



## **Packerland Broadband Service Agreement**

### **About This Agreement, Our Services, and Your Rights**

Packerland Broadband Services will be provided to you ("you," "your," or "Customer") on the terms and conditions set forth in this Service Agreement (the "Agreement") by the Packerland Broadband operating unit that owns and/or operates the cable television system in your area ("Packerland," "we," "us," or "our") and in any applicable Tariff(s) on file with the FCC, state utility commission or other comparable state agency. For purposes of this Agreement, "affiliate" means any entity that controls, is controlled by or is under common control with Packerland Broadband. Services may include, but are not limited to, cable television service ("Video"), Packerland High Speed Internet service ("PHSI"), and Packerland Digital Voice and VoIP Services ("Voice") (each a "Service" and collectively the "Services").

The terms and conditions in the "General Terms and Conditions" section below are applicable to all Services unless otherwise indicated. Additional terms and conditions applicable to PHSI and VOICE are included in this Agreement in sections titled "Additional Provisions Applicable to Phsi" Or "Additional Provisions Applicable to Voice".

We may change our prices, fees, the Services and/or the terms and conditions of this Agreement in the future. Unless this Agreement or applicable law specifies otherwise, we will give you thirty (30) days prior Notice of any significant change to this Agreement. If you find the change unacceptable, you have the right to cancel your Service(s). However, if you continue to receive Service(s) after the end of the notice period (the "Effective Date") of the change, we will consider that you have accepted the changes. You may not modify this Agreement by making any typed, handwritten, or any other changes to it for any purpose.

Note: This Agreement contains a binding arbitration provision in Section 13 that affects your rights under this Agreement with respect to all Services.

### **General Terms and Conditions**

#### **1. Acceptance of This Agreement**

You will have accepted this Agreement and be bound by its terms if you use the Services or otherwise indicate your affirmative acceptance of such Services.

#### **2. Charges and Billings**

- a. **Charges, Fees, and Taxes That You Must Pay.** You agree to pay all charges associated with the Services, including, but not limited to, installation charges, monthly service charges, Packerland Equipment (as defined below) charges, service call charges, measured and per call charges, applicable federal, state, and local taxes (however designated) and any fees or payment obligations imposed by governmental or quasi-governmental bodies for the sale, installation, use, or provision of the Services. You agree to pay any regulatory recovery fees which Packerland invoices you for municipal, state and federal government fees or assessments imposed on Packerland, or any programs in which Packerland participates, including, but not limited to, public, educational and governmental access, universal service, telecom relay services for the visually/hearing impaired, rights-of-way access, and programs supporting 911/E911 system. *You will be responsible for paying any government imposed fees and taxes that become applicable retroactively. We will provide you with notice and an effective date of any change in our prices or fees, unless the change in price is related to a change in governmental or quasi-governmental taxes, fees or assessments, in which case we may elect not to provide notice except where required by applicable law. Not all fees apply to all Services.*
- o **For Video Customers.** Video price information is supplied with our Welcome Kit or at [www.packerlandbroadband.com](http://www.packerlandbroadband.com) (or an alternative site if we notify you).
  - o **For PHSI Customers.** PHSI price information is available at [www.Packerlandbroadband.com](http://www.Packerlandbroadband.com) (or an alternative site if we notify you).
  - o **For Voice Customers.** Voice pricing information is supplied with our Welcome Kit. Additional pricing information is available at [www.Packerlandbroadband.com](http://www.Packerlandbroadband.com) (or an alternative site if we notify you).
- b. **How We Will Bill You.** Services are provided to you on a month-to-month basis. You will generally be billed monthly, in advance, for recurring service charges, equipment charges, and fees. *In addition, you must pay, on or before the day we install any or all of the services, the first month's service charges, Packerland equipment charges, any deposits, and any installation charges.* You may be billed for some Services individually after they have been provided to you; these include measured and per-call charges (as explained below) and charges for pay-per-view movies or events, interactive television, and e-commerce.

Your first bill may include pro-rated charges from the date you first begin receiving Services, as well as monthly recurring charges for the next month and charges for non-recurring charges for any nonrecurring services you have received. If you make partial payment of any bill, we will apply that payment to the outstanding charges in the amounts and proportions that we determine. However, we do not waive our rights to collect the full balance owed to us by accepting partial payment.

- o **For Voice Customers.** If you pay a flat monthly fee for your calling plan, that fee may not cover certain types of calls. You will be billed for these excluded call types on a per-call basis (e.g., operator services) or a

measured basis (e.g., international calls). Generally, for billing purposes, a measured call begins when the call is answered by the called party or an automated answering device (such as an answering machine or fax machine); it ends when one of the parties disconnects the call. However, some providers (e.g., those involved in calls to foreign countries) charge for a completed call when the called party's line rings or after a certain number of rings. If such a provider charges Packerland, its affiliates, or suppliers as if your call were answered by the called party, Packerland will charge you for a completed call.

Measured calls are recorded in whole minutes, with partial minutes rounded up to the next whole minute. If the computed charge for a measured call or for taxes or surcharges includes a fraction of a cent, the fraction is rounded up to the nearest whole cent. Consult the Voice pricing information for information on per-call charges and the timing of measured-call charges. You understand and agree that our paper bills for Voice contain only a summary of charges, and that detailed information about your calls and charges will be available only for a limited period at a password-protected portion of our Website. You may call 1-800-236-8434 for a paper copy of outbound toll call records related to your most recent bill. There may be an additional charge for these outbound toll call records except as otherwise required by applicable law. Packerland reserves the right to limit or block any Voice usage as Packerland deems necessary to prevent harm to its network, fraud, or other abuse of Voice services.

- c. **Third-Party Charges That Are Your Responsibility.** You acknowledge that you may incur charges with third-party service providers that are separate and apart from the amounts charged by us. These may include charges resulting from accessing on-line services, calling parties who charge for their telephone-based services, purchasing or subscribing to other offerings via the Internet or Interactive options on your Video Service, if applicable, or otherwise. You are solely responsible for all charges payable to third parties, including all applicable taxes. In addition, you are solely responsible for protecting the security of credit card and other personal information provided to others in connection with such transactions.
- d. **Alternative Billing Arrangements.** In certain cases, Packerland may agree to provide billing services on behalf of third parties, as the agent of the third party. Any such third-party charges shall be payable pursuant to any contract or other arrangement between you and the third party. We shall not be responsible for any dispute regarding these charges between you and any third party. You must address all such disputes directly with the third party.
- e. **Payment by Credit Card or Check.** If you use a credit card to pay for the Services that use is governed by the card issuer agreement for that card, and you must refer to that agreement for your rights and liabilities as a cardholder. If Packerland does not receive payment from your credit card issuer or its agents, you agree to pay all amounts due upon demand. If you make payment by check, you authorize Packerland to collect your check electronically. You agree that you

may not amend or modify this Agreement with any restrictive endorsements (such as "paid in full"), releases, or other statements on or accompanying checks or other payments accepted by Packerland and that any such notations shall have no legal effect.

f. **Our Remedies if You Pay Late or Fail to Pay**

- i. **Late or Non-Payments:** You may be billed fees, charges and assessments related to late payments or non-payments if for any reason (i) Packerland does not receive from you any required payment for the Services by the payment due date or (ii) you pay less than the full amount due for the Services.
- ii. **Fees Not Considered Interest or Penalties:** Packerland does not anticipate that you will fail to pay for the Services on a timely basis, and we do not extend credit to customers. Any fees, charges, and assessments due to late payment or nonpayment are not interest, credit service charges, or finance charges or penalties. Rather, they are liquidated damages intended to be a reasonable advance estimate of our costs resulting from late payments and non-payments. These costs will be difficult to calculate or to predict when we set such fees, charges, and assessments, because we cannot know in advance: (a) whether you will pay for the Services on a timely basis, if ever; (b) if you do pay late, when you will actually pay; and (c) what costs we will incur because of your late payment or non-payment.
- iii. **Collection Costs:** If we are required to use a collection agency or attorney to collect money owed by you, you agree to pay the reasonable costs of collection. These costs include but are not limited to any collection agency's fees, reasonable attorneys' fees, and arbitration or court costs.
- iv. **Suspension/Disconnect:** If you fail to pay the full amount due for any or all of the Services then Packerland, at its sole discretion in accordance with applicable law, may suspend or disconnect any or all the Services you receive.

**Reconnection Fees and Related Charges.** Should you wish to resume a Service after any suspension, we may require you to pay a reconnection fee. Should you wish to reinstate any or all Services after disconnection, we may require you to pay an installation fee and/or service activation fee. These fees are in addition to all past due charges and other fees. Reconnection of the Services is subject to our credit policies, this Agreement and applicable law.

**Our Right to Make Credit Inquiries.** You authorize Packerland to make inquiries and to receive information about your credit experience from others, to enter this information in your file, and to disclose this information concerning you to appropriate third parties for reasonable business purposes.

**Your Responsibilities Concerning Billing Questions.** Subject to applicable law, if you intend to dispute a charge or request a billing credit, you must contact Packerland within sixty (60) days of the date on the bill. You waive any disputes or credits that you do not report within sixty (60) days.

### **3. Refundable Deposit**

We may require you to pay a refundable deposit when you activate the Service(s). We may also require you to pay a refundable deposit after activation of the Service(s) if you add Packerland Equipment and/ or Service(s) or if you fail to pay any amounts when they are due hereunder. If we disconnect your Service(s) or are otherwise required under applicable law to refund the deposit, we shall, within forty-five (45) days or as otherwise specified by applicable law, return a sum equal to the deposit(s) you paid (without interest unless otherwise required by law) minus any amounts due on your account (including without limitation, any amounts owed for Services or for any Packerland Equipment that is damaged, altered, or not returned).

#### **4. Changes to Services**

Subject to applicable law, we have the right to change our Services, Packerland Equipment and rates or charges, at any time with or without notice. We also may rearrange, delete, add to or otherwise change programming or features or offerings contained in the Services, including but not limited to, content, functionality, hours of availability, customer equipment requirements, speed and upstream and downstream rate limitations. If we do give you notice it may be provided on your monthly bill, as a bill insert, in a newspaper or other communication permitted under applicable law. If you find a change in the Service(s) unacceptable, you have the right to cancel your Service(s). However, if you continue to receive Service(s) after the change, this will constitute your acceptance of the change. Please take the time to read any notices of changes to the Service(s). We are not liable for failure to deliver any programming, services, changes to services, features or offerings except as provided in Section 11e.

#### **5. Access to Your Premises**

You agree to allow us and our agents the right, to enter at reasonable times your property upon which the Services and/or Packerland Equipment will be provided (the "Premises"), for purposes of installing, configuring, maintaining, inspecting, upgrading, replacing and removing the Services and/or Packerland Equipment used to receive any of the Services. You warrant that you are either the owner of the Premises or that you have the authority to give us access to the Premises. If you are not the owner of the Premises, you are responsible for obtaining any necessary approval from the owner to allow us and our agents into the Premises to perform the activities specified above. In addition, you agree to supply us or our agent, if we ask, the owner's name, address and phone number and/or evidence that the owner has authorized you to grant access to us and our agents to the Premises.

#### **6. Maintenance and Ownership of Equipment**

- a. **Packerland Equipment.** You agree that except for the wiring installed inside the Premises ("Inside Wiring"), all Packerland Equipment belongs to us or other third parties and will not be deemed fixtures or in any way part of the Premises. Packerland Equipment includes all new or reconditioned equipment installed, provided or leased to you by us or our agents, including but not limited to, cabling

or wiring and related electronic devices, cable modems, multimedia terminal adapters ("MTA"), wireless gateway/routers, any other hardware and all software or "downloads" to Packerland Equipment. You agree to use Packerland Equipment only for the Services pursuant to this Agreement. We may remove or change the Packerland Equipment at our discretion at any time the Services are active or following the termination of your Service(s). You agree to allow us access to the Premises for these purposes. You may not sell, lease, abandon or give away the Packerland Equipment, or permit any other provider of video, high speed data or telephone services to use the Packerland Equipment. The Packerland Equipment may only be used in the Premises. At your request, we may relocate the Packerland Equipment in the Premises for an additional charge, at a time agreeable to you and us. *You understand and acknowledge that if you attempt to install or use the Packerland Equipment or services at a location other than the premises, the services may fail to function or may function improperly.* You agree that you will not allow anyone other than Packerland employees or agents to service the Packerland Equipment. We suggest that the Packerland Equipment in your possession be covered by your homeowners, renters, or other insurance. You will be directly responsible for loss, repair, replacement and other costs, damages, fees and charges if you do not return the Packerland Equipment to us in an undamaged condition.

- b. **Customer Equipment.** Responsibility: Packerland has no responsibility for the operation or support, maintenance or repair of any equipment, software or services that you elect to use in connection with the Services or Packerland Equipment (the "Customer Equipment".)
- For PHSI and Voice Customers. You can find Packerland's current minimum technical and other requirements for PHSI and Voice customers at <http://www.packerlandbroadband.com>. These requirements may be located at an alternative site if we so notify you. To use Voice, you will need an MTA that meets our specifications. In some areas, we may permit you to use Voice with an MTA that you have purchased. Depending on availability in your area, you may have an option to install the MTA yourself or to have Packerland install it for you. You agree to keep the MTA plugged into a working electrical power outlet at all times. Whether a cable modem, gateway/router, MTA or other device is owned by you or us, we have the unrestricted right, but not the obligation, to upgrade or change the firmware in these devices remotely or on the Premises at any time that we determine it necessary or desirable in order to provide Services to you in accordance with our specifications and requirements.
  - For Voice Customers. In order to use Voice, you are required to provide certain equipment such as a phone handset or equivalent, inside phone wiring and outlets, and an electrical power outlet. If you live in an apartment or a similar multi-tenant dwelling, you may have to provide a cordless phone as well. If we do not have access to the inside phone wiring in your home or if you are installing Voice yourself without the assistance of a Packerland technician ("self-installation") where we make that option available, you will need to plug a cordless phone into the MTA

in order to use Voice throughout your home. *Certain makes and models of cordless phones use the electrical power in your home. If there is an electrical power outage, the cordless phone will cease to operate during the outage, preventing use of Voice via the cordless phone. Do not attempt to connect voice to inside phone wiring yourself* (see "Connecting an MTA to Inside Phone Wiring"). In order to use online features of Voice, where we make those features available, you are required to provide certain hardware, such as a personal computer, software, an Internet browser, and access to the Internet.

- c. **Non-Recommended Configurations:** Customer Equipment that does not meet Packerland's minimum technical or other specifications constitutes a "Non-Recommended Configuration." *Neither Packerland nor any of its affiliates, suppliers or agents warrant that a non-recommended configuration will enable you to successfully install, access, operate or use the services. You acknowledge that any such installation, access, operation, or use could cause customer equipment to fail to operate or cause damage to customer equipment, you, your premises or Packerland Equipment. Neither Packerland nor any of its affiliates, suppliers or agents shall have any liability whatsoever for any such failure or damage.* Packerland reserves the right to deny you customer support for the Services and/or terminate Service(s) if you use a Non-Recommended Configuration.
- d. **No Unauthorized Devices or Tampering:** You agree not to attach any unauthorized device to Packerland Equipment or the Services. If you make any unauthorized connection or modification to Packerland Equipment or the Services or any other part of our cable network, we may terminate your Service and recover such damages as may result from your actions. Unless expressly authorized by us, you agree not to install anything to intercept or receive any of the Services offered over our cable network or to assist any person in intercepting or receiving any of the Services offered over our cable network. You also agree that you will not attach anything to the Inside Wiring, Packerland Equipment or Customer Equipment, whether installed by you or us, which singly or together impairs the integrity of our cable network or degrades our cable network's signal quality or strength or creates signal leakage.

You hereby agree that we may recover damages from you for tampering with any Packerland Equipment or any other part of our cable network or for receiving unauthorized Service(s). You agree that it would be difficult if not impossible to calculate precisely the lost revenue resulting from your receipt of unauthorized Service(s) or the alteration or improper use of Packerland Equipment. You therefore agree to pay us as liquidated damages, the sum of \$500.00 per device used to receive the unauthorized Services in addition to our cost to replace any altered, damaged or unreturned Packerland Equipment or other equipment owned by Packerland, including any incidental costs. The unauthorized reception of the Services may also result in criminal fines and/or imprisonment.

- e. **For Voice Customers.** You will be liable for all authorized and unauthorized Voice use. You agree to notify us immediately in writing or by calling our customer service line during normal business hours if you become aware at any time that the MTA has been stolen or that your Services are being stolen or used without your authorization. When you call or write, you must provide your account number and a detailed description of the circumstances of the theft of your MTA or unauthorized use of your Voice Services. If you fail to notify us in a timely manner, your Services may be terminated without notice, with additional charges to you.
- f. **Inside Wiring.** You may install Inside Wiring, such as additional cable wiring and outlets, provided it does not interfere with the normal operations of our cable network. If you have us install Inside Wiring, we will charge you for that service. Regardless of who installed it, we consider the Inside Wiring your property or the property of whomever owns the Premises. Accordingly, you are responsible for the repair and maintenance of the Inside Wiring, unless you and Packerland have agreed otherwise in writing. (If you do not own the Premises, contact your landlord or building manager about the repair or maintenance of Inside Wiring.) If you have us repair or maintain the Inside Wiring, we will charge you for that service.
- g. **For Voice Customers.** Except as described below, you may use Voice with your telephone Inside Wiring, as long as we have reasonable access to it and you have the right to give us access to it. If you wish to have your MTA connected to your telephone Inside Wiring, you are advised to have a Packerland technician perform the installation. To make that connection, we must first disconnect your telephone Inside Wiring from the network of your existing telephone provider (such as a Bell network), which may disable any services you receive from them. If you install Voice yourself (where self-installation is an option), you should connect the MTA to a cordless phone, not directly to your telephone Inside Wiring. If the MTA is connected to your telephone Inside Wiring without first disconnecting the wiring from any existing telephone provider's network, the MTA may be damaged and/or Voice may not operate properly.

## 7. Use of Services

You agree that the Services and the Packerland Equipment will be used only by you and the members of your immediate household living with you at the same address and only for personal, residential, non-commercial purposes, unless otherwise specifically authorized by us in writing. You will not use the Packerland Equipment at any time at an address other than the Premises without our prior written authorization. You agree and represent that you will not resell or permit another to resell the Services in whole or in part. You will not use or permit another to use the Packerland Equipment or the Service(s), directly or indirectly, for any unlawful purpose, including, but not limited to, in violation of any posted Packerland policy applicable to the Services. Use of the Packerland Equipment or Services for transmission, communications or storage of any information, data or material in violation of any U.S. federal, state or local regulation or law is prohibited.



You acknowledge that you are accepting this Agreement on behalf of all persons who use the Packerland Equipment and/or Services and that you shall have sole responsibility for ensuring that all other users understand and comply with the terms and conditions of this Agreement and any applicable Packerland policies including, but not limited to, acceptable use and privacy policies. You further acknowledge and agree that you shall be solely responsible for any transactions, including, without limitation, purchases made through or in connection with the Services. You agree to indemnify, defend and hold harmless Packerland and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorney fees) arising out of the use of the Services, the Packerland Equipment and/or the Customer Equipment or the breach of this Agreement or any of the applicable Packerland policies by you or any other user.

- **For PHSI Customers.**

- a. **Acceptable Use Policy.** The Packerland Acceptable Use Policy ("AUP") and other policies concerning PHSI are posted on the Service's Web site at [www.packerlandbroadband.com](http://www.packerlandbroadband.com) (or an alternative Web site if we so notify you). You further agree that Packerland may modify the AUP or other policies from time to time. Notwithstanding anything to the contrary in this Agreement, *you acknowledge and agree that the terms of the AUP and any other applicable Packerland policies may be put into effect or revised from time to time without notice by posting a new version of the AUP or policy as set forth above. You and other users of the service should consult the AUP and all posted policies regularly to conform to the most recent version.*
- b. **Prohibited Uses of PHSI.** You agree not to use PHSI for operation as an Internet service provider, a server site for ftp, telnet, rlogin, e-mail hosting, "Web hosting" or other similar applications, for any business enterprise, or as an end-point on a non-Packerland local area network or wide area network. You agree to indemnify, defend and hold harmless Packerland and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorney fees) arising out of any breach of this Section including, but not limited to, any claims based on or arising out of any material violation of any applicable law.

- **For Voice Customers.**

You agree the MTA and Voice will only be used at the Premises, except that certain online features may be accessible from locations other than the Premises. You understand and acknowledge that if you improperly install the Packerland Equipment or Voice at another location in the Premises, then Voice, including but not limited to 911/E911, may fail to function or may function improperly. If you move the MTA or Voice to another location without notifying us, you do so in violation of this Agreement and at your own risk. You expressly agree not to use Voice for auto-dialing, continuous or extensive call forwarding, telemarketing, fax broadcasting or fax blasting, or for any other use that results in excessive usage (2,000 minutes per month) inconsistent with normal residential calling patterns. If we determine, in our sole discretion, that your use of Voice is

excessive or in violation of this Agreement, we reserve the right (i) immediately and without notice to terminate or modify Voice or (ii) assess additional charges for each month in which any excessive usage occurred.

## 8. Assignability

This Agreement and the Services furnished hereunder may not be assigned by you. You agree to notify us immediately of any changes of ownership or occupancy of the Premises. We may freely assign our rights and obligations under this Agreement with or without notice to you.

## 9. Termination of This Agreement

- a. **Term.** This Agreement will be in effect from the time that charges commence until (i) it is terminated as provided for by this Agreement or by any addendum to this Agreement or (ii) it is replaced by a revised Agreement. If you self-install Packerland Equipment, Service charges begin the earliest of (i) the day on which you picked up Packerland Equipment at our service center, (ii) the day you install the Service, or (iii) five (5) days after the date we ship the Packerland Equipment to you. If you self-install an MTA, cable modem or converter that you obtained from a source other than Packerland, charges begin the day that your order for the Services is entered into our system. The option to self-install an MTA, cable modem or converter and/or to use a non-Packerland-supplied MTA, cable modem or converter is subject to availability. Any non-Packerland supplied MTA, cable modem or converter must comply with Packerland's minimum requirements.
- b. **Termination by You.** Unless you have signed a minimum term addendum, you may terminate this Agreement for any reason at any time by notifying Packerland in one of three ways: (i) send a written notice to the postal address of your local Packerland business office; (ii) send an electronic notice to the e-mail address specified on [www.Packerland.com](http://www.Packerland.com); or (iii) call our customer service line during normal business hours. Subject to applicable law or the terms of any agreements with governmental authorities, all applicable fees and charges will accrue until this Agreement has terminated, the Services have been disconnected, and all Packerland Equipment has been returned. We will refund all prepaid monthly service fees charged for Services after the date of termination (less any outstanding amounts due Packerland for the Services, affiliate services, Packerland Equipment, or other applicable fees and charges).
- c. **Suspension and Termination by Packerland.** Under the conditions listed below, Packerland reserves the right, subject to applicable law, to act immediately and without notice to terminate or suspend the Services and/or to remove from the Services any information transmitted by or to any authorized users (e.g., email or voicemail). Packerland may take these actions if it: (i) determines that such use or information does not conform with the requirements set forth in this Agreement, (ii) determines that such use or information interferes with Packerland's ability to provide the Services to you or others, (iii) reasonably

believes that such use or information may violate any laws, regulations, or written and electronic instructions for use, or (iv) reasonably believes that such use or information interferes with or endangers the health and/or safety of our personnel or third parties. Packerland's action or inaction under this Section shall not constitute review or approval of your or any other users' use of the Services or information transmitted by or to you or users.

- d. **Your Obligations upon Termination.** You agree that upon termination of this Agreement you will do the following:
- i. You will immediately cease all use of the Services and all Packerland Equipment;
  - ii. You will pay in full for your use of the Services up to the date that this Agreement has been terminated and the Services are disconnected; and
  - iii. Within ten (10) days of the date on which Services are disconnected, you will return all Packerland Equipment to us at our local business office or to our designee in working order, normal wear and tear excepted. Otherwise, you will be charged the amount set forth in the current pricing lists for such Packerland Equipment, or the revised amount for which you receive notice; if no amount has been specified for the particular model of Packerland Equipment, you will be charged the retail price for a new replacement. You may also be charged incidental costs that we incur in replacing the Packerland Equipment. Upon our request, you will permit us and our employees, agents, contractors, and representatives to access the Premises during regular business hours to remove the Packerland Equipment and other material provided by Packerland. We will conduct this removal at a time agreed on by you and us, and you will ensure that all Packerland Equipment is returned to Packerland.

## 10. Limited Warranty

The Packerland equipment and the services are provided "as is," without warranty of any kind, either express or implied. Neither Packerland nor its affiliates, suppliers, employees, agents or contractors warrant that the Packerland equipment or the services will meet your requirements, provide uninterrupted use, or operate as required, without delay, or without error. Neither Packerland nor its affiliates, suppliers, employees, agents or contractors warrant that any communications will be transmitted in uncorrupted form. All representations and warranties of any kind, express or implied, including but not limited to any warranties of performance, noninfringement, fitness for a particular purpose or merchantability, are hereby disclaimed and excluded unless otherwise prohibited or restricted by applicable law.

## 11. Limitation of Packerland's Liability

- a. **Application.** The limitations of liability set forth in this Section apply to any acts, omissions, and negligence of Packerland and its underlying third-party service providers, agents and suppliers (and their respective officers, employees, agents,

contractors or representatives) which, but for that provision, would give rise to a cause of action in contract, tort or under any other legal doctrine.

- b. **Customer Equipment.** Customer equipment may be damaged or suffer service outages as a result of the installation, self-installation, use, inspection, maintenance, repair, and removal of Packerland equipment and the services. Except for gross negligence or willful misconduct, neither Packerland nor any of its affiliates, suppliers, employees, agents or contractors shall have any liability whatsoever for any damage, loss, or destruction to the customer equipment. In the event of gross negligence or willful misconduct by Packerland, suppliers, employees, agents or contractors, we shall pay at our sole discretion for the repair or replacement of the damaged customer equipment up to a maximum of \$500. This shall be your sole and exclusive remedy relating to such activity.
  - o **For PHSI Customers.** You understand that your computer or other devices may need to be opened, accessed or used either by you or by us or our agents, in connection with the installation or repair of PHSI. The opening, accessing or use of your computer or other devices used in connection with your computer may void warranties provided by the computer or device manufacturer or other parties relating to the computer or device's hardware or software. Neither Packerland nor any of its affiliates, suppliers, or agents shall have any liability whatsoever as the result of the voiding of any such warranties.
- c. **Other Services or Equipment.** By accepting this agreement, you waive all claims against Packerland for interference, disruption, or incompatibility between the Packerland equipment or the services and any other service, systems, or equipment. In the event of such interference, disruption, or incompatibility, your sole remedy shall be to terminate the services in accordance with Section 9.
- d. **Software.** When you use certain features of the Services, such as online features (where available), you may require special software, applications, and/or access to the Internet, Packerland makes no representation or warranty that any software or application installed on Customer Equipment, downloaded from the Service, or available through the Internet does not contain a virus or other harmful feature. It is your sole responsibility to take appropriate precautions to protect any Customer Equipment from damage to its software, files, and data as a result of any such virus or other harmful feature. We may, but are not required to, terminate all or any portion of the installation or operation of the Services if a virus or other harmful feature or software is found to be present on your Customer Equipment. We are not required to provide you with any assistance in removal of viruses. If we decide, in our sole discretion, to install or run virus check software on your Customer Equipment, we make no representation or warranty that the virus check software will detect or correct any or all viruses. You acknowledge that you may incur additional charges for any service call made or required on account of any problem related to a virus or other harmful feature detected on your Customer Equipment. *Neither Packerland nor its affiliates, suppliers, employees, agents or contractors shall have any liability whatsoever for any damage to or loss of any hardware, software, files, or data*

*resulting from a virus, any other harmful feature, or from any attempt to remove it.*

In addition, as part of the installation process for the software and other components of the Service, system files on your Customer Equipment may be modified. Packerland does not represent, warrant or covenant that these modifications will not disrupt the normal operations of any Customer Equipment including without limitation your computer(s), or cause the loss of files. Packerland does not represent, warrant, or covenant that the installation of the special software or applications or access to our Web portal(s) will not cause the loss of files or disrupt the normal operations of any Customer Equipment, including but not limited to your computer(s). *For these and other reasons, you acknowledge and understand the importance of backing up all files to another storage mechanism prior to such activities. You understand and accept the risks if you decide not to back up files. Neither Packerland nor its affiliates, suppliers, employees, agents or contractors shall have any liability whatsoever for any damage to or loss of any software, files, or data.*

- e. **Disruption of Service.** The Services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Services could lead to severe injury to business, persons, property or environment ("High Risk Activities"). These High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required. You expressly assume the risks of any damages resulting from High Risk Activities. We shall not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the Services, directly or indirectly caused by, or proximately resulting from, any circumstances beyond our control, including, but not limited to, causes attributable to you or your property; inability to obtain access to the Premises; failure of any cable signal at the transmitter; failure of a communications satellite; loss of use of poles or other utility facilities; strike; labor dispute; riot or insurrection; war; explosion; malicious mischief; fire, flood, lightening, earthquake, wind, ice, extreme weather conditions or other acts of God; failure or reduction of power; or any court order, law, act or order of government restricting or prohibiting the operation or delivery of the Services. In all other cases an interruption of the Services, you shall be entitled upon a request made within sixty (60) days of such interruption, to a pro rata credit for any Service interruption exceeding twenty-four consecutive hours after such interruption is reported to us, or such other period of time as may be specifically provided by law. Unless specifically otherwise provided by law, such credit shall not exceed the fixed monthly charges for the month of such Service interruption and excludes all nonrecurring charges, one-time charges, per call or measured charges, regulatory fees and surcharges, taxes and other governmental and quasi-governmental fees. *Except and unless specifically prohibited by law, such credit shall be your sole and exclusive remedy for an interruption of service. In no event shall company be liable for any direct, indirect, incidental, special, exemplary, consequential or punitive damages from whatever cause, including, but not limited to, loss of business or wages.* Any credits provided by Packerland

are at our sole discretion and in no event shall constitute or be construed as a course of conduct by Packerland.

- o **For Voice Customers.** You understand and acknowledge that you will not be able to use Voice under certain circumstances, including but not limited to the following: (i) if our network or facilities are not operating or (ii) if normal electrical power to the MTA is interrupted and the MTA does not have a functioning battery backup. You also understand and acknowledge that the performance of the battery backup is not guaranteed. If the battery backup does not provide power, Voice will not function until normal power is restored. You also understand and acknowledge that you will not be able to use online features of Voice, where we make those features available, under certain circumstances including but not limited to the interruption of your Internet connection.
- f. **Directory Listings.** If we make available an option to list your name, address, and/or telephone number in a published directory or directory assistance database, and one or more of the following conditions occurs: (i) you request that your name, address and/or phone number be omitted from a directory or directory assistance database, but that information is included in either or both; (ii) you request that your name, address and/or phone number be included in a directory or directory assistance database, but that information is omitted from either or both; or (iii) the published or listed information for your account contains material errors or omissions, then the aggregate liability of Packerland and its affiliates, suppliers or agents shall not exceed the monthly charges, if any, which you have actually paid to Packerland to list, publish, not list, or not publish the information for the affected period. You shall hold harmless Packerland and its affiliates, suppliers or agents against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the errors and omissions in referenced above.
- g. **Third Parties.** Notwithstanding anything to the contrary in this Agreement, you acknowledge and understand that we may use third parties to provide components of the Services, including without limitation their services, equipment, infrastructure or content. Packerland is not responsible for the performance (or non-performance) of third-party services, equipment, infrastructure or content, whether or not they constitute components of the Services. Packerland shall not be bound by any undertaking, representation or warranty made by an agent or employee of Packerland or of our underlying third-party providers and suppliers in connection with the installation, maintenance or provision of the Services, if that undertaking, representation or warranty is inconsistent with the terms of this Agreement. In addition, you understand that you will have access to the services and content of third parties through the Service(s), including without limitation that of content providers (whether or not accessible directly from the Service). Packerland is not responsible for any services, equipment, infrastructure and content that are not provided by us (even if they are components of the Service), and we shall have no liability with respect to such services, equipment, infrastructure and content. You should address

questions or concerns relating to such services, equipment, infrastructure and content to the creators of such services, equipment, infrastructure and content.

We do not endorse or warrant any third-party products, services or content that are distributed or advertised over the Services.

- h. **Damages.** Except as specifically provided in this agreement, neither Packerland nor its affiliates, suppliers, employees, agents or contractors shall under any circumstances or under any legal theory (including but not limited to tort or contract) have any liability to the customer or to any other person or entity for the following losses, damages, or costs: (i) any direct, indirect, incidental, special, treble, punitive, exemplary, or consequential losses or damages (including but not limited to loss of profits, loss of earnings, loss of business opportunities, personal injuries or death) that result directly or indirectly from or in connection with (a) your reliance on or use of the Packerland Equipment or the services or (b) the installation, self-installation, maintenance, failure, or removal of the services (including but not limited to any mistakes, omissions, interruptions, computer or other hardware or software breach, failures or malfunctions, deletion or corruption of files, work stoppage, errors, defects, delays in operation, delays in transmission or failure of performance of the service, the Packerland Equipment or the customer equipment, or any other mistakes, omissions, loss of call detail, e-mail, voicemail or other information or data); or (ii) any losses, claims, damages, expenses, liabilities, legal fees, or other costs that result directly or indirectly from or in connection with any allegation, claim, suit, or other proceeding based upon a contention that the use of the Packerland Equipment or the services by you or any other person or entity infringes upon the contractual rights, privacy, confidentiality, copyright, patent, trademark, trade secret, or other intellectual property rights of any third party.
- i. **Customer's Sole Remedies.** Your sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement. Certain of the above limitations may not apply if your state does not allow the exclusion or limitation of implied warranties or does not allow the limitation or exclusion of incidental or consequential damages. In those states, the liability of Packerland and its employee, affiliates, suppliers, agents and contractors is limited to the maximum extent permitted by law.
- j. **Survival of Limitations.** All representations, warranties, indemnifications, and limitations of liability contained in this Agreement shall survive the termination of this Agreement; any other obligations of the parties hereunder shall also survive, if they relate to the period before termination or if, by their terms, they would be expected to survive such termination.

## 12. Indemnification and Liability of Customer

You agree that you shall be responsible for and shall defend, indemnify, and hold harmless Packerland and its employees, affiliates, suppliers, agents and contractors and shall reimburse us for any damages, losses or expenses (including without limitation, reasonable attorney's fees and costs) incurred by us in connection with any claims, suits, judgments and causes of action arising out of (i) your use of the service or

Packerland Equipment; (ii) violation or infringement of contractual rights, privacy, confidentiality, copyright, patent, trademark, trade secret, or other intellectual property and proprietary rights arising from your use of the service or any unauthorized apparatus or system; (iii) any claims or damages arising out of the lack of 911/e911 or dialing associated with a home security, home detention or medical monitoring system; and (iv) your breach of any provision of this agreement.

### 13. Binding Arbitration

- a. **Purpose.** If you have a Dispute (as defined below) with Packerland that cannot be resolved through the informal dispute resolution process described in this Agreement, you or Packerland may elect to arbitrate that Dispute in accordance with the terms of this Arbitration Provision rather than litigate the Dispute in court. Arbitration means you will have a fair hearing before a neutral arbitrator instead of in a court by a judge or jury.
- b. **Definitions.** As used in this Provision, the term "Dispute" means any dispute, claim or controversy between you and Packerland regarding any aspect of your relationship with Packerland that has accrued or may hereafter accrue, whether based in contract, statute, regulation, ordinance, tort (including, but not limited to, fraud, misrepresentation, fraudulent inducement, negligence or any other intentional tort), or any other legal or equitable theory, and includes the validity, enforceability or scope of this Arbitration Provision (with the exception of the enforceability of the class action waiver clause provided in paragraph F(2)). "Dispute" is to be given the broadest possible meaning that will be enforced. As used in this Provision, "Packerland" means Packerland Broadband, its officers, directors, employees and agents, and all entities using the brand name "Packerland", including your local cable company, its employees, authorized agents, and its parents, subsidiaries and affiliated companies. As used in this Provision, the term "Arbitration Provision" means all the terms of this Section 13.
- c. **Initiation of Arbitration Proceeding/Selection of Arbitrator.** If you or Packerland elect to resolve your Dispute with Packerland through arbitration pursuant to this Arbitration Provision, the party initiating the arbitration proceeding may select from the following arbitration organizations, which will apply the appropriate rules for consumer claims to arbitrate the Dispute:
  1. American Arbitration Association ("AAA"), 335 Madison Ave., Floor 10, New York, NY 10017-4605, 1-800-778-7879, [www.adr.org](http://www.adr.org)
  2. National Arbitration Forum ("NAF"), P.O. Box 50191, Minneapolis, MN 55405-0191, 1-800-474-2371, [www.arbitration-forum.com](http://www.arbitration-forum.com)
- d. **Arbitration Procedures.** Because the service provided to you by Packerland concerns interstate commerce, the Federal Arbitration Act ("FAA"), not state arbitration law, shall govern the arbitration of all Disputes. However, applicable federal law or the law of the state where you receive the service from Packerland may apply to and govern the substance of any Disputes. Any state statutes pertaining to arbitration, however, shall not be applicable under this Arbitration Provision.



If there is a conflict between this Arbitration Provision and the rules of the arbitration organization chosen, this Arbitration Provision shall govern. If the arbitration organization that you select will not enforce this Arbitration Provision as written, it cannot serve as the arbitration organization to resolve your dispute with Packerland. If this situation arises, the parties shall agree on a substitute arbitration organization. If the parties are unable to agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint a service that will enforce the Provision as written. If there is a conflict between this Arbitration Provision and the rest of this Agreement, this Arbitration Provision shall govern.

A single arbitrator will resolve the Dispute. You should know that participating in arbitration may result in limited discovery depending on the rules of the arbitration organization that is chosen to resolve the Dispute. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect customer account information and other confidential or proprietary information. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. An award rendered by the arbitrator may be entered in any court having jurisdiction over the parties for purposes of enforcement.

If an award granted by the arbitrator exceeds \$25,000, either party can appeal that award to a three-arbitrator panel administered by the same arbitration organization by a written notice of appeal filed within thirty (30) days from the date of entry of the written arbitration award. The members of the three-arbitrator panel will be selected according to the rules of the arbitration organization.

The arbitration organization will then notify the other party that the award has been appealed. The three-arbitrator panel will issue its decision within one hundred and twenty (120) days of the date of the appealing party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which exists under the FAA.

**e. Restrictions:**

1. You must contact us within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute (except for billing disputes which are subject to section 3 of the agreement), or you waive the right to pursue any claim based upon such event, facts or dispute.
2. All parties to the arbitration must be individually named. There shall be no right or authority for any claims to be arbitrated or litigated 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 unless the statute under which you are suing provides otherwise.
3. All parties waive any claim to indirect, consequential, punitive, exemplary or multiplied damages arising from or out of any dispute with Packerland unless the statute under which they are suing provides otherwise.

- f. **Location of Arbitration.** The arbitration will take place at a location, convenient to you, in the area where you receive the service from us.
- g. **Payment of Arbitration Fees and Costs.** Packerland will advance all arbitration filing fees and arbitrator's costs and expenses upon your written request given prior to the commencement of the arbitration. You are responsible for all additional costs that you incur in the arbitration, including, but not limited to, attorneys or expert witnesses. If the arbitration proceeding is decided in Packerland's favor, you shall reimburse Packerland for the fees and costs advanced to you only up to the extent awardable in a judicial proceeding. If the arbitration proceeding is determined in your favor, you will not be required to reimburse Packerland for any of the fees and costs advanced by Packerland. If a party elects to appeal an award to a three-arbitrator panel, the prevailing party in the appeal shall be entitled to recover all reasonable attorneys' fees and costs incurred in that appeal. Notwithstanding anything to the contrary in this arbitration provision, Packerland will pay all fees and costs which it is required by law to pay.
- h. **Severability.** If any clause within this Arbitration Provision (other than the class action waiver clause identified in paragraph F(2)) is found to be illegal or unenforceable, that clause will be severed from the Arbitration Provision, and the remainder of the Arbitration Provision will be given full force and effect. If the class action waiver clause is found to be illegal or unenforceable, the entire Arbitration Provision will be unenforceable, and the dispute will be decided by a court.

In the event that this entire Arbitration Provision is determined to be illegal or unenforceable for any reason, or if a claim is brought in a Dispute that is found by a court to be excluded from the scope of this Arbitration Provision, you and Packerland have each agreed to waive, to the fullest extent allowed by law, any trial by jury.

- i. **Exclusions from Arbitration.** You and Packerland agree that the following will not be subject to arbitration: (1) any claim filed by you or by Packerland that is not aggregated with the claim of any other subscriber and whose amount in controversy is properly within the jurisdiction of a court which is limited to adjudicating small claims; (2) any dispute over the validity of any party's intellectual property rights; (3) any dispute related to or arising from allegations associated with unauthorized use or receipt of service; (4) any dispute that arises between Packerland and any state or local regulatory authority or agency that is empowered by federal, state or local law to grant a franchise under 47 U.S.C. Sec. 522(9); and (5) any dispute that you pursue before the local franchise authority under the terms of the franchise.
- j. **Continuation.** This Arbitration Provision shall survive the termination of your service with Packerland.

## 14. Customer Privacy Notice and Security

- a. Packerland will provide you with a copy of our customer privacy notice at the time we enter into an agreement to provide any Service to you, and annually afterwards, or as otherwise permitted by law. You can view the most current version of our privacy notice by going to [www.Packerlandbroadband.com](http://www.Packerlandbroadband.com).
- b. To the extent that Packerland is expressly required to do so by applicable law, we will provide notice to you of a breach of the security of certain personally identifiable information about you. It is Packerland's information security policy to provide such notice to you in the manner set forth in Section 16.

## 15. General

- a. **Entire Agreement.** This Agreement and any other documents incorporated by reference constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement, and they replace any and all prior written or verbal agreements. If 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. If Packerland fails to insist upon or enforce strict performance of any provision of this Agreement, it shall not thereby waive any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.
- b. **Additional Representations and Warranties.** In addition to representations and warranties you make elsewhere in this Agreement, you also represent and warrant that:
  - i. **Age: You are at least 18 years of age.**
  - ii. **Customer Information:** During the term of this Agreement, you have provided and will provide to Packerland information that is accurate, complete and current, including without limitation your legal name, address, telephone number(s), the number of computers on which the Service is being accessed and payment data (including without limitation information provided when authorizing recurring payments). You agree to notify us promptly, in accordance with the terms of this Agreement, if there is any change in the information that you have provided to us. If you fail to provide and maintain accurate information, you will breach this Agreement.
- c. **Information Provided to Third Parties.** Packerland is not responsible for any information provided by you to third parties, and this information is not subject to the privacy provisions of this Agreement or the privacy notice for the Services. You assume all privacy, security and other risks associated with providing CPNI or personally identifiable information to third parties via the Services. For a description of the privacy protections associated with providing information to third parties, you should refer to the privacy policies, if any, provided by those third parties.
- d. **Revocable License.** The Services and Packerland Equipment, including but not limited to any firmware or software embedded in the Packerland Equipment or

used to provide the Services, are protected by trademark, copyright, patent and/or other intellectual property laws and international treaty provisions. You are granted a revocable license to use such firmware and software in object code form (without making any modification thereto) strictly in accordance with this Agreement. You acknowledge and understand that you are not granted any other license to use the firmware or software embedded in the Packerland Equipment or used to provide the Services. You expressly agree that you will use the Packerland Equipment exclusively in connection with the Services. You shall not take any action nor allow anyone else to take any action that will reverse compile, disassemble, or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.

- e. **Protection of Packerland's Information and Marks.** All Service information, documents, and materials on our Web sites are protected by trademark, copyright or other intellectual property laws, and international treaty provisions. All Web sites, corporate names, service marks, trademarks, trade names, logos, and domain names (collectively "marks") of Packerland and its affiliates are and shall remain the exclusive property of Packerland. Nothing in this Agreement shall grant you the right or license to use any of the marks.
- f. **Export Laws.** You expressly agree to comply with all applicable export and re-export laws, including but not limited to the Export Administration Act, the Arms Export Control Act, and their implementing regulations. You further expressly agree not to use the Services in any way that violates any provision of these export and re-export laws or their implementing regulations.
- g. **Retention of Rights.** Nothing contained in this Agreement shall be construed to limit Packerland's rights and remedies available at law or in equity. Upon termination of this Agreement for any reason, Packerland and its suppliers reserve the right to delete all your data, files, electronic messages or other Customer information that is stored on Packerland's or its suppliers' servers or systems. In addition, you may forfeit your account user name and all e-mail, IP, web space addresses and voice mail. In the event you cancel your Packerland Digital Voice Service account without porting your voice service and the telephone number to another service provider, you will forfeit the telephone number. We shall have no liability whatsoever as the result of the loss of any such data, names or addresses.

## **16. Notice Method for Changes to This Agreement**

We will provide you notice of changes to this Agreement consistent with applicable law. The notice may be provided on your monthly bill, as a bill insert, in a newspaper, by e-mail, or by other permitted communication. If you find the change unacceptable, you have the right to cancel your Services. However, if you continue to receive Services after the change, we will consider this your acceptance of the change.

- For PHSI and Voice Customers. Packerland may deliver any required or desired notice to you in any of the following ways, as determined in our sole discretion: (i)

by posting it on [www.Packerlandbroadband.com](http://www.Packerlandbroadband.com), or on another Web site about which you have been notified.

## **Additional Provisions Applicable To High-Speed Internet Service**

**In addition to the provisions above that are applicable to Packerland Video, PHSI and Voice, the following are specifically applicable to PHSI Customers, including the Software License Agreement attached as Exhibit A to this Agreement.**

### **1. Intellectual Property Rights**

- a. **End User Licenses.** You agree 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 PHSI including, without limitation, the Packerland Software License Agreement, the current version of which is attached to this Agreement as Exhibit A, as these agreements may be amended from time to time. All such agreements are incorporated in this Agreement by reference. When this Agreement terminates, all end user licenses also terminate; you agree to destroy at that time all versions and copies of all software received by you in connection with PHSI.
- b. **Ownership of Addresses.** You acknowledge that use of PHSI does not give you any ownership or other rights in any Internet/on-line addresses provided to you, including but not limited to Internet Protocol ("IP") addresses, e-mail addresses and Web addresses. We may modify or change these addresses at any time without notice and shall in no way be required to compensate you for these changes.
- c. **Authorization.** Packerland does not claim any ownership of any material that you publish, transmit or distribute using PHSI. By using PHSI to publish, transmit or distribute material or content, you (i) warrant that the material or content complies with the provisions of this Agreement, (ii) consent to and authorize Packerland, its agents, suppliers, and affiliates to reproduce, publish, distribute, and display the content worldwide and (iii) warrant that you have the right to provide this authorization. You acknowledge that material posted or transmitted using PHSI may be copied, republished or distributed by third parties, and you agree to indemnify, defend and hold harmless Packerland, its agents, suppliers, and affiliates for any harm resulting from these actions.
- d. **Copyright.** Title and intellectual property rights to PHSI are owned by Packerland, its agents, suppliers, or affiliates or their licensors or otherwise by the owners of such material and are protected by copyright laws and treaties. You may not copy, redistribute, resell or publish any part of PHSI without express prior written consent from Packerland or other owner of such material.
- e. **Material Downloaded through PHSI.** In addition to any content that may be provided by us, you may access material through PHSI that is not owned by Packerland. Specific terms and conditions may apply to your

use of any content or material made available through PHSI that is not owned by Packerland. You should read those terms and conditions to learn how they apply to you and your use of any non-Packerland content.

## 2. IP Addresses

Packerland will provide you with dynamic Internet protocol ("IP") address(es) as a component of PHSI, and these IP address(es) can and do change over time. You will not alter, modify, or tamper with dynamic IP address(es) assigned to you or any other customer. You agree not to use a dynamic domain name server or DNS to associate a host name with the dynamic IP address(es) for any commercial purpose. You also agree not to use any software that provides for static IP address(es) on or in conjunction with any computer(s) or network device connected to PHSI. If applicable, Packerland will release and/or recover the dynamic IP address(es) when the Service or this Agreement is disconnected, discontinued, or terminated.

## 3. Additional Limitations On Packerland's Liability For PHSI

- a. **Responsibility for Content.** You acknowledge that there is some content and material on the Internet or otherwise available through PHSI 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 your protected rights or those of others. We assume no responsibility for this content or material. Anyone who accesses such content and material does so at his or her own risk. *Neither Packerland nor its affiliates, suppliers, employees, agents or contractors 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 you or others.* Questions or complaints regarding content or material should be addressed to the content or material provider. You acknowledge that software programs are commercially available that claim to be able to restrict access to sexually explicit or other objectionable material on the Internet. We make no representation or warranty regarding the effectiveness of such programs.
- b. **Monitoring of Postings and Transmissions.** Packerland shall have no obligation to monitor postings or transmissions made in connection with PHSI. However, you acknowledge and agree that Packerland and its agents have the right to monitor, from time to time, any such postings and transmissions, including without limitation e-mail, newsgroups, chat, IP audio and video, and Web space content. Packerland may also use and disclose them in accordance with the Packerland High-Speed Internet Acceptable Use Policy and other applicable policies, and as otherwise required by law or government request. We reserve the right to refuse to upload, post, publish, transmit or store any information or materials, in whole or in part, that, in our sole discretion, is unacceptable, undesirable or in violation of this Agreement.

- c. **Eavesdropping.** Our facilities are used by numerous persons or entities including, without limitation, other subscribers to PHSI. As a result, there is a risk that you could be subject to "eavesdropping." This means that other persons or entities may be able to access and/or monitor your use of PHSI. This risk of eavesdropping exists not only with our facilities, but also on the Internet and other services to which access is provided as a part of PHSI. If you post, store, transmit, or disseminate any sensitive or confidential information, you do so at your sole risk.

*Neither Packerland nor its affiliates, suppliers, or agents shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions by you. You acknowledge that software programs are commercially available that claim to be capable of encryption or anonymization. We make no representation or warranty regarding the effectiveness of these programs.*

- d. **FTP/HTTP Service Setup.** You acknowledge that when using PHSI there are certain applications such as FTP (File Transfer Protocol) or HTTP (Hyper Text Transfer Protocol) which may be used by other persons or entities to gain access to Customer's Equipment. You are solely responsible for the security of the Customer Equipment or any other equipment you choose to use in connection with the Service, including without limitation any data stored on such equipment. *Neither Packerland nor its affiliates, suppliers, employees, agents or contractors 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 you, or the access by others to the customer equipment or other equipment of yours.*
- e. **File and Print Sharing.** PHSI may function 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. In addition, 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. Unless you are subject to a PHSI service plan that expressly provides otherwise, we recommend that you connect only a single computer to PHSI and that you disable file and print sharing and other capabilities that allow outside users to gain access to the Customer Equipment. You acknowledge that if you fail to follow these recommendations and choose to run these applications, you should take appropriate security measures, and that you do so at your sole risk. *Neither Packerland nor its affiliates, suppliers, or agents 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.*

- f. **Facilities Allocation.** Packerland reserves the right to determine, in its discretion, and on an ongoing basis, the nature and extent of its facilities allocated to support PHSI, including, but not limited to, the amount of bandwidth to be utilized and delivered in conjunction with PHSI.
- g. **Cookies.** You acknowledge that accessing certain Web sites through PHSI may result in a "cookie" being placed on your computer system. Cookies are small files stored on a computer's hard drive to simplify and improve a user's Web experience. If you don't want them placed on your computer system, it is your responsibility to disable or restrict the placement of cookies through whatever procedures are available on your browser.

### **Additional Provisions Applicable To Voice Service**

**In addition to the General Terms and Conditions above, the following terms and conditions are specifically applicable to Voice Customers, including any applicable Tariff(s) on file now or hereafter with the FCC or any state utility commission or comparable state agency in your jurisdiction, which are incorporated into this Agreement by reference.**

#### **1. Special Notice For Packerland Digital Voice Subscribers: Limitations Of Voice Service**

- a. **Limitations.** Voice includes 911/Enhanced 911 functionality ("911/E911") that may differ from the 911/E911 functionality furnished by other providers. As such, it may have certain limitations. *Carefully read the information below. You acknowledge and accept any limitations of 911/e911. You agree to convey these limitations to all persons who may have occasion to place calls over the services. If you have any questions about 911/e911, call 1-800-236-8434.*
  - i. **Correct Address:** In order for your 911/E911 calls to be properly directed to emergency services, Packerland must have your correct Premises address or current location if you use the service while travelling. If you move Voice to a different address without Packerland's approval or are travelling, 911/E911 calls may be directed to the wrong emergency authority, may transmit the wrong address, and/or Voice (including 911/E911) may fail altogether. Therefore, you must call 1-800-236-8434 or log into your phone account and modify your address or travel location for 911 or E911 services to work. Packerland will need several business days to update your Premises address in the E911 system so that your 911/E911 calls can be properly directed. All changes in service address require Packerland's prior approval.
  - ii. **Service Interruptions:** Voice Service uses the electrical power in your home. If there is an electrical power outage, 911 calling may



be interrupted if the battery backup in the associated MTA is not installed, fails, or is exhausted after several hours. Furthermore, calls, including calls to 911/E911, may not be completed if there is a problem with network facilities, including network congestion, network/equipment/power failure, or another technical problem.

iii. **Suspension and Termination by Packerland:** You understand and acknowledge that all Voice Service, including 911/E911, as well as all online features of Voice, where we make these features available, will be disabled if your account is suspended or terminated.

b. **Limitation of Liability and Indemnification.** You acknowledge and agree that Packerland will not be liable for any service outage, inability to dial 911 using the services, and/or inability to access emergency service personnel. You agree to defend, indemnify, and hold harmless Packerland and its affiliates, suppliers or agents from any and all claims, losses, damages, fines, penalties, costs, and expenses (including but not limited to reasonable attorney fees) by, or on behalf of, you or any third party or user of the services relating to the failure or outage of the services, including those related to 911/e911.

## 2. **Additional Voice-Specific Provisions Regarding Customer Equipment**

a. **Incompatible Equipment and Services.** You acknowledge and understand that Voice may not support or be compatible with:

- i. Non-Recommended Configurations as defined in Section 6.b (including but not limited to MTAs not currently certified by Packerland as compatible with the Services);
- ii. Certain non-voice communications equipment, including certain makes or models of alarm and home security systems, certain medical monitoring devices, certain home detention devices, certain fax machines, and certain "dial-up" modems;
- iii. Rotary-dial phone handsets, and certain makes and models of other voice-related communications equipment including key systems, private branch exchange (PBX) equipment, answering machines, and traditional Caller ID units;
- iv. Casual/dial around (10-10) calling; 976, 900, 700, or 500 number calling;
- v. 311, 511, or other N11 calling (other than 411, 611, 711, and 911); and
- vi. Other call types not expressly set forth in our product literature (e.g., outbound shore-to-ship calling).

## 3. **Transfer Of Your Phone Number(S)**

For information about switching to another provider from Voice and the assignment of telephone numbers related to Voice Service please call 1-800-236-8434.

#### **4. Customer Information**

Packerland and its suppliers reserve the right both during the term of this Agreement and upon its termination to delete your voicemail, call detail, data, files, or other information that is stored on Packerland's or its suppliers' servers or systems, in accordance with our storage policies. You understand and acknowledge that we shall have no liability whatsoever as a result of the loss or removal of any such voicemail, call detail, data, files, or other information.

### **Exhibit A: Packerland Software License Agreement**

Important - read carefully: by using any software provided to you in connection with the packerland high-speed internet service, you acknowledge that you have read this software license agreement, that you understand it, and that you agree to be bound by its terms.

#### **1. Grant Of Limited License**

The operating company subsidiary of Packerland Broadband that owns and/or operates the cable television system in your area pursuant to a cable television franchise with the local franchising authority, or its affiliate, ("Packerland") grants you (which for purposes of this Software License Agreement shall include members of your immediate household for whom you will be responsible hereunder), without additional fee or charge to you, a nonexclusive limited, personal and nontransferable license, with restrictions as described below, to install and use any software program, in object code only, provided to you by, or on behalf of, Packerland in connection with the Packerland High-Speed Internet service (the "Software"), which includes any documentation accompanying the Software, for the sole purpose of using the Packerland High-Speed Internet service, and to make one (1) backup copy of the Software, provided that (i) the Software is installed on only the number of personal computers authorized by Packerland (which number shall be one (1) unless otherwise agreed to by Packerland), (ii) the Software may not be modified; (iii) all copyright notices are maintained on the Software; and (iv) you agree to be bound by all the terms of this Software License Agreement. Software is only for your own personal, non-commercial use and not for use in the operation of a business or service bureau or for the benefit of any other person or entity.

#### **2. No Ownership Rights**

You have no ownership rights in any Software. Rather, you have a limited license to use the Software as long as this Software License Agreement remains in full force and effect. Ownership of the Software and all intellectual property rights therein shall remain at all times with Packerland and/or its licensors. Any use of Software by any other person, business, corporation, government organization or

any other entity is strictly forbidden and is a violation of this Software License Agreement.

### **3. Third Party Software**

There are software programs contained within certain Software that have been licensed to Packerland by third parties. The term "Software" as used herein shall refer to such third party software except where the term Software refers expressly to the ownership or other specific rights of Packerland. The same terms and conditions, including all limitations and restrictions, set forth in this Software License Agreement apply to each third party software program contained in the Software.

### **4. Intellectual Property And Privacy**

- a. The Software contains material that is protected by United States Copyright Law and trade secret law, and by international treaty provisions. All rights not specifically granted to you herein are reserved to Packerland and to any third party with ownership rights in Software and documentation used in the Software. You may not remove any proprietary notice of Packerland or any other party from any copy of Software or documentation.
- b. Some features of certain Software are provided by third parties, and those third parties may collect or transmit personally identifiable and non-personally identifiable information about you in the course of providing these features. These third parties are not authorized to use your personally identifiable information except for the purpose of providing their services to you through Software. Your use of Software is subject to the terms of the Packerland Customer Privacy Notice, the Packerland Acceptable Use Policy and other applicable terms and policies.

### **5. Restrictions And Requirements**

- a. This Software License Agreement is your proof of license to exercise the rights granted herein. In order to satisfy your obligations hereunder and to maintain the confidentiality of the Software, you must take reasonable steps to protect the Software consistent with the license restrictions set forth herein and Packerland's and other third parties' ownership rights in the Software, including informing anyone permitted access to your computer and the Software about such restrictions on the use of the Software.
- b. As a condition of the limited license for the Software you may not: (i) publish, display, disclose, rent, lease, modify, loan, distribute, or create derivative works based on the Software or any part thereof; (ii) reverse engineer, decompile, translate, adapt, disassemble or otherwise reduce the Software to human readable form; (iii) attempt to create the source code from the object code for the Software; (iv) transmit the Software over any network or between any devices, although you may use the Software

to make such transmissions of other materials; (v) make any third party software contained in the Software a stand-alone product; (vi) take any action that will infringe on the intellectual property or other proprietary rights of Packerland or any third party software provider; or (vii) sublicense, rent, lease, or assign the Software. You may transfer the Software to other computers you own as long as you only use it on only the number of computers authorized by Packerland.

- c. If Packerland informs you, by any method described in the Packerland Customer Agreement to which this Software License Agreement is attached (the "Agreement"), that any enhancements or upgrades are available for the Software, or that the Software otherwise is being modified by Packerland, you will take prompt action to download such enhancements, upgrades or changes, or otherwise obtain such enhancements, upgrades or changes in the manner directed by Packerland, within the time frame stated in the notice. If you fail to do so, you acknowledge that the Software may not work correctly or that you will not be able to take advantage of all available features of the Software after the stated period in the notice.
- d. You have the obligation to protect yourself and minimize any damages you might suffer if the Software or any portion thereof, has a defect or fails for any reason.

#### **6. Disclaimer Of Warranties And Other Disclaimers**

- a. The Software is provided "AS IS." To the maximum extent permitted by law, Packerland makes no warranties of any kind, either express or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose. Additionally, Packerland makes no warranties with respect to lack of viruses, accuracy or completeness of responses, results or lack of negligence, correspondence to description, warranty of title or non-infringement. Packerland does not warrant that the functions contained in the Software will meet any requirements or needs you may have, or that the Software will operate error free, or in an uninterrupted fashion, or that any defects or errors in the Software will be corrected, or that the Software is compatible with any particular platform. Packerland reserves the right to modify the Software at any time. Packerland is not obligated to provide any updates to the Software. Any use by you of the Software is at your own risk.
- b. The Software may include one or more features intended to protect your computer from unauthorized access, viruses, "phishing" or other harmful activities. The Software may be useful in diminishing the number of times that your computer will be affected by such harmful activities, but neither Packerland nor the providers of any particular Software can guarantee that the Software will prevent all such harmful activities or that bad actors will not find ways to circumvent the Software. Any ratings of Web sites provided through Software are designed to help you acquire the information you need to help you make your own decisions about whether

or not to exchange sensitive or confidential information with a particular Web site, and are not intended to serve as a guarantee of the trustworthiness of a domain or Web site. As such, you should remain vigilant in your use of the Internet. *The liability of Packerland and the other providers of the software to you is expressly limited as set forth below and that by using the software you accept and agree to these limitations.*

## **7. Limitation Of Liability And Damages**

You assume full and complete responsibility and liability for your use of the Software. Except as specifically provided in this Agreement, *in no event will Packerland, or any other entity that has provided any of the software, be liable to you or any third party for any direct, incidental or consequential damages (including, without limitation, indirect, special, punitive, or exemplary damages for loss of business, loss of profits, business interruption, infringement of intellectual property rights of third parties or loss of business information or other data) arising out of the use of or inability to use the software, or for any claim by any other party, even if Packerland has been advised of the possibility of such damages.*

## **8. Export Restrictions**

This Software License Agreement is expressly made subject to any laws, regulations, orders, or other restrictions on the export from the United States of America of the Software or information about such Software that may be imposed from time to time by the government of the United States of America. You shall not export the Software, or any portion thereof, or information about the Software without consent of Packerland and compliance with such laws, regulations, orders, or other restrictions.

## **9. Termination**

This Software License Agreement is effective only during the term of this Agreement and shall terminate upon any termination of this Agreement. You may terminate this Software License Agreement at any time by destroying or returning to Packerland all copies of the Software and associated documentation in your possession or under your control and terminating this Agreement. This Software License Agreement will terminate: (i) at any time that this Agreement is terminated or (ii) if Packerland finds that you have violated any of the terms of this Software License Agreement. Upon termination, you agree to destroy or return to Packerland all copies of the Software and documentation and, upon Packerland's request, to certify in writing that all known copies, including backup copies, have been destroyed. No waiver of any breach of any provision of this Software License Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless it is made in writing and is signed by an authorized

representative of the waiving party. All provisions relating to confidentiality, proprietary rights, and nondisclosure shall survive the termination of this Software License Agreement.

#### **10. General**

- a. Disputes under this Software License Agreement shall be construed, interpreted and governed in accordance with Section 13 of this Agreement.
- b. Packerland may modify the Software and may amend or modify this Software License Agreement at any time in its sole discretion upon notice to you. Packerland will notify you of any such modifications or amendments as provided in this Agreement. Customer agrees that any methods set forth therein will constitute sufficient notice of any change to this Software License Agreement. Your continued use of the Software following notice of such change shall be deemed to be your acceptance of any such change. If you do not agree to any such change, you must immediately stop using the Software and notify Packerland that you are terminating this Software License Agreement and this Agreement. You may not amend or modify this Software License Agreement without Packerland's prior written consent, which we may provide or withhold in our sole discretion. Any attempt by you to amend or modify this Software License Agreement by any other means, including but not limited to, a check notation, a restrictive endorsement, or a note with a payment, is invalid and unenforceable.
- c. Packerland may assign its rights and obligations under this Software License Agreement, without notice, to (i) any affiliate of Packerland, (ii) to any party (or its affiliate) acquiring all or substantially all of the assets or stock, by merger or otherwise, of Packerland or any affiliate of Packerland, or (iii) to any person or entity purchasing or otherwise acquiring the Packerland system serving the Premises (as defined in this Software License Agreement).
- d. This Software License Agreement and this Agreement shall constitute the entire Agreement between the parties hereto. If any part of this Software License Agreement is found invalid or unenforceable, the remainder of this Software License Agreement shall remain in full force and effect and shall be interpreted so as to reasonably give effect to the intention of the parties.

#### **Packerland High-Speed Internet Home Networking Amendment to Packerland Agreement**

THIS AMENDMENT (the "Amendment") is made between the operating company subsidiary of Packerland Corporation that owns and/or operates the cable television system in your area pursuant to a cable television franchise with the local franchising authority and you as the Customer, and is effective upon the installation of the Packerland Home Networking Service. This Amendment modifies and is made a part of

the Packerland Agreement for Residential Services (the "Agreement"). Unless otherwise defined in this Amendment, all capitalized terms in this Amendment shall have the specified meanings in the Agreement.

## 1. USE OF SERVICE

The Agreement is hereby modified solely to permit you to use the Service in connection with the multiple connection of up to five (5) personal computing devices within your Premises to the Service (the "Packerland Home Networking Service") in accordance with Packerland's then current published Packerland Home Networking Service description (which may be changed from time to time in our sole discretion). You shall be solely responsible for and shall indemnify and hold Packerland and its affiliates, suppliers, and agents harmless from and against any and all claims and expenses (including reasonable attorney's fees) arising out of your use or misuse of the Packerland Home Networking Service. You acknowledge and agree that the Packerland Home Networking Service is for residential, non-commercial purposes only. The Packerland Home Networking Service is not a commercial service and may not be used for commercial purposes. Please contact your local Packerland office to inquire about commercial service options.

## 2. PACKERLAND HOME NETWORKING SERVICE

The term "Service" shall include the Packerland Home Networking Service. The term "Packerland Equipment" shall include any Packerland Home Networking Service equipment such as gateways, routers, or wireless cards rented from or otherwise supplied by or on behalf of us to you. The term "Customer Equipment" shall include any equipment owned or otherwise provided by you in connection with your use of the Packerland Home Networking Service. We reserve the right to provide the Packerland Home Networking Service and support for that service only to the extent that you use equipment compatible with the Packerland Service, such as any Packerland certified gateways/routers. Further, you acknowledge that the use of the Packerland Service may periodically require updates and/or changes to the software resident in the equipment used in connection with the service. These updates and changes may be performed remotely or on-site by Packerland and/or its affiliates, suppliers, or agents at their sole option. You hereby consent to these updates, which will be performed as deemed necessary by Packerland and/or its affiliates, suppliers, or agents, with or without notice to you. In addition, you acknowledge that the use of the Packerland Home Networking Service may periodically require provisioning, configuration, management, diagnostics, and other administration to or in connection with the service and the equipment used in connection with the service. These activities may be performed remotely or on-site by Packerland and/or its affiliates, suppliers, or agents at their sole option. You hereby consent to such provisioning, configuration, management, diagnostics, and other administration, which will be performed as deemed necessary by Packerland

and/or its affiliates, suppliers, or agents, with or without notice to you. You acknowledge and agree that when using the Service (including the Packerland Home Networking Service) to access the Internet or any other online network or service, there are certain risks that may allow other Service users and Internet users to gain access to your computer system. You should take all appropriate security measures when using the Packerland Home Networking Service, including those recommended by Packerland and our affiliates, suppliers, or agents. Neither Packerland nor our affiliates, suppliers, or agents 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 the Packerland Home Networking Service by you, including without limitation, damages resulting from others accessing your computer or the contents of your transmissions made through the Service or your use of file sharing, print sharing, or other capabilities that allow users to gain access to your computer system.

### 3. FEES AND CHARGES

You agree to pay the then-current fees and charges for the Packerland Home Networking Service upon receipt of an invoice (including any taxes, franchise fees or other fees or charges levied by a governmental agency).

### 4. REVISION

This Amendment forms part of the Agreement between Packerland and you and may be modified by Packerland on thirty (30) days prior notice as provided for in the Agreement. Your election to continue use of the Packerland Home Networking Service thereafter shall constitute your acceptance of any modification. The Service and the Packerland Home Networking Service are subject to availability on an ongoing basis.

### 5. NO CHANGE

Except as otherwise set forth in this Amendment, the terms and conditions of the Agreement, as modified by this Amendment, shall continue to apply to the Service and your use of the Packerland Home Networking Service. In the event of a conflict between this Amendment and the Agreement arising out of your use of the Packerland Home Networking Service, the terms and conditions of this Amendment shall prevail.

### **Terms And Conditions Of Sale For Products For High-Speed Internet Customers**

All hardware and software purchased by you (each, a "Product") from Packerland and accompanying these Terms and Conditions of Sale for Products ("Terms and Conditions") are expressly provided to you pursuant to the Terms of Service previously provided to you when you entered into the Packerland Agreement for



Residential Services with Packerland (collectively, the "Terms of Service" and together with the Terms and Conditions, the "Agreement"). To review all the Terms of Service and the Service Agreement, go to [www.packerlandbroadband.com](http://www.packerlandbroadband.com).

By accepting delivery of the Product, you agree to be bound by and accept the terms and conditions of this Agreement and understand that the Terms of Service are incorporated by reference into this Agreement. If you do not agree to the terms and conditions of this Agreement, do not use the Product and return the Product to Packerland in the original packaging together with your proof of purchase on or before thirty (30) days after the date of purchase for a refund of the purchase price. As used in this Agreement, Packerland shall mean Packerland Broadband or any entity that controls, is controlled by or is under common control therewith.

Please read this document carefully and please reread the terms of service, as they contain important information about your rights and obligations, as well as limitations and exclusions that may apply to you.

### **Section 1. No Warranties; Disclaimer**

- a. Packerland makes no warranty, express or implied, with respect to any products, and hereby disclaims all warranties, express or implied, including but not limited to implied warranties of merchantability and fitness for a particular purpose. The products are, therefore, sold to you "as is" and "with all faults", and the entire risk as to satisfactory quality, performance, accuracy, and effort of the products is with you. Further, Packerland makes no warranty and hereby disclaims all warranties against interference with your enjoyment of the products and against infringement with respect to the products.
- b. Packerland is not the manufacturer of the product. In the event that the manufacturer has provided a warranty with the product (whether express or implied), Packerland does not adopt, will not honor and hereby disclaims all such warranties, including but not limited to implied warranties of merchantability and fitness for a particular purpose.
- c. If a disclaimer of warranties with respect to the Products is not permitted under applicable law, then, to the maximum extent permitted by applicable law, all warranties on the Products shall be limited in duration to the period commencing on the date of your receipt of the Products and expiring (i) two years after such date or (ii) when you sell or otherwise transfer ownership of the Products to any other person or entity.

### **Section 2. Limitations Of Liability**

- d. In no circumstance and under no legal theory (including without limitation tort, contract or otherwise) shall Packerland 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 or personal injury (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 Packerland, 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 an assertion 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.

- e. The maximum liability of Packerland arising from or relating to this agreement, your purchase 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.
- f. 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 Packerland shall be limited to the maximum extent permitted by law.

Revised May, 2012