of the methods set forth in this Agreement. Customer agrees to regularly check his or her postal mail, e-mail and all postings on the Service web site and on any other web site about which Customer has been notified and bear the risk of failing to do so.
- (b.) **Changes to the Service and the Agreement.** Bresnan Communications may, in its sole discretion, change, add to or remove portions of the Service (including without limitation content, functionality, hours of availability, equipment requirements, speed, and upstream and downstream rate limitations) at any time without notice. In addition, Bresnan Communications may modify this Agreement at any time in its sole discretion upon reasonable advance notice to Customer. Bresnan Communications will notify Customer of any such modifications by one or more of the methods set forth in this Agreement, and Customer agrees that such will constitute sufficient notice of such changes. Customer's continued use of the Service following notice of such changes shall be deemed to be Customer's acceptance of any such changes. If Customer does not agree to any such changes, Customer must immediately stop using the Service and notify Bresnan Communications that Customer is terminating this Agreement, and the appropriate procedures for termination, as described in this Agreement, will apply.
- (c.) **Management and Maintenance of the Service.** Subject to applicable law and to the limitations of liability set forth in this Agreement, Bresnan Communications reserves the right, in its sole discretion and without any obligation to Customer, to undertake any activities it deems necessary to test, modify,

update, manage, inspect, maintain, repair, or monitor the Service and its infrastructure and all of its related components. This may include, but is not limited to, activities relating to administration, system security and intrusion detection, technical performance, and monitoring customer use and compliance. Customer also agrees to comply with the bandwidth usage, data storage and other limitations on the Service that are in effect from time to time. If usage exceeds these limitations, Bresnan Communications may, at its sole discretion, take any appropriate action including, without limitation, charging Customer for the excess usage, reducing transmission speed or other Service parameters; or limiting or terminating Customer's Service. These rights are in addition to and do not limit any other rights of Bresnan OnLine and/or its parent or affiliated entities.

- (d.) **No Relationship.** Nothing in this Agreement will create any joint venture, joint employer, franchisee-franchisor, employer-employee or principal-agent relationship between Bresnan Communications, any content, backbone, network, circuit and other technology or communications providers, software and other licensors, hardware and equipment suppliers or other third-party providers of elements of the Service, nor impose upon any such companies any obligations for any losses, debts or other obligations incurred by the other.
- (e.) **Assignment.** Bresnan Communications may assign its rights and obligations under this Agreement, without notice, to (i) any affiliate of Bresnan Communications, (ii) to any party (or its affiliate) acquiring all or substantially all of the assets or stock, by merger or otherwise, of Bresnan Communications or any affiliate of Bresnan Communications, or (iii) to any person or entity purchasing or otherwise acquiring the broadband distribution system serving the Premises. This Agreement may not be assigned or transferred by Customer without Bresnan Communications' prior consent.
- (f.) **General.** This Agreement and any attachments, schedules, and exhibits constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement, and supersede and replace any and all prior written or verbal agreements. In the event that any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as

nearly as possible to reflect the original intentions of the parties and the remainder of the provisions shall remain in full force and effect. Bresnan Communications' failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.

Bresnan OnLine Internet Service Acceptable Use Policy

The Bresnan OnLine Internet Service (the "Service") is provided by Bresnan Communications, LLC ("Bresnan Communications"). In order to promote fair and responsible use of the Service and to provide our customers with the best cable Internet service possible, we have adopted an Acceptable Use Policy ("AUP") which applies to all Service customers and to all others who have access to the Service's network (all such users are referred to, collectively, as "Customers" and, individually, as a "Customer"). This policy outlines the proper use of the Service as well as proper conduct on the Internet using the Service. These policies and Customer use restrictions are in addition to restrictions contained in the Bresnan OnLine Subscriber Agreement (the "Subscriber Agreement"). Bresnan Communications also reserves the right to adopt additional policies and restrictions and/or to modify the AUP from time to time by posting such additions or modifications on the Service web site at bresnan.net/legal/ or at such other site about which Customer has been given notice.

It is the responsibility of all Service Customers to comply with these policies. Failure to comply with these or any other policies applicable to the Service could subject your account to suspension or termination. If you do not agree to comply with all of these policies, you must immediately stop use of the Service and notify Bresnan Communications so that your account may be closed.

All Customers who use or have access to the Service must comply with all applicable federal, state, local and international laws, rules, regulations and other governmental requirements. Prohibited uses include, but are not limited to, using the Bresnan Communications Equipment (as defined in the Subscriber Agreement) or the Service to:

- i. undertake or accomplish any unlawful purpose;
Among other things, Customers may not post, store, transmit or distribute information, data or material which is libelous, obscene, unlawful, threatening, defamatory, which infringes the intellectual property rights of any person or entity, or which in any way constitutes or encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, federal or international law, order or regulation.
- ii. invade the privacy of any individual;
- iii. threaten, harass or intimidate any person or create any nuisance;

Among other things, a Customer may not post, store, transmit or disseminate any information or material which a reasonable person could deem to be objectionable, offensive, indecent, pornographic, harassing, threatening, embarrassing, distressing, vulgar, hateful, racially or ethnically offensive or otherwise inappropriate, regardless of whether such material or its dissemination is unlawful.

- iv. access any other person's computer, software, or data without their knowledge and consent; breach the security of another user; or attempt to circumvent the user authentication or security of any host, network, or account;

This includes, but is not limited to, accessing data not intended for Customer, logging into or making use of a server or account the Customer is not expressly authorized to access, or probing the security of other networks.

- v. use or distribute tools designed or used for compromising security, such as password guessing programs, decoders, password gatherers, analyzers, cracking tools, packet sniffers, encryption circumvention devices, or Trojan Horse programs;

Network probing or port scanning tools are only permitted when used within the confines of a residential home network, or if explicitly authorized by the destination host and/or network. Unauthorized port scanning, for any reason, is strictly prohibited.

- vi. upload, post, publish, transmit, reproduce, create derivative works of, or distribute in any way information, software or other material obtained through the Service or otherwise which is protected by copyright or other proprietary right, without obtaining permission of the owner;
- vii. copy, distribute or sublicense any software provided in connection with the Service by Bresnan Communications or any third party, except that Customer may make one copy of each software program for back-up purposes only;
- viii. restrict or interfere with the ability of any other person to use or enjoy the Service;

Among other things, no Customer may post or transmit any information or software that contains a worm, virus or other harmful feature, or generate levels of traffic sufficient to deny or impede others' ability to send or retrieve information.

- ix. restrict, inhibit, interfere with, or disrupt or cause a performance degradation to the Service or any Service (or Service supplier) host, server, backbone network, node or service, or otherwise cause a performance degradation to any facilities used to deliver the Service, or restrict, inhibit, or disrupt the ability of Bresnan Communications to administer, deliver and manage the Service;
- x. resell the Service, otherwise charge others to use the Service, or make the Service available to anyone outside of the Premises of the Customer at which the Service will be accessed (the "Premises");

Customer agrees not to use Wi-Fi or other methods of networking to allow anyone outside of Customer's Premises to use the Service. Customer also agrees not to use the Service for operation as an Internet Service Provider or for any other business purpose, including, without limitation, providing e-mail or news services; the Service is for recreational, residential, personal use only.
- xi. connect multiple computers behind the cable modem to set up a Local Area Network (LAN) unless it is done with equipment approved by Bresnan Communications;

For information on approved equipment, please refer to the Service web site at bresnan.net/notices/.
- xii. transmit unsolicited bulk or commercial messages or "spam;"

This includes, but is not limited to, conduct that directly or indirectly encourages, permits, or relies on spamming or other duplicative unsolicited e-mail; unsolicited advertising, promotional materials or other solicitation material; bulk mailing of commercial advertising, chain mail, informational announcements, charity requests, and petitions for signatures.
- xiii. send numerous copies of the same or substantially similar messages, empty messages, or messages which contain no substantive content, or send very large messages or files to a recipient that disrupts a server, account, newsgroup, or chat service;
- xiv. distribute programs that remove locks or time-outs built into software (cracks);
- xv. run programs, servers or network devices from the Premises that provide network content or any other services to others;

Examples of prohibited programs include, but are not limited to, mail, ftp, http, game, newsgroup, proxy, IRC servers and multi-user interactive forums, routers, NAT devices and Wi-Fi devices.

- xvi. initiate, perpetuate, or in any way participate in any pyramid or other illegal soliciting scheme;
- xvii. harvest e-mails, screen names or other identifiers of others (without their prior express consent) or participate in "spidering;"
- xviii. collect responses from unsolicited e-mail;
- xix. impersonate any person or entity, engage in sender address falsification, forge anyone else's digital or manual signature, or perform any other similar fraudulent activity.

Any policy set forth by another service provider accessed through the Service must be strictly adhered to.

Customer agrees to indemnify, defend and hold harmless the Service and Bresnan Communications and its affiliates against all claims and expenses (including reasonable attorney fees) resulting from Customer engaging in any of the prohibited activities listed in this Section or resulting from violation by Customer of the AUP or of any other posted Service policy or policy of Bresnan Communications related to the Service.

It is the sole responsibility of all Customers to secure their computer equipment against external threats such as viruses, spam, and other methods of intrusion.

Customer also agrees to comply with the bandwidth usage, data storage and other limitations on the Service that are in effect from time to time. If your usage exceeds these limitations, Bresnan Communications may, at its sole discretion, take any appropriate action including, without limitation, charging Customer for the excess usage, reducing transmission speed or other Service parameters, or limiting or terminating Customer's Service.

