

## CLEC Terms and Conditions

### RESIDENTIAL SERVICES CLEC SUBSCRIBER AGREEMENT IMPORTANT INFORMATION ABOUT YOUR SERVICES FROM VALLEY CONNECTIONS, L.L.C.

In consideration of Connection's provision of the Services that I have requested, subject to applicable law, I AGREE AS FOLLOWS:

#### 1. Important Information About This Agreement

(a) This Agreement, the New Customer Application, the Acceptable Use Policy and any effective and applicable Tariff(s), each of which Connections may amend as set forth below, constitute the entire agreement between Connections and me. This Agreement supersedes all previous written or oral agreements between Connections and me. I am not entitled to rely on any oral or written statements by Connections' representatives relating to the subjects covered by these documents, whether made prior to the date of my Work Order or thereafter, and Connections will have no liability to me except in respect of its obligations as described in this Agreement and the other documents referred to above. The use of my Services by any person other than me is also subject to the terms of this Agreement, the Acceptable Use Policy, and any applicable Tariff(s).

(b) Connections has the right to add to, modify, or delete any term of this Agreement, the Acceptable Use Policy or any applicable Tariff(s) at any time. An online version of this Agreement and the Acceptable Use Policy, as so changed from time to time, will be accessible at <http://www.vtc.net> or another online location designated by Connections, or can be obtained by calling my local Connections office.

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

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

#### 2. Payment; Charges

(a) I agree to pay Connections for (i) all use of my Services (including, if Connections is the party billing me for ISP or OLP Service, for my subscription to my choice of ISP or OLP, as applicable), (ii) installation and applicable service charges, (iii) Connections Equipment, if not returned in good condition (normal wear and tear excluded, and (iv) all applicable local, state and federal fees and taxes. Charges for the Services are set forth on a separate price list that I may request from my sales or customer service representative. I will be billed monthly in advance for recurring monthly charges. Other charges will be billed in the next feasible monthly billing cycle following use, or as otherwise specified in the price list. Connections may change both the fees and the types of charges (e.g., periodic, time-based, use-based) for my Services. If I participate in a promotional offer that requires a minimum time commitment and I terminate early, I agree that I am responsible for early termination fees associated with such promotion.

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

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

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

(e) Connections may verify my credit standing with credit reporting agencies and require a deposit based on my credit standing or other applicable criteria. Connections may require a security deposit, or a bank or credit card or account debit authorization from me as a condition of providing or continuing to provide Services. If Connections requires a

security deposit, the obligations of Connections regarding such security deposit will be governed by the terms of the deposit receipt provided by Connections to me at the time the deposit is collected as well as applicable tariff and laws. I agree that Connections may deduct amounts from my security deposit, bill any bank or credit card submitted by me, or utilize any other means of payment available to Connections, for any past due amounts payable by me to Connections, including in respect of damaged or unreturned Equipment.

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

(g) Connections may charge fees for all returned checks and account debit, bank card or charge card charge-backs. Connections reserves the right to change return/chargeback fees.

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

(i) I acknowledge that currently, and from time to time, there is uncertainty about the regulatory classification of some of the Services provided by Connections and, consequently, uncertainty about what fees, taxes and surcharges are due from Connections and/or its customers. Accordingly, I agree that Connections has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, and/or to pay and pass them through to me. I further agree to waive any claims I may have regarding Connections collection or remittance of such fees, taxes and surcharges. I further understand that I may obtain a list of the fees, taxes and surcharges that my local Connections office currently collects or passes through by writing to Connections at the following address and requesting same: Valley Connections, L.L.C., PO Box 970, Willcox, AZ 85644; Attention: Subscriber Tax Inquiries.

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

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

(a) If I am not the owner of the house, apartment or other premises upon which Connections Equipment and Software are to be installed, I warrant that I have obtained the consent of the owner of the premises for Connections personnel and/or its agents to enter the premises for the purposes described in Section 3(d). I agree to indemnify and hold the Connections Parties harmless from and against any claims of the owner of the premises arising out of the performance of this Agreement (including costs and reasonable attorneys' fees).

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

(c) The Connections Equipment is and at all times shall remain the sole and exclusive personal property of Connections, and I agree that I do not become an owner of any Connections Equipment by virtue of the payments provided for in this Agreement or the Tariff(s) or the attachment of any portion of the Connections Equipment to my residence or otherwise. Upon termination of any Services, subject to any applicable laws or regulations, Connections may, but shall not be obligated to, retrieve any associated Connections Equipment not returned by me as required under Section 3(f) below. Connections will not be deemed to have "abandoned" the Connections Equipment if it does not retrieve such equipment.

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

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

(f) If the Services are terminated, I agree that I have no right to possess or use the Connections Equipment related to the terminated Services. As required under Section 10(b), I agree that I must arrange for the return of Connections

Equipment to Connections, in the same condition as when received (excepting ordinary wear and tear), upon termination of the Services. If I do not promptly return the Connections Equipment or schedule with Connections for its disconnection and removal, Connections may enter any premises where the Connections Equipment may be located for the purpose of disconnecting and retrieving the Connections Equipment. I will pay any expense incurred by Connections in any retrieval of the unreturned Connections Equipment. Connections may charge me a continuing monthly fee until any outstanding Connections Equipment is returned, collected by Connections or fully paid for by me in accordance with Section 3(g).

(g) I agree to pay Connections liquidated damages in the amount demanded by Connections, but not to exceed that specified in the then-current price list, for the replacement cost of the Connections Equipment without any deduction for depreciation, wear and tear or physical condition of such Connections Equipment if (i) I tamper with, or permit others to tamper with, Connections Equipment, (ii) the Connections Equipment is destroyed, lost, or stolen, whether or not due to circumstances beyond my reasonable control, and even if I exercised due care to prevent such destruction, loss, or theft, or (iii) the Connections Equipment is damaged (excluding equipment malfunction through no fault of my own) while in my possession, whether or not due to circumstances beyond my reasonable control, and even if I exercised due care to prevent such damage. I agree that these liquidated damages are reasonable in light of the problem of theft of cable Services; the potential for a "black market" in Connections Equipment; the ability of third parties to steal Services with unlawfully obtained Connections Equipment, causing loss of revenues for installation and service fees; and the difficulty in determining the actual damages that arise from the unauthorized tampering with, loss, destruction, or theft of Connections Equipment. I agree to return any damaged Connections Equipment to Connections.

(h) I agree that Connections may place equipment and cables on my premises to facilitate the provision of Services. The license granted under this Section 3(h) will survive the termination of this Agreement until the date that is one year from the date on which I first notify Connections in writing that I am revoking such license.

In consideration of Connection's provision of the Services that I have requested, subject to applicable law, I AGREE AS FOLLOWS:

#### **4. Use of Services; Connections Equipment and Software**

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

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

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

(ii) If I receive Residential Local Phone Service, I agree not to use the Service for telemarketing, call center, medical transcription or facsimile broadcasting Services or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of the Services to make available my Local Phone Service, or any portion thereof, to (or to provide or permit access by) persons outside the location identified in the Work Order (even if to a limited group of people or to other residences that I own or have the right to use), will constitute an enterprise purpose.

(iii) If I receive HSD Service, I agree not to use the HSD Service for operation as an Internet service provider, for the hosting of websites (other than as expressly permitted as part of the HSD Service) or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of any form of transmitter or wide area network that enables persons or entities outside the location identified in the Work Order to use my Services, whether or not a fee is sought, will constitute an enterprise purpose. Furthermore, if I use a

wireless network within my residence, I will limit wireless access to the HSD Service (by establishing and using a secure password or similar means) to the members of my household.

(c) Theft or willful damage, alteration, or destruction of Connections Equipment, or unauthorized reception, theft or diversion of Services, or assisting such theft, diversion, or unauthorized reception is a breach of this Agreement and potentially punishable under law (including by way of statutory damages, fine and/or imprisonment). Nothing in this Agreement, including, Section 3(g) above, shall prevent Connections from enforcing any rights it has with respect to theft or unauthorized tampering of Services or Connections Equipment under applicable law.

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

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

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

(g) I agree to be responsible for protecting the confidentiality of my screen names, passwords, personal identification numbers (PINs), parental control passwords or codes, and any other security measures made available, recommended or required by Valley Connections, L.L.C.. I also acknowledge that Connections' Services may from time to time include interactive features, the use of which may result in the transmission to, and use by, Connections or certain third parties of information that may constitute personally identifiable information (as such term is used in the Federal Communications Act of 1934) about me and for which Connections may be required, under the Federal Communications Act of 1934, to obtain my consent. I agree that Connections may seek such consents (or indications of my election to "opt in" to certain Connections programs) electronically, including through the use of a "click through" screen, and that Connections is entitled to assume that any such consent or opt-in election communicated through my Services or from the location at which I receive the Services is my consent or opt-in election or has been authorized by me.

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

## **5. Special Provisions Regarding Local Phone Service**

(a) I acknowledge that the voice-enabled Gateway or DSL modem used to provide the Local Phone Service is electrically powered and that the Local Phone Service, including the ability to access 911 Services and home security and medical monitoring Services, may not operate beyond the period that the battery backup system is functional in the event of an electrical power outage or if my broadband cable connection is disrupted or not operating. I acknowledge that, in the event of a power outage in my home, any battery included with my voice-enabled Gateway or DSL modem may enable back-up service for a limited period of time or not at all, depending on the circumstances, and that inclusion of the battery does not ensure that Local Phone Service will be available in all circumstances. I also acknowledge that, in the event of a loss of power that disrupts my local Connections cable system, the battery with my voice-enabled Gateway or DSL modem may not provide back-up service and the Local Phone Service may not be available.

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

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

(d) I acknowledge that the existing telephone wiring inside my home may not support both Local Phone Service and digital subscriber line (DSL) or High Speed Data (HSD) service. Therefore, if I intend to use Local Phone Service on all of my phone jacks, I may be required to maintain separate wiring, which may be provided by Connections at an additional cost, within my home specifically for DSL/HSD service or to disconnect my DSL service prior to receiving the Local Phone Service over my existing in-home wiring.

(e) I agree to provide Connections and its authorized agents with access to my telephone inside wiring at the Network Interface Device or at some other minimum point of entry in order to provide the Local Phone Service over my existing in-home wiring.

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

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

(b) Republication.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The Connections Parties shall have no liability, except as set forth in Section 8(a), for interruption of the Services due to circumstances beyond its reasonable control, including acts of God, flood, natural disaster, vandalism, terrorism, regulation or governmental acts, fire, civil disturbance, electrical power outage, computer viruses or worms, strike or weather.

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

## **9. Review and Enforcement**

(a) Connections may suspend or terminate all or a portion of my Services without prior notification if Connections determines in its discretion that I have violated this Agreement, any of the Acceptable Use Policy or any Tariff(s), even if the violation was a one-time event. If all or a portion of my Services are suspended, I will not be charged for

the relevant Services during the suspension. If my account is terminated, I will be refunded any pre-paid fees minus any amounts due Connections.

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

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

#### **10. Termination of Service**

(a) Either Connections or I may terminate all or any portion of my Services at any time for any or no reason, in its sole discretion, in accordance with applicable law and any early termination charges.

(b) If I am moving or wish to terminate all or any portion of my Services for any reason, I will notify Connections by phone or by mail as instructed in the Subscriber Materials in order to set up a disconnect appointment and provide Connections with access to my premises to disconnect the relevant Services and recover the Connections Equipment specified on the Work Order on a DATE PRIOR TO the last day of residency. This also applies if I am receiving a period of free or discounted Services. In other words, at the end of the free or discounted period, Connections is entitled to begin billing me for the usual charges associated with the relevant Services unless I take the appropriate steps to terminate the Services as described in this paragraph.

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

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

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

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

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

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

(b) I ACKNOWLEDGE THAT CONNECTIONS'S OR MY INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT OR REMOVAL OF THE SERVICES, CONNECTIONS EQUIPMENT AND SOFTWARE MAY RESULT IN DAMAGE TO MY COMPUTER(S), TELEPHONES AND TELEPHONE ANSWERING DEVICES, TELEVISIONS, RECORDING AND PLAYBACK DEVICES, AUDIO EQUIPMENT, OR ANY GATEWAY OR DSL MODEM, CABLING OR OTHER EQUIPMENT OR HARDWARE, INCLUDING SOFTWARE AND DATA FILES STORED THEREON. I SHALL BE SOLELY RESPONSIBLE FOR BACKING UP ALL EXISTING COMPUTER OR OTHER SOFTWARE OR DATA FILES PRIOR TO THE PERFORMANCE OF ANY OF THE FOREGOING ACTIVITIES. NONE OF THE CONNECTIONS PARTIES, OR THEIR VENDORS, LICENSEES OR

PROGRAMMERS, SHALL HAVE ANY LIABILITY, AND EACH EXPRESSLY DISCLAIMS ANY RESPONSIBILITY WHATSOEVER, FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY EQUIPMENT, SOFTWARE, HARDWARE, DATA OR FILES.

(c) EXCEPT FOR THE REFUND OR CREDIT AS EXPRESSLY PROVIDED IN SECTIONS 9(a) AND 8(a) RESPECTIVELY, IN NO EVENT (INCLUDING NEGLIGENCE) WILL ANY CONNECTIONS PARTY OR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE SERVICES (INCLUDING THE CONTENT INCLUDED THEREIN OR THE SERVICES ACCESSED THEREBY) OR EQUIPMENT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICES, INCLUDING THE USE OF OR INABILITY TO USE EMERGENCY 911 SERVICES, OR FOR ANY ACTION TAKEN BY CONNECTIONS TO PROTECT THE SERVICES OR THE BREACH BY CONNECTIONS OF ANY WARRANTY.

(d) I AGREE THAT THE PROVISIONS OF THIS SECTION 11 SHALL APPLY TO ALL CONTENT OR SERVICES INCLUDED IN, OR ACCESSIBLE THROUGH, THE SERVICES, AND ARE FOR THE BENEFIT OF, AND MAY BE ENFORCED BY, ALL OF THE CONNECTIONS PARTIES.

## **12. Privacy**

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

(b) I agree that, in addition to actions and disclosures specifically authorized by law or statute or authorized elsewhere in this Agreement, Connections and its Affiliated ISPs shall each have the right (except where prohibited by law notwithstanding my consent), but not the obligation, to disclose any information to protect their respective rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril. I consent to such actions or disclosures.

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

## **13. Consent to Phone, Email and Direct Contact**

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

(b) I acknowledge that since I have a business relationship with Connections, being included in any state or federal "do not call" registry will not be sufficient to remove me from Connections' phone marketing list.

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

## **14. Arbitration**

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



DETERMINED BY THE ARBITRATOR. JUDGMENT UPON AN AWARD MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION. IF ANY PORTION OF THIS SECTION IS HELD TO BE UNENFORCEABLE, THE REMAINDER SHALL CONTINUE TO BE ENFORCEABLE.

## 15. Definitions

- (a) "Affiliated ISP" means any ISP in which any Connections Party holds an ownership interest.
- (b) "Agreement" means this Services Subscriber Agreement, as it may be amended from time to time by Connections.
- (c) "Computer" means the personal computer(s) located at my residence that will be used to access the HSD Service, as specified on the accompanying Work Order.
- (d) "Local Phone Service" means the Connections phone service that provides users with the ability to send and receive local and/or long distance calls and to access additional related features and functions through Connections cable systems.
- (e) "DVR" means a set-top box or other device enabled with a digital video recorder that is provided to me by Connections.
- (f) "HSD Service" and "High Speed Data Service" mean the online content, features, functions and Services (which may include Internet access) of the ISP or OLP selected by me, as provided over Connections' cable systems.
- (g) "including" or "include" shall mean inclusion, without limitation.
- (h) "ISP" means the Internet service provider selected by me from among those offered now or in the future by Connections for the HSD Service. My ISP is the entity that provides my Internet connectivity.
- (i) "Me," "My," and "I" mean the account holder identified on the Work Order who is authorized by Connections to access and use the Services.
- (j) "OLP" or "On-line Provider" means a provider of on-line content, features, functions and Services that are used in conjunction with my ISP Service (and whose service may be purchased with an ISP Service as part of a combined offering or separately) but that does not itself provide Internet connectivity.
- (k) "Services" means any and all Services provided to me by Connections, which may include Video Service, High Speed Data Service, Local Phone Service and equipment based Services such as digital video recorder Services.
- (l) "Software" means the computer software, if any, licensed by ISP or OLP to me to access the HSD Service, or licensed by Connections to me to facilitate installation or use of my ISP's or OLP's service or any other Services. Software also refers to any executable code that may be included in, downloaded to, or utilized by, any CONNECTIONS Equipment.
- (m) "Subscriber Materials" means the handbooks, manuals and other guide materials provided by Connections or any third party (including my ISP or OLP) regarding use of the Services.
- (n) "Subscriber Privacy Notice" means the Subscriber Privacy Notice described in Section 12(a), as it may be amended from time to time by Connections.
- (o) "Tariff(s)" means the materials describing the terms upon which Connections offers Local Phone Service, which have been filed at the Corporation Commission or comparable state agency serving the jurisdiction in which I live.
- (p) "Acceptable Use Policy" shall mean all rules, terms and conditions set forth in this Agreement or otherwise established now or hereafter by Connections regarding permissible or impermissible uses of or activities related to, the HSD Service.
- (q) "Connections" means the local Valley Connections, L.L.C.-affiliated cable operator that is providing the Services over its cable system, or any cable operator to whom Connections assigns this Agreement.
- (r) "Connections Equipment" means any equipment provided by Connections to me including, but not limited to, wire, cable, cable conduit, splitters, junction boxes, converter boxes (also known as "set top" boxes), decoders, terminals, Gateway or DSL modems, voice-enabled Gateway or DSL modems, remote control units, and any other equipment or materials provided to me by Connections for use in connection with the receipt of Services. Connections Equipment does not include any Network Interface Card ("NIC") installed in my Computer.
- (s) "Connections Parties" means Connections and its corporate parents, affiliates and subsidiaries and their respective directors, officers, employees and agents.
- (t) "Video Service" means video and/or audio programming Services such as basic, standard, digital and premium Services, Services provided on a per-channel or per-program basis, pay-per-play, pay-per-view or VOD.
- (u) "VOD" means video on demand.
- (v) "Work Order" means the Valley Connections, L.L.C. work order provided to me in connection with the installation or commencement of my Service(s).

## 16. Indemnification

I agree to defend, indemnify and hold harmless the Connections Parties from and against any and all claims and expenses, including reasonable attorneys' fees, arising out of or related in any way to my use of the Services or otherwise arising out of the use of my account or any equipment or facilities in connection therewith, or my use of any other Connections products or Services or any ISP's or OLP's products or Services.

**17. Term**

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

**18. Interpretation; Severability**

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

**19. Consent to Electronic Notice**

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

**20. Waiver**

I agree that failure by Connections to enforce any of its rights hereunder shall not constitute a waiver of any such rights. No waiver by either party of any breach or default shall be deemed to be a waiver of any preceding or subsequent breach or default.

**21. Assignment**

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

**22. Effect of Applicable Law; Reservation of Rights**

This Agreement, the Work Order and the Acceptable Use Policy are subject to all applicable federal, state or local laws and regulations in effect in the relevant jurisdiction(s) in which I receive my Services. If any provision of this Agreement, the Work Order or the Acceptable Use Policy contravene or are in conflict with any such law or regulation, or if I am entitled to more favorable rights under any such law or regulation than are set forth in any provision in this Agreement, the Work Order or the Acceptable Use Policy, then the terms of such law or regulation, or the rights to which I am entitled under such law or regulation, shall take priority over the relevant provision of this Agreement, the Work Order or the Acceptable Use Policy. If the relevant law or regulation applies to some but not all of my Service(s), then such law or regulation will take priority over the relevant provision of this Agreement, the Work Order or the Acceptable Use Policy only for purposes of those Service(s) to which the law or regulation applies. Except as explicitly stated in this Agreement, nothing contained in this Agreement shall constitute a waiver by me or Connections of any rights under applicable laws or regulations pertaining to the installation, operation, maintenance or removal of the Services, facilities or equipment.

**23. Parental Control Device**

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

**24. Conflicting Terms**

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