OPENBAND VIDEO TERMS OF SERVICE

This Agreement ("Agreement") is between you as our Subscriber and OpenBand Multimedia, LLC; OpenBand at Lansdowne, LLC; OpenBand at Broadlands, LLC; OpenBand at Lansdowne Town Center, LLC; OpenBand SPE, LLC, OpenBand SPE II, LLC; and OpenBand SPE III, LLC as applicable ("OpenBand") and it sets forth the terms and conditions under which you agree to use and we agree to provide OpenBand Video Service (the "Service").

THIS IS A CONTRACT. PLEASE READ THESE TERMS CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AND OURS. IF YOU DO NOT AGREE TO THESE TERMS DO NOT USE THE SERVICE AND CONTACT US IMMEDIATELY TO TERMINATE IT.

1. TERM AND ACCEPTANCE OF AGREEMENT; AGREEMENT TERMS GENERALLY INCLUDED.

This Agreement starts when you accept it. By accepting this Agreement, you and any other OpenBand Video users within your premises are bound by its conditions. Your acceptance of this Agreement occurs upon the earlier of: (a) your electronic, written or oral acceptance during the submission of your order; or (b) your use of the Service. This Agreement will end when you or we terminate this Agreement as permitted below. If you change Service plans, your term and monthly rate may change (depending on the plan you select), but all other provisions of this Agreement will remain in effect unless otherwise noted. This Agreement consists of the terms below, plus (i) the specific elements of your Service or Package plan (including the plan's pricing, duration and Early Termination Fee ("ETF") if applicable, all as described in the information made available to you when placing and confirming your order); (ii) our Acceptable Use Policy; and (iii) other OpenBand policies referred to in this Agreement including our Privacy Policy, incorporated herein by reference. A current version of this Agreement and related policies are posted online at http://www.openband.net/terms.html.

2. DEFINITIONS.

a) "Early Termination Fee" or "ETF" refers to the early termination fee charged to a subscriber for the early termination of a Service or Package plan with a minimum term commitment, as defined in Service or Package details.

b) "Equipment" means equipment provided by OpenBand to you for use with the Service, including any digital adapter, set top box, digital video recorder, video media server or peripheral devices provided to you by OpenBand that are either rented by you or otherwise required to be returned to OpenBand upon termination or cancellation of Service, along with any software contained in or downloaded to such Equipment as part of the Service. The term "Equipment" does not include any devices that you purchase from OpenBand or a third party herein referred to as "Other Devices").

c) "On Demand" refers to non-linear content purchased or viewed per subscriber's request on an on-demand basis. On Demand content may be delivered on a free, subscription or pay basis.

d) "OpenBand Website(s)" mean the sites located at OpenBand.net and support.openband.net, which are comprised of various web pages, tools, information, software, content, and features operated by OpenBand.

e) "Package" means a combination of OpenBand Video service with one or more other eligible OpenBand services, including but not limited to OpenBand Internet or OpenBand Telephone service. OpenBand Video Equipment, and Other Devices, may be offered and priced separately from Package offers.

f) "Premises" refers to the physical location at which the Service has been installed.

g) "Programming" means content provided by OpenBand or its third-party licensors, providers or suppliers and provided as part of and included with the Service, including, without limitation, images, photographs, animations, video programming, information services, audio, music, and text, irrespective of the manner or format in which such content is delivered.

h) "Service" means OpenBand Video service, including, without limitation, all Programming, Equipment, media or program guides, software, technical support, and other features, products and services provided as part of and included with our television service, including the On Demand content services.

i) "Term Plan" refers to a Service or Package plan with a minimum term commitment.

3. CHANGES TO THIS AGREEMENT.

The current version of the terms of this Agreement shall be available at: http://www.openband.net/terms.html. From time to time, we will make revisions to this Agreement and to the policies relating to the Service, including revisions to the provisions that govern the way in which you and OpenBand resolve disputes. We will provide notice of any revisions by sending an email to the email address that you provide to receive communications from us (your "Primary" or "Billing" Email Address"). You agree to check your listed email inbox to review any such revisions. You also agree to notify OpenBand immediately of any changes in your Primary or Billing Email Address. Revisions to the terms and conditions shall be effective on the date specified in the

notice. Unless we provide otherwise, you accept the revisions and agree to abide by them by continuing to use the Service after the revisions are effective.

4. AUTHORITY; PREMISES; ACCOUNT USE; RESPONSIBILITIES; REFUSAL OF SERVICE.

a) Legal Authority. You acknowledge that you are eighteen (18) years of age or older and that you have the legal authority to enter into this Agreement. You agree to promptly notify OpenBand whenever your personal or billing information changes.

b) Access to Premises. You agree to allow us and our representatives the right, at reasonable times, to enter the Premises for the purpose of installing, maintaining, servicing, inspecting, upgrading and/or removing the Service (including any Equipment and, subject to and limited by any applicable limited warranty, laws, and/or policies, Other Devices).

c) Authorized Owner or Tenant. You acknowledge and agree that you are either an owner of, or legal tenant in, your Premises, and as such have the right to allow us and our representatives to enter and make modifications to the Premises in connection with the delivery of the Service.

d) Use of your Service and Account and Compliance with Applicable Authority. You are responsible for all use of your Service and account, whether by you or someone using your account with or without your permission, including all secondary or sub-accounts associated with your primary account, and to pay for all activity associated with your account. You agree to comply with all applicable laws, regulations and rules regarding your use of the Service and to only use the Service within the United States (unless otherwise permitted by this Agreement).

e) Refusal of Service. We reserve the right, in our sole discretion, to refuse to provide the Service to you for any reason at any time consistent with law.

f) Export Control. 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 Service in any way that violates any provision of these export and re-export laws or their implementing regulations.

5. PRIVACY.

OpenBand will treat your personally identifiable information provided to us in accordance with our current Privacy Policy applicable to OpenBand Video services, which is subject to change. A copy of the Privacy Policy applicable to OpenBand Video Services is available at http://www.openband.net/terms.html and incorporated by reference.

6. CHANGES TO SERVICE.

Subject to applicable law, we reserve the right to change, rearrange, add, delete or otherwise modify the Service at any time, with or without prior notice to you, including changing, rearranging or otherwise modifying our Programming packages, the selections available in those packages, the Equipment, any Other Devices, and any other features, products and services that we offer. OpenBand or its suppliers may, without notice or liability, restrict the use of any Services or limit its time of availability in order to perform maintenance activities and to maintain security.

7. PRICING; BILLING; CHANGES TO SERVICE PLANS; PAYMENT AND SUPPORT.

a) Prices and Fees. You agree to pay the fees applicable to your Service or Package on a monthly basis and to pay: (i) applicable taxes, (ii) surcharges, (iii) recovery fees, (iv) activation fees, (v) installation fees, (vi) set-up fees, (vii) Equipment charges, (viii) ETFs, and (ix) other recurring and nonrecurring charges associated with the Service plan you have selected. The taxes, fees and other charges detailed in (i)-(iii) above may vary on a monthly basis. Surcharges and recovery fees are not taxes and are not required by law, but are set by OpenBand and may change. You also agree to pay any additional charges or fees applied to your account, including interest and charges due to insufficient credit or insufficient funds. If you cancel any component of a Packages plan, the monthly charges for the remaining services on your account will automatically convert to the applicable existing, non-discounted month-to-month service rate.

b) Billing. Billing for Service will begin: (i) upon installation of the Service if installed/provided by OpenBand or (ii) when you take possession of OpenBand Equipment, if the Service is self-installed or (iii) the order completion date when you transition from one Service or Package subscription or term to another. Non-recurring charges such as set up, activation and installation fees, and certain Equipment charges, will be included in your first bill. Monthly Service and Package recurring charges will be billed one month in advance; any usage charges will be billed in arrears. You agree to pay all applicable charges by the due date set forth in your monthly invoice.

If you enroll in OpenBand's eBilling program, you agree to view and pay your bill electronically each month and to provide OpenBand with current, accurate, complete, and updated information including your legal name, address, telephone number(s), email address and applicable payment data such as your bank account number. You agree to notify OpenBand immediately of any changes in your email address or other registration or payment data. You will no longer receive a paper bill. Instead, each month you will receive an email notifying you that your bill is available online for viewing and payment at http://support.openband.net. You must continue to pay your paper bill until you receive your first e-mail notification that your bill is available online. If your electronic payment is rejected for any reason, OpenBand may charge a return item fee (where permissible), cancel your enrollment in the eBilling program and resume sending you paper bills. If you wish to revoke consent to eBilling and receive a paper bill, contact OpenBand customer service at 866-OPENBAND (866-673-6226) or 703-961-1110. If you use a third-party bill payment vendor or distributor to receive and pay your OpenBand bill, OpenBand is not responsible for the accuracy and timeliness of your bill payments.

c) Plans with Minimum Terms. If you choose a Service or Package plan with a minimum term commitment, you agree to maintain your Service for the term of that plan (a "Term Plan"). Your Term Plan begins once the Service or all Package services have been provisioned. You will begin receiving any discount associated with a Package plan once all Package services have been provisioned. At the end of any Term Plan you may be given the option to select a new Term Plan. If you do not select a new Term Plan, your Service will automatically convert to a month-to-month Service plan at a monthly fee that may be higher than your current rate. If you select a new Term Plan, the terms of that plan will apply.

d) Third-Party Charges. You acknowledge and agree that you may also incur data charges or fees from a wireless or Internet service provider (which may be a third party) for accessing online services or purchasing products and services through interactive options available through the Service. You are solely responsible for all charges or fees payable to OpenBand or third parties, including all applicable taxes, and you are solely responsible for protecting the security of credit card and other personal information provided to third parties in connection with such transactions.

e) Discontinuation of Service for Nonpayment. We may discontinue your Service without notice if Service charges are refused for any reason, or if you fail to make payment when due or to provide us with a new charge card expiration date before the existing one expires.

f) Late Fees. If any portion of your bill is not paid by the due date, OpenBand may charge you a late fee on unpaid balances and may also terminate or suspend your Service without notice. Otherwise, the late fee will be the lesser of 1.0 % per month, or the highest rate permitted by law. If OpenBand uses a collection agency or legal action to recover monies due, you agree to reimburse us for all expenses we incur to recover any money due, including attorneys' fees. If you fail to pay on time and OpenBand refers your account(s) to a third party for collection, a collection fee will be assessed and will be due at the time of the referral to the third party. The fee will be calculated at the maximum percentage permitted by applicable law.

g) Limitation on Special Pricing Promotions. You may only take advantage of one special pricing promotion during any consecutive twelve (12)-month period. Eligibility for promotional offers may be contingent upon payment of all outstanding OpenBand charges.

h) Refundable Deposit. We may require that you provide us with a refundable deposit, which will be specified at the time of your order. We may also require an additional deposit after activation of the Service if you fail to pay any amounts when due. Within ninety (90) days after termination of your Service, we will return your Subscriber Deposit, less any unpaid amounts due on your account, including any amounts owed for unreturned or damaged Equipment. Amounts held on deposit will not accrue interest except as required by law.

i) Billing Disputes. Subject to applicable law, if you intend to dispute a charge on your billing statement, you must contact us within thirty (30) days of the billing date you receive the bill in question. UNDISPUTED PORTIONS OF YOUR BILLING STATEMENT MUST BE PAID BY THE DUE DATE TO AVOID A LATE FEE AND POSSIBLE SUSPENSION OR TERMINATION OF THE SERVICE.

j) Complaint Procedures. If you have any concerns regarding customer service, billing, or service quality, please contact us at our toll free customer service telephone number, 866-OPENBAND (866-673-6226) or 703-961-1110. You may also write to the address listed below. OpenBand personnel are available 24 hours a day.

OpenBand Customer Relations Manager
22980 Indian Creek Drive
Dulles, VA 20166

E-mail us at:
billing@openband.net (for billing issues); or
support@openband.net (for service issues)

When you contact us, please explain the nature and history of the problem. We will try to promptly resolve your concern. If we are unable to resolve your concern, we will notify you that we are unable to do so and explain the reason why.

8. SOFTWARE LICENSES; THIRD-PARTY SERVICES.

a) Software for use with Service. We may provide you, for a fee or at no charge, software for use in connection with the Service which is owned by OpenBand or its third-party licensors, providers and suppliers ("Software"). We reserve the right periodically to update, upgrade, change, or add new Software remotely or to make related changes to the settings and software on your computer, Equipment, or Other Devices used in connection with the Service, and you agree to permit such changes and access to your computer, Equipment, or Other Devices used in connection with the Service. You may use the Software only in connection with the Service and for no other purpose.

b) End User License Agreement. Certain Software may be accompanied by an end-user license agreement ("EULA") from OpenBand or a third party. Your use of the Software is governed by the terms of that EULA and by this Agreement. You may not install or use any Software that is accompanied by or includes a EULA unless you first agree to the terms of the EULA.

c) Software Not Accompanied by EULA. For Software not accompanied by a EULA, you are hereby granted a revocable, non-exclusive, non-transferable license by OpenBand or its applicable third-party licensor(s) to use the Software (and any corrections, updates and upgrades). You may not make any copies of the Software. You agree that the Software is confidential information of OpenBand or its third-party licensors and that you will not disclose or use the Software except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents, and proprietary information owned by OpenBand or its third-party licensors. You may not de-compile, reverse engineer, disassemble, attempt to discover any source code or underlying ideas or algorithms of the Software, otherwise reduce the Software to a human readable form, modify, rent, lease, loan, use for timesharing or service bureau purposes, reproduce, sublicense or distribute copies of the Software, or otherwise transfer the Software to any third party. You may not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software. You are not granted any title or rights of ownership in the Software. You acknowledge that this license is not a sale of intellectual property and that OpenBand or its third-party licensors continue to own all right, title and interest, including but not limited to all copyright, patent, trademark, trade secret, and moral rights, to the Software and related documentation, as well as any corrections, updates and upgrades to it. The Software may be used in the United States only, and any export of the Software is strictly prohibited.

d) Time Period for Use of Software or Additional Services. Your license to use the Software or any Additional Services will remain in effect until terminated by OpenBand or its third-party licensors, or until your Service is terminated. Upon termination of your Service, you must cease all use of and immediately delete the Software from your computer or other device not returned to us.

e) EULA of Third-Party Provider. If you subscribe to or otherwise use any third-party services offered by OpenBand, your use of such services is subject to the EULA of that third-party provider. Violation of those terms may, in our sole discretion, result in the termination of your Service.

f) Ownership of Intellectual Property Rights. All title and intellectual property rights (including without limitation, copyrights, patents, trademarks and trade secrets) in and to the OpenBand Websites are owned by OpenBand, its affiliates or licensors. All title and intellectual property rights in and to the information and content which may be accessed through use of the OpenBand Websites are the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws and treaties. This Agreement does not grant you any rights to use any of the content, nor does it grant any rights to the OpenBand Websites, other than the right to use the OpenBand Websites according to the terms of the Agreement.

9. TERMINATION OF SERVICE

a) Month-to-Month Service. If you have a month-to-month Service subscription, either you or OpenBand may terminate this Agreement any time by giving notice to the other party as set forth in this Agreement. Termination by you will be effective upon your notice to us.

b) Subscribers with Term Plans; Early Termination Fee (ETF). EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, IF YOUR VIDEO SERVICE OR ANY COMPONENT OF A PACKAGE PLAN IS TERMINATED BY YOU OR BY US AS A RESULT OF VIOLATION BY YOU OF THIS AGREEMENT BEFORE COMPLETING YOUR TERM PLAN, THEN YOU AGREE TO PAY OPENBAND THE ETF SET FORTH IN THE PRICING PLAN YOU HAVE CHOSEN. If you terminate Service at your location, your existing Term Plan cannot be carried over to a new Service location.

c) Termination and/or Suspension by OpenBand. OpenBand reserves the right to change, limit, terminate, modify, or temporarily or permanently cease providing the Service or any part of it with or without prior notice if we elect to change the Service or a part thereof or if you violate the terms of this Agreement. If OpenBand terminates your Service under this Section 9(c), you must immediately stop using the Service and you will be responsible for any applicable fees and/or Equipment charges set forth in Sections 7 and 9. If the termination is a result of violation by you of the terms of this Agreement, you also shall be liable to pay any applicable ETF. If OpenBand terminates or ceases to offer service to your location, you shall not be liable to pay the ETF. If your Service is reconnected, a reconnection fee may apply.

d) Deletion of Data upon Termination. YOU AGREE THAT IF YOUR SERVICE IS TERMINATED FOR ANY REASON, OPENBAND HAS THE RIGHT TO IMMEDIATELY DELETE ALL DATA, FILES AND OTHER INFORMATION STORED IN OR FOR YOUR ACCOUNT WITHOUT FURTHER NOTICE TO YOU.

e) Return of Equipment upon Termination. If your Video Service is terminated for any reason and you received Equipment from OpenBand, you must return the Equipment to OpenBand within thirty (30) days or you will be charged for the Equipment. Failure to return any Equipment you received from OpenBand, or returning Equipment in a damaged condition (subject only to reasonable wear and tear), will result in the imposition of an Equipment fee that may be substantial.

10. USE OF THE SERVICE.

a) You agree to use the Service only for your private non-commercial use and own personal viewing enjoyment. Residential subscribers may not view or display Services in areas open to the public. Commercial service subscribers can access and display On Demand service(s) only as specifically authorized by us in writing. You may not rebroadcast or transmit the Programming or charge admission for its viewing. You may not take any actions to alter or avoid any security or access controls or restrictions associated with the Service, Equipment, or Other Devices.

b) You are responsible for all use of the Service, whether by you or someone using the Service with or without your permission. You agree not to use the Service, directly or indirectly, for any unlawful purpose, including without limitation, violation of the copyright laws through the use, production, copying, rebroadcast or redistribution of any Programming distributed as part of the Service or recorded utilizing Equipment or Other Devices containing digital video recording functionality. You further agree that your use of the Service is your sole responsibility, at your own risk, and subject to all applicable local, state, and federal laws and regulations. We, in our sole discretion, or any Programming provider, may prosecute you and other responsible parties under applicable federal, state and local laws in the event that the Service is used for an unlawful purpose. As described in more detail in Section 13 below, you agree to indemnify us in the event of any legal violation by you or anyone using the Service at the Premises.

c) You understand and agree that not all Programming may be suitable for all viewers, and users of the Service may have access to Programming that may be sexually explicit, obscene, offensive, or otherwise unsuitable or objectionable, especially for children under the age of eighteen (18). You further understand and agree that it is your responsibility to impose any viewing restrictions you determine are appropriate to limit viewing and access to potentially objectionable material, and you agree to supervise usage of the Service. YOU AGREE THAT WE ARE NOT RESPONSIBLE TO YOU OR ANYONE ELSE VIEWING PROGRAMMING OR INFORMATION PROVIDED ON, OR ACCESSED THROUGH, THE SERVICE FOR ANY CONTENT THAT YOU OR OTHERS MAY DEEM TO BE OBJECTIONABLE FOR ANY REASON AND YOU WAIVE ANY CLAIMS AGAINST US FOR ANY INJURY OR HARM RELATING TO SUCH CONTENT OR THE VIEWING OF PROGRAMMING. YOU FURTHER UNDERSTAND AND AGREE THAT WE ARE NOT RESPONSIBLE FOR THE INFORMATION OR MATERIALS ACCESSIBLE VIA THE INTERNET THROUGH USE OF THE SERVICE. IN ADDITION, YOU AGREE THAT YOU ARE SOLELY RESPONSIBLE FOR ANY PURCHASES OR OTHER TRANSACTIONS MADE THROUGH, USING, OR IN CONNECTION WITH THE SERVICE, INCLUDING ANY ON DEMAND PURCHASES.

d) OpenBand may enable you to access and view Programming, including On Demand Services, in a variety of ways: (i) by streaming Programming to your TV through Equipment or Other Devices; (ii) by downloading Programming to your PC through either a website or via access software; (iii) by downloading Programming to an authorized and compatible wireless handset or portable device supporting media playback; or (iv) by streaming to your PC or portable/wireless device. The streaming and downloading technology employed by OpenBand may vary among devices and software applications.

11. EQUIPMENT; MAINTENANCE AND OWNERSHIP OF EQUIPMENT.

a) We do not guarantee that the Service will work correctly if you opt not to use the Equipment or Other Devices authorized by OpenBand for use in connection with the Service, including but not limited to smartphones, tablets, other portable devices, gaming consoles and Internet-ready equipment. We have no responsibility for the operation or support, maintenance or repair of customer premise equipment, software or services that you choose to use in connection with the Service or with the Equipment or Other Devices provided by us. We assume no responsibility for the operation of the Service unless Equipment, or Other Devices authorized by us, is used to access the Service.

b) You acknowledge and agree that at all times ownership of the Equipment shall remain with us and that this Agreement allows you to use Equipment only in connection with your receipt and use of the Service. We may, at our option, supply new or reconditioned Equipment or Other Devices to you. We will repair and maintain the Equipment owned by us at our expense, unless the repair or maintenance is made necessary due to misuse, abuse or intentional damage to the Equipment, in which case you will be financially responsible for the repair or replacement of the damaged Equipment. You agree that OpenBand has no obligation to repair, replace, or maintain Other Devices. You also agree that the Equipment will not be serviced by anyone other than our employees or our designated agents or representatives. You further agree not to tamper with or otherwise harm the Equipment, and that you will not copy, modify, reverse compile or reverse engineer any Equipment or Other Devices, or software or firmware provided by OpenBand in connection

with the Service. Except as set forth below, upon termination of the Service, or if the occupancy or ownership of your Premises changes, you are responsible for returning the Equipment to us in an undamaged condition, subject only to reasonable wear and tear. Failure to return any Equipment owned by us within 30 days as instructed by OpenBand, or returning Equipment in a damaged condition (subject only to reasonable wear and tear), will result in the imposition of an Equipment fee that may be substantial.

c) If any Equipment is stolen, you are required to provide us with a copy of the police report to verify that the Equipment was reported stolen. If no report is produced, then you will be held financially responsible for the stolen Equipment.

12. WARRANTIES AND LIMITATION OF LIABILITY.

a) THE SERVICE MAY BE INTERRUPTED FROM TIME TO TIME FOR A VARIETY OF REASONS, AND OPENBAND DOES NOT REPRESENT OR WARRANT THAT THE SERVICE OR THE EQUIPMENT, OR ANY OTHER DEVICES, WILL BE AVAILABLE OR PERFORM IN A MANNER THAT MEETS YOUR NEEDS.

OPENBAND WILL NOT BE LIABLE FOR ANY INCONVENIENCE, LOSS, LIABILITY OR DAMAGE RESULTING FROM ANY PREEMPTION, LOSS, BLACKOUT OR INTERRUPTION OF THE SERVICE, DIRECTLY OR INDIRECTLY CAUSED BY OR RESULTING FROM ANY CIRCUMSTANCES, INCLUDING WITHOUT LIMITATION, ANY CIRCUMSTANCE BEYOND OPENBAND'S REASONABLE CONTROL, INCLUDING BUT NOT LIMITED TO, CAUSES ATTRIBUTABLE TO YOU OR YOUR PROPERTY, INABILITY TO OBTAIN ACCESS TO THE PREMISES, FAILURE OF A COMMUNICATIONS SATELLITE OR OUR NETWORK, INABILITY TO ACCESS OR INTERRUPTIONS IN ACCESSING PROGRAMMING, LOSS OF USE OF POLES OR OTHER UTILITY FACILITIES, STRIKE, LABOR DISPUTE, RIOT OR INSURRECTION, WAR, EXPLOSION, ACT OF TERRORISM, MALICIOUS MISCHIEF, FIRE, FLOOD 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 SERVICE.

b) YOU ACKNOWLEDGE AND AGREE THAT THE SERVICE SUPPLIED IS PROVIDED ON AN "AS IS" OR "AS AVAILABLE" BASIS, WITH ALL FAULTS. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH IN THIS AGREEMENT AND AS OTHERWISE SPECIFICALLY SET FORTH IN ANY MANUFACTURER WARRANTY FOR ANY EQUIPMENT OR OTHER DEVICES PROVIDED BY OPENBAND (BUT ONLY IF THE WARRANTY IS INCLUDED WITH THE EQUIPMENT OR OTHER DEVICES), OPENBAND, ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES, ITS THIRD-PARTY LICENSORS, PROVIDERS AND SUPPLIERS, DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS FOR THE SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, NON-INTERFERENCE, TITLE, COMPATIBILITY OF COMPUTER SYSTEMS, COMPATIBILITY OF SOFTWARE PROGRAMS, INTEGRATION, AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF TRADE, OR ARISING UNDER STATUTE. ALSO, THERE IS NO WARRANTY OF WORKMANLIKE EFFORT OR LACK OF NEGLIGENCE. NO ADVICE OR INFORMATION GIVEN BY OPENBAND OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY WITH RESPECT TO ADVICE PROVIDED.

c) OPENBAND DOES NOT WARRANT OR GUARANTEE THAT SERVICE CAN BE PROVISIONED TO YOUR LOCATION, OR THAT PROVISIONING WILL OCCUR ACCORDING TO A SPECIFIED SCHEDULE, EVEN IF OPENBAND HAS ACCEPTED YOUR ORDER FOR SERVICE. THE PROVISIONING OF SERVICE IS SUBJECT TO NETWORK AVAILABILITY AND THE CONDITION OF WIRING INSIDE YOUR LOCATION, AMONG OTHER FACTORS. IF YOUR LINE IS NOT PROVISIONED FOR ANY REASON, NEITHER YOU NOR OPENBAND SHALL HAVE ANY DUTIES OR OBLIGATIONS UNDER THIS AGREEMENT OTHER THAN YOUR OBLIGATION TO RETURN ANY EQUIPMENT).

d) IN NO EVENT SHALL OPENBAND, ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES OR OPENBAND'S THIRD-PARTY LICENSORS, PROVIDERS OR SUPPLIERS BE LIABLE FOR: (i) ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OF REVENUE, LOSS OF PROGRAMS OR INFORMATION OR DAMAGE TO DATA ARISING OUT OF THE USE, PARTIAL USE OR INABILITY TO USE THE SERVICE, OR RELIANCE ON OR PERFORMANCE OF THE SERVICE, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION, THOSE ARISING UNDER CONTRACT, TORT, NEGLIGENCE OR STRICT LIABILITY, EVEN IF OPENBAND HAS BEEN ADVISED OF THE POSSIBILITY OF ANY CLAIMS OR DAMAGES, OR i) ANY CLAIMS AGAINST YOU BY ANY OTHER PARTY.

e) THE LIABILITY OF OPENBAND, ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES, OR (SUBJECT TO ANY DIFFERENT LIMITATIONS OF LIABILITY IN THIRD-PARTY END-USER LICENSE OR OTHER AGREEMENTS) OUR THIRD-PARTY LICENSORS, PROVIDERS OR SUPPLIERS, FOR ALL CATEGORIES OF DAMAGES SHALL NOT EXCEED A PRO RATA CREDIT FOR THE MONTHLY FEES (EXCLUDING ALL NONRECURRING CHARGES, REGULATORY FEES, SURCHARGES, FEES AND TAXES) YOU HAVE PAID TO OPENBAND FOR THE SERVICE DURING THE SIX (6) MONTH PERIOD PRIOR TO WHEN A CLAIM AROSE, WHICH SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY REGARDLESS OF THE TYPE OF CLAIM OR NATURE OF THE CAUSE OF ACTION. THE FOREGOING LIMITATIONS SHALL APPLY TO THE FULL EXTENT PERMITTED

BY LAW, AND ARE NOT INTENDED TO ASSERT ANY LIMITATIONS OR DEFENSES WHICH ARE PROHIBITED BY LAW.

f) ALL LIMITATIONS AND DISCLAIMERS STATED IN THIS SECTION ALSO APPLY TO OPENBAND'S THIRD-PARTY LICENSORS, PROVIDERS AND SUPPLIERS, AS THIRD-PARTY BENEFICIARIES OF THIS AGREEMENT.

g) THE REMEDIES EXPRESSLY SET FORTH IN THIS AGREEMENT ARE YOUR SOLE AND EXCLUSIVE REMEDIES. YOU MAY HAVE ADDITIONAL RIGHTS UNDER CERTAIN LAWS (SUCH AS CONSUMER LAWS), WHICH DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY, OUR EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU.

13. INDEMNIFICATION.

You agree to defend, indemnify and hold harmless OpenBand, its officers, employees, parent, subsidiaries and affiliates from and against all liabilities, costs and expenses, including reasonable attorneys' and experts' fees, related to or arising from your use of the Service, Equipment or Other Devices used in connection with the Service (or the use of your Service, Equipment or Other Devices by anyone else): (a) in violation of applicable laws, regulations or this Agreement; (b) to access the Internet or to transmit or post any message, information, software, images or other materials via the Internet; (c) in any manner that harms any person or results in the personal injury or death of any person or in damage to or loss of any tangible or intangible (including data) property; or (d) in any manner that results in claims for infringement of any intellectual property rights.

14. GENERAL PROVISIONS.

a) Survival. All obligations of the parties under this Agreement, which, by their nature, would continue beyond the termination of the Agreement, including, without limitation, those relating to Limitation of Liability and Indemnification, shall survive such termination.

b) Assignment. You agree not to assign or otherwise transfer this Agreement, or your rights and obligations under it, in whole or in part, to any other person. Any attempt to do so shall be void. Further, you agree to notify us of any changes of ownership of, or occupancy in, the Premises immediately upon such transfer of ownership or change in occupancy. We may freely assign all or any part of this Agreement with or without notice to you, and you agree to make all subsequent payments as directed.

c) Applicable Law. Except as otherwise required by law, you and OpenBand agree that the substantive laws of the state and local area in which your Premises is located (Loudoun County, Virginia referred to as the "Service Jurisdiction"), without reference to its principles of conflicts of laws, will be applied to govern, construe and enforce all of the rights and duties of the parties arising from or related in any way to the subject matter of this Agreement. Except as otherwise required by law, any cause of action or claim you may have with respect to the Service must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is forever waived.

d) Waiver. OpenBand's failure at any time to insist upon strict compliance with any of the provisions of this Agreement shall not be construed to be a waiver of such terms in the future. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and the unenforceable portion shall be construed as nearly as possible to reflect the original intent of the parties.

e) Entire Agreement. This Agreement, including any policies or materials that are incorporated by reference, constitutes the entire agreement between you and OpenBand with respect to the subject matter and supersedes any and all prior or contemporaneous agreements whether written or oral. No changes by you to this Agreement shall be effective unless agreed to in writing, signed by an authorized person at OpenBand.

f) Force Majeure. OpenBand will not be liable for delays, damages or failures in performance due to causes beyond its reasonable control, including, but not limited to, acts of a governmental body, acts of God, acts of third parties, fires, floods, strikes, work slow-downs or other labor-related activity, or an inability to obtain necessary Equiment, Other Devices or services.