



## **Polar Service Agreement**

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

Polar Services will be provided to you (“you,” “your,” or “Customer”) on the terms and conditions set forth in this Service Agreement (the “Agreement”) by Polar Communications and its subsidiaries that own and/or operate the cable television, system, broadband, or phone services in your area (“Polar,” “we,” “us,” or “our”) and in any applicable Tariff(s) on file with the FCC, state public utility commission(s) or other comparable state agency. Services may include, but are not limited to, Polar cable television service (“Video”) and Polar High-Speed Internet service (“Broadband”) (each a “Service” and collectively “Services”).

### **This Agreement**

Acceptance. Your use of services provided by Polar requires you to accept the terms of service outlined in this Agreement. You will have accepted this Agreement and agreed to be bound by its terms if you use the Services or otherwise indicate your affirmative acceptance of such Services.

Updates. This Agreement may be updated or changed from time to time. You can review the most current version of this Agreement at [www.thinkPolar.com](http://www.thinkPolar.com). If Polar makes a change to this Agreement and the change has a material impact on the Services, you will be provided notice of that change. Unless this Agreement or applicable law specifies otherwise, we will give you no less than thirty (30) days’ prior notice of any significant change to this Agreement. If we do give you notice it may be provided on your monthly bill, as a bill insert, in a newspaper, via email, or other communication permitted under applicable law. If you find the change unacceptable, you have the right to cancel your Service(s) however if you continue to receive Service(s) after the end of the notice period (the “Effective Date”) of the change, we will consider that you have accepted the changes.

Change in Features and Equipment. Polar reserves the right to change Polar-provided equipment and to rearrange, delete, add to or otherwise change programming or features or offerings contained in the Services, including but not limited to, content, functionality, hours of availability, and customer equipment requirements at any time with or without notice.

### **Charges and Billings**

Charges, Fees, and Taxes That You Must Pay. You agree to pay all charges associated with the Services, including, but not limited to, installation charges, monthly service charges, Polar Equipment (as defined below) charges, service call charges, measured and per call charges, applicable federal, state, and local taxes (however designated) and any fees or payment obligations imposed by governmental or quasi-governmental bodies for the sale, installation, use, or provision of the Services. You agree to pay any regulatory recovery fees which Polar invoices you for municipal, state and federal government fees or assessments imposed on Polar, or any programs in which Polar participates, including, but not limited to, public, educational and governmental



access, universal service, and rights-of-way access. You will be responsible for paying any government imposed fees and taxes that become applicable retroactively. We will provide you with notice and an effective date of any change in our prices or fees, unless the change in price is related to a change in governmental or quasi-governmental taxes, fees or assessments, in which case we may elect not to provide notice except where required by applicable law. Not all fees apply to all Services.

How We Will Bill You. Unless you have signed a minimum term agreement, Services are provided to you on a month-to-month basis. You will generally be billed monthly, in advance, for recurring service charges, equipment charges, and fees. In addition, you may be required to pay, on or before the day we install any or all of the services, the first month's service charges, Polar equipment charges, any deposits, and any installation charges. You may be billed for some Services individually after they have been provided to you; these include measured and per-call charges (as explained below) and charges for pay-per-view movies or events, interactive television, and e-commerce.

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

Third-Party Charges That Are Your Responsibility. You acknowledge that you may incur charges with third-party service providers that are separate and apart from the amounts charged by us. These may include charges resulting from accessing on-line services, purchasing or subscribing to other offerings via the Internet or Interactive options on your Video Service, if applicable, or otherwise. You are solely responsible for all charges payable to third parties, including all applicable taxes. In addition, you are solely responsible for protecting the security of credit card and other personal information provided to others in connection with such transactions.

Alternative Billing Arrangements. In certain cases, Polar may agree to provide billing services on behalf of third parties, as the agent of the third party. Any such third-party charges shall be payable pursuant to any contract or other arrangement between you and the third party. We shall not be responsible for any dispute regarding these charges between you and any third party. You must address all such disputes directly with the third party.

Payment by Credit Card or Check. If you use a credit card to pay for Services, that use is governed by the card issuer agreement for that card, and you must refer to that agreement for your rights and liabilities as a cardholder. If Polar does not receive payment from your credit card issuer or its agents, you agree to pay all amounts due upon demand. If you make payment by check, you authorize Polar to collect your check electronically. You agree that you may not amend or modify this Agreement with any restrictive endorsements (such as "paid in full"), releases, or other statements on or accompanying



checks or other payments accepted by Polar and that any such notations shall have no legal effect. You will be charged a fee for any check or other instrument (including credit card chargebacks) tendered by you and returned unpaid by a financial institution for any reason.

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

Late or Non-Payments: You may be billed fees, charges and assessments related to late payments or non-payments if for any reason (i) Polar does not receive from you any required payment for the Services by the payment due date or (ii) you pay less than the full amount due for the Services.

Fees Not Considered Interest or Penalties: Polar does not anticipate that you will fail to pay for the Services on a timely basis, and we do not extend credit to customers. Any fees, charges, and assessments due to late payment or nonpayment are not interest, credit service charges, or finance charges or penalties. Rather, they are liquidated damages intended to be a reasonable advance estimate of our costs resulting from late payments and non-payments. These costs will be difficult to calculate or to predict when we set such fees, charges, and assessments, because we cannot know in advance: (a) whether you will pay for the Services on a timely basis, if ever; (b) if you do pay late, when you will actually pay; and (c) what costs we will incur because of your late payment or non-payment.

Collection Costs: If we are required to use a collection agency or attorney to collect money owed by you, you agree to pay the reasonable costs of collection. These costs include but are not limited to any collection agency's fees, reasonable attorneys' fees, and arbitration or court costs.

Suspension/Disconnect: If you fail to pay the full amount due for any or all of the Services then Polar, at its sole discretion in accordance with applicable law, may suspend or disconnect any or all the Services you receive.

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

Our Right to Make Credit Inquiries. YOU AUTHORIZE POLAR TO MAKE INQUIRIES AND TO RECEIVE INFORMATION ABOUT YOUR CREDIT EXPERIENCE FROM OTHERS, TO ENTER THIS INFORMATION IN YOUR FILE, AND TO DISCLOSE THIS INFORMATION CONCERNING YOU TO APPROPRIATE THIRD PARTIES FOR REASONABLE BUSINESS PURPOSES.

Your Responsibilities Concerning Billing Questions. Subject to applicable law, if you intend to dispute a charge or request a billing credit, you must contact Polar within sixty



(60) days of the date on the bill. You waive any disputes or credits that you do not report within sixty (60) days.

### **Refundable Deposit**

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

### **Access to Your Premises**

You will be responsible for payment of service charges for visits by Polar or its subcontractors to your premises when a service request results from causes not attributable to Polar or its subcontractors. You will provide Polar and its subcontractors with reasonable access to your premises in order to install, maintain, and repair the Service and you authorize any other adult resident or guest at your residence to grant access to your premises for these purposes. You understand and agree that Polar may drill, cut, and otherwise alter the premises (including walls, flooring, and/or other surfaces). If you do not own your premises or your unit is part of a multi-tenant environment (e.g., apartment building, condominium, private subdivision), you warrant that you have obtained permission from any necessary party, including but not limited to the owner, landlord, or building manager, to make alterations Polar deems appropriate for the work to be performed.

You acknowledge that Polar may use existing wiring, including altering the wiring and removing accessories, located within your unit ("Inside Wiring"). You warrant that you own or control the Inside Wiring, and give Polar permission to use, alter, and remove equipment from, such wiring. Without limiting any other provisions of this Agreement, you agree to indemnify Polar from and against all claims by an owner, landlord, building manager, or other party in connection with installation, maintenance, repair, or provision of the Services.

### **Maintenance and Ownership of Equipment**

Polar Equipment. You agree that except for the wiring installed inside the Premises ("Inside Wiring"), all Polar equipment belongs to us and will not be deemed fixtures or in any way part of the Premises. Polar Equipment includes all new or reconditioned equipment installed, provided or leased to you by us or our agents, including but not limited to, cabling or wiring and related electronic devices such as set-top boxes, any other hardware, and all software or "downloads" to Polar Equipment. You agree to use Polar Equipment only for the Services pursuant to this Agreement. We may remove or change the Polar Equipment at our discretion at any time the Services are active or following the termination of your Service(s). You agree to allow us access to the



Premises for these purposes. You may not sell, lease, abandon or give away the Polar Equipment, or permit any other provider of video or high speed data to use the Polar Equipment. The Polar Equipment may only be used in the Premises. At your request, we may relocate the Polar Equipment in the Premises for an additional charge, at a time agreeable to you and us. You understand and acknowledge that if you attempt to install or use the Polar equipment or services at a location other than the Premises, the services may fail to function or may function improperly. You agree that you will not allow anyone other than Polar employees or agents to service the Polar Equipment. We expect that the Polar Equipment in your possession be covered by your homeowners, renters, or other insurance. You will be directly responsible for loss, repair, replacement and other costs, damages, fees and charges if you do not return the Polar Equipment to us in an undamaged condition.

Customer Equipment. Polar has no responsibility for the operation or support, maintenance or repair of any equipment, software or services that you elect to use in connection with the Services or Polar Equipment (“Customer Equipment”).

Non-Recommended Configurations: Customer Equipment that does not meet Polar's minimum technical or other specifications constitutes a “Non-Recommended Configuration.” Neither polar nor any of its affiliates, suppliers or agents warrant that a non-recommended configuration will enable you to successfully install, access, operate or use the services. You acknowledge that any such installation, access, operation, or use could cause customer equipment to fail to operate or cause damage to customer equipment, you, your premises or polar equipment. Neither polar nor any of its affiliates, suppliers or agents shall have any liability whatsoever for any such failure or damage. Polar reserves the right to deny you customer support for the Services and/or terminate Service(s) if you use a Non-Recommended Configuration.

No Unauthorized Devices or Tampering: You agree not to attach any unauthorized device to Polar Equipment or the Services. If you make any unauthorized connection or modification to Polar Equipment or the Services or any other part of our network, we may terminate your Service and recover such damages as may result from your actions. Unless expressly authorized by us, you agree not to install anything to intercept or receive any of the Services offered over our network or to assist any person in intercepting or receiving any of the Services offered over our network. You also agree that you will not attach anything to the Inside Wiring, Polar Equipment or Customer Equipment, whether installed by you or us, which singly or together impairs the integrity of our network or degrades our network's signal quality or strength or creates signal leakage.

You hereby agree that we may recover damages from you for tampering with any Polar Equipment or any other part of our network or for receiving unauthorized Service(s). You agree that it would be difficult if not impossible to calculate precisely the lost revenue resulting from your receipt of unauthorized Service(s) or the alteration or improper use of Polar Equipment. You therefore agree to pay us as liquidated damages, the sum of \$500.00 per device used to receive the unauthorized Services in addition to



our cost to replace any altered, damaged or unreturned Polar Equipment or other equipment owned by Polar, including any incidental costs. The unauthorized reception of the Services may also result in criminal fines and/or imprisonment.

Inside Wiring. You may install Inside Wiring, such as additional cable wiring and outlets, provided it does not interfere with the normal operations of our network. If you have us install Inside Wiring, we will charge you for that service. Regardless of who installed it, we consider the Inside Wiring your property or the property of whomever owns the Premises. Accordingly, you are responsible for the repair and maintenance of the Inside Wiring, unless you and Polar have agreed otherwise in writing. (If you do not own the Premises, contact your landlord or building manager about the repair or maintenance of Inside Wiring.) If you have us repair or maintain the Inside Wiring, we will charge you for that service.

### **Use of Services**

You will not use the Polar Equipment at any time at an address other than the Premises without our prior written authorization. You will not use or permit another to use the Polar Equipment or the Service(s), directly or indirectly, for any unlawful purpose, including, but not limited to, in violation of any posted Polar policy applicable to the Services. Use of the Polar Equipment or Services for transmission, communications or storage of any information, data or material in violation of any U.S. federal, state or local regulation or law is prohibited.

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

### **For Broadband Customers**

Acceptable Use Policy. The Polar Acceptable Use Policy (“AUP”) and other policies concerning Broadband are posted on the Service's Web site at [www.thinkpolar.com](http://www.thinkpolar.com) (or an alternative Web site if we so notify you). You further agree that Polar may modify the AUP or other policies from time to time. Notwithstanding anything to the contrary in this Agreement, YOU ACKNOWLEDGE AND AGREE THAT THE TERMS OF THE AUP AND ANY OTHER APPLICABLE POLAR POLICIES MAY BE PUT INTO EFFECT OR REVISED FROM TIME TO TIME WITHOUT NOTICE BY POSTING A NEW VERSION OF THE AUP OR POLICY AS SET FORTH ABOVE. YOU AND OTHER USERS OF THE SERVICE SHOULD CONSULT THE AUP AND ALL POSTED POLICIES REGULARLY TO CONFORM TO THE MOST RECENT VERSION.



### **Assignability**

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

### **Termination of This Agreement**

Term. This Agreement will be in effect from the time that charges commence until (i) it is terminated as provided for by this Agreement or by any addendum to this Agreement or (ii) it is replaced by a revised Agreement. If you self-install Polar Equipment, Service charges begin the earliest of (i) the day on which you picked up Polar Equipment at our service center, (ii) the day you install the Service, or (iii) five (5) days after the date we ship the Polar Equipment to you. If you self-install a Broadband modem or converter that you obtained from a source other than Polar, charges begin the day that your order for the Services is entered into our system. The option to self-install a Broadband modem or converter and/or to use a non-Polar-supplied Broadband modem or converter is subject to availability. Any non-Polar supplied Broadband modem or converter must comply with Polar's minimum requirements.

Termination by You. Unless you have committed to a minimum term and have yet to complete your commitment to us, you may terminate this Agreement for any reason at any time by notifying Polar in one of three ways: (i) send a written notice to the postal address of your local Polar business office; (ii) send an electronic notice to the e-mail address specified on [www.thinkpolar.com](http://www.thinkpolar.com); or (iii) call our customer service line during normal business hours. Subject to applicable law or the terms of any agreements with governmental authorities, all applicable fees and charges will accrue until this Agreement has terminated, the Services have been disconnected, and all Polar Equipment has been returned. We will refund all prepaid monthly service fees charged for Services after the date of termination (less any outstanding amounts due Polar for the Services, affiliate services, Polar Equipment, or other applicable fees and charges).

Suspension and Termination by Polar. Under the conditions listed below, Polar reserves the right, subject to applicable law, to act immediately and without notice to terminate or suspend the Services and/or to remove from the Services any information transmitted by or to any authorized users (e.g., email or voicemail). Polar may take these actions if it: (i) determines that such use or information does not conform with the requirements set forth in this Agreement, (ii) determines that such use or information interferes with Polar's ability to provide the Services to you or others, (iii) reasonably believes that such use or information may violate any laws, regulations, or written and electronic instructions for use, or (iv) reasonably believes that such use or information interferes with or endangers the health and/or safety of our personnel or third parties. Polar's action or inaction under this Section shall not constitute review or approval of your or any other users' use of the Services or information transmitted by or to you or users.



Your Obligations upon Termination. You agree that upon termination of this Agreement you will do the following:

i) you will immediately cease all use of the Services and all Polar Equipment; ii) you will pay in full for your use of the Services up to the date that this Agreement has been terminated and the Services are disconnected; and iii) within ten (10) days of the date on which Services are disconnected, you will return all Polar Equipment to us at our local business office or to our designee in working order, normal wear and tear excepted. Otherwise, you will be charged the current value of such Polar Equipment. You may also be charged incidental costs that we incur in replacing the Polar Equipment. Upon our request, you will permit us and our employees, agents, contractors, and representatives to access the Premises during regular business hours to remove the Polar Equipment and other material provided by Polar. We will conduct this removal at a time agreed on by you and us, and you will ensure that all Polar Equipment is returned to Polar. If the Equipment is returned within ninety (90) days of termination, any fees charged for the Equipment will be refunded (other than fees for damages). No refunds will be made for any Equipment returned more than ninety (90) days after termination.

Early Termination. Should you purchase a service under a term commitment and the service is terminated (either by you or by Polar for non-compliance with this Agreement) prior to completion of the current term, you agree that you will pay Polar an amount equal to the total monthly charges for services under term commitment times the number of months remaining on the commitment.

### **Limited Warranty**

YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT THE POLAR EQUIPMENT OR THE SERVICES WILL MEET YOUR REQUIREMENTS, PROVIDE UNINTERRUPTED USE, OR OPERATE AS REQUIRED, WITHOUT DELAY, OR WITHOUT ERROR. NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT ANY COMMUNICATIONS WILL BE TRANSMITTED IN UNCORRUPTED FORM. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY DISCLAIMED AND EXCLUDED UNLESS OTHERWISE PROHIBITED OR RESTRICTED BY APPLICABLE LAW.

### **Limitation of Polar's Liability**

Application. The limitations of liability set forth in this Section apply to any acts, omissions, and negligence of Polar and its underlying third-party service providers, agents and suppliers (and their respective officers, employees, agents, contractors or representatives) which, but for that provision, would give rise to a cause of action in contract, tort or under any other legal doctrine.





Customer Equipment. CUSTOMER EQUIPMENT MAY BE DAMAGED OR SUFFER SERVICE OUTAGES AS A RESULT OF THE INSTALLATION, SELF-INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, AND REMOVAL OF POLAR EQUIPMENT AND THE SERVICES. EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER POLAR NOR ANY OF ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE, LOSS, OR DESTRUCTION TO THE CUSTOMER EQUIPMENT. IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY POLAR, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS, WE SHALL PAY AT OUR SOLE DISCRETION FOR THE REPAIR OR REPLACEMENT OF THE DAMAGED CUSTOMER EQUIPMENT UP TO A MAXIMUM OF \$500. THIS SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY RELATING TO SUCH ACTIVITY.

For Broadband Customers. YOU UNDERSTAND THAT YOUR COMPUTER OR OTHER DEVICES MAY NEED TO BE OPENED, ACCESSED OR USED EITHER BY YOU OR BY US OR OUR AGENTS, IN CONNECTION WITH THE INSTALLATION OR REPAIR OF BROADBAND. THE OPENING, ACCESSING OR USE OF YOUR COMPUTER OR OTHER DEVICES USED IN CONNECTION WITH YOUR COMPUTER MAY VOID WARRANTIES PROVIDED BY THE COMPUTER OR DEVICE MANUFACTURER OR OTHER PARTIES RELATING TO THE COMPUTER'S OR DEVICE'S HARDWARE OR SOFTWARE. NEITHER POLAR NOR ANY OF ITS AFFILIATES, SUPPLIERS, OR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER AS THE RESULT OF THE VOIDING OF ANY SUCH WARRANTIES.

Other Services or Equipment. BY ACCEPTING THIS AGREEMENT, YOU WAIVE ALL CLAIMS AGAINST POLAR FOR INTERFERENCE, DISRUPTION, OR INCOMPATIBILITY BETWEEN THE POLAR EQUIPMENT OR THE SERVICES AND ANY OTHER SERVICE, SYSTEMS, OR EQUIPMENT. IN THE EVENT OF SUCH INTERFERENCE, DISRUPTION, OR INCOMPATIBILITY, YOUR SOLE REMEDY SHALL BE TO TERMINATE THE SERVICES IN ACCORDANCE WITH SECTION 9.

Software. When you use certain features of the Services, such as online features (where available), you may require special software, applications, and/or access to the Internet, Polar makes no representation or warranty that any software or application installed on Customer Equipment, downloaded from the Service, or available through the Internet does not contain a virus or other harmful feature. It is your sole responsibility to take appropriate precautions to protect any Customer Equipment from damage to its software, files, and data as a result of any such virus or other harmful feature. We may, but are not required to, terminate all or any portion of the installation or operation of the Services if a virus or other harmful feature or software is found to be present on your Customer Equipment. We are not required to provide you with any assistance in removal of viruses. If we decide, in our sole discretion, to install or run virus check software on your



Customer Equipment, we make no representation or warranty that the virus check software will detect or correct any or all viruses. You acknowledge that you may incur additional charges for any service call made or required on account of any problem related to a virus or other harmful feature detected on your Customer Equipment. NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OF ANY HARDWARE, SOFTWARE, FILES, OR DATA RESULTING FROM A VIRUS, ANY OTHER HARMFUL FEATURE, OR FROM ANY ATTEMPT TO REMOVE IT.

In addition, as part of the installation process for the software and other components of the Service, system files on your Customer Equipment may be modified. Polar does not represent, warrant or covenant that these modifications will not disrupt the normal operations of any Customer Equipment including without limitation your computer(s), or cause the loss of files. Polar does not represent, warrant, or covenant that the installation of the special software or applications or access to our Web portal(s) will not cause the loss of files or disrupt the normal operations of any Customer Equipment, including but not limited to your computer(s). FOR THESE AND OTHER REASONS, YOU ACKNOWLEDGE AND UNDERSTAND THE IMPORTANCE OF BACKING UP ALL FILES TO ANOTHER STORAGE MECHANISM PRIOR TO SUCH ACTIVITIES. YOU UNDERSTAND AND ACCEPT THE RISKS IF YOU DECIDE NOT TO BACK UP FILES. NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OF ANY SOFTWARE, FILES, OR DATA.

Disruption of Service. The Services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Services could lead to severe injury to business, persons, property or environment (“High Risk Activities”). These High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required. You expressly assume the risks of any damages resulting from High Risk Activities. We shall not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the Services, directly or indirectly caused by, or proximately resulting from, any circumstances beyond our control, including, but not limited to, causes attributable to you or your property; inability to obtain access to the Premises; failure of any cable signal at the transmitter; failure of a communications satellite; loss of use of poles or other utility facilities; strike; labor dispute; riot or insurrection; war; explosion; malicious mischief; fire, flood, lightning, earthquake, wind, ice, extreme weather conditions or other acts of God; failure or reduction of power; or any court order, law, act or order of government restricting or prohibiting the operation or delivery of the Services. In all other cases an interruption of the Services, you shall be entitled upon a request made within sixty (60) days of such interruption, to a pro rata credit for any Service interruption exceeding twenty-four consecutive hours after such interruption is reported to us, or such other period of time as may be specifically provided by law. Unless specifically otherwise provided by law, such credit shall not exceed the



fixed monthly charges for the month of such Service interruption and excludes all nonrecurring charges, one-time charges, per call or measured charges, regulatory fees and surcharges, taxes and other governmental and quasi-governmental fees. EXCEPT AND UNLESS SPECIFICALLY PROHIBITED BY LAW, SUCH CREDIT SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY FOR AN INTERRUPTION OF SERVICE. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES FROM WHATEVER CAUSE, INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OR WAGES. Any credits provided by Polar are at our sole discretion and in no event shall constitute or be construed as a course of conduct by Polar.

Third Parties. Notwithstanding anything to the contrary in this Agreement, you acknowledge and understand that we may use third parties to provide components of the Services, including without limitation their services, equipment, infrastructure or content. Polar is not responsible for the performance (or non-performance) of third-party services, equipment, infrastructure or content, whether or not they constitute components of the Services. Polar shall not be bound by any undertaking, representation or warranty made by an agent or employee of Polar or of our underlying third-party providers and suppliers in connection with the installation, maintenance or provision of the Services, if that undertaking, representation or warranty is inconsistent with the terms of this Agreement. In addition, you understand that you will have access to the services and content of third parties through the Service(s), including without limitation that of content providers (whether or not accessible directly from the Service). Polar is not responsible for any services, equipment, infrastructure and content that are not provided by us (even if they are components of the Service), and we shall have no liability with respect to such services, equipment, infrastructure and content. You should address questions or concerns relating to such services, equipment, infrastructure and content to the creators of such services, equipment, infrastructure and content.

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

Damages. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL UNDER ANY CIRCUMSTANCES OR UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO TORT OR CONTRACT) HAVE ANY LIABILITY TO THE CUSTOMER OR TO ANY OTHER PERSON OR ENTITY FOR THE FOLLOWING LOSSES, DAMAGES, OR COSTS: (i) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, TREBLE, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF EARNINGS, LOSS OF BUSINESS OPPORTUNITIES, PERSONAL INJURIES OR DEATH) THAT RESULT DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH (a) YOUR RELIANCE ON OR USE OF THE POLAR EQUIPMENT OR THE SERVICES OR (b) THE INSTALLATION, SELF-INSTALLATION, MAINTENANCE, FAILURE, OR



REMOVAL OF THE SERVICES (INCLUDING BUT NOT LIMITED TO ANY MISTAKES, OMISSIONS, INTERRUPTIONS, COMPUTER OR OTHER HARDWARE OR SOFTWARE BREACH, FAILURES OR MALFUNCTIONS, DELETION OR CORRUPTION OF FILES, WORK STOPPAGE, ERRORS, DEFECTS, DELAYS IN OPERATION, DELAYS IN TRANSMISSION OR FAILURE OF PERFORMANCE OF THE SERVICE, THE POLAR EQUIPMENT OR THE CUSTOMER EQUIPMENT, OR ANY OTHER MISTAKES, OMISSIONS, LOSS OF CALL DETAIL, E-MAIL, VOICEMAIL OR OTHER INFORMATION OR DATA); OR (ii) ANY LOSSES, CLAIMS, DAMAGES, EXPENSES, LIABILITIES, LEGAL FEES, OR OTHER COSTS THAT RESULT DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH ANY ALLEGATION, CLAIM, SUIT, OR OTHER PROCEEDING BASED UPON A CONTENTION THAT THE USE OF THE POLAR EQUIPMENT OR THE SERVICES BY YOU OR ANY OTHER PERSON OR ENTITY INFRINGES UPON THE CONTRACTUAL RIGHTS, PRIVACY, CONFIDENTIALITY, COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

Dispute Resolution. Most customer concerns can be resolved quickly and to the customer's satisfaction by calling Polar at 1-800-284-7222. In the unlikely event that Polar's customer service department is unable to resolve a complaint you may have to your satisfaction (or if Polar has not been able to resolve a dispute it has with you after attempting to do so informally), we each agree to resolve those disputes through small claims court instead of in courts of general jurisdiction.

Survival of Limitations. All representations, warranties, indemnifications, and limitations of liability contained in this Agreement shall survive the termination of this Agreement; any other obligations of the parties hereunder shall also survive, if they relate to the period before termination or if, by their terms, they would be expected to survive such termination.

### **Indemnification and Liability of Customer**

YOU AGREE THAT YOU SHALL BE RESPONSIBLE FOR AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS POLAR AND ITS EMPLOYEES, AFFILIATES, SUPPLIERS, AGENTS AND CONTRACTORS AND SHALL REIMBURSE US FOR ANY DAMAGES, LOSSES OR EXPENSES (INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND COSTS) INCURRED BY US IN CONNECTION WITH ANY CLAIMS, SUITS, JUDGMENTS AND CAUSES OF ACTION ARISING OUT OF (i) YOUR USE OF THE SERVICE OR POLAR EQUIPMENT; (ii) VIOLATION OR INFRINGEMENT OF CONTRACTUAL RIGHTS, PRIVACY, CONFIDENTIALITY, COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY AND PROPRIETARY RIGHTS ARISING FROM YOUR USE OF THE SERVICE OR ANY UNAUTHORIZED APPARATUS OR SYSTEM; AND (iv) YOUR BREACH OF ANY PROVISION OF THIS AGREEMENT.

### **General**



Entire Agreement. This Agreement and any other documents incorporated by reference constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement, and they replace any and all prior written or verbal agreements. If any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of the provisions shall remain in full force and effect. If Polar fails to insist upon or enforce strict performance of any provision of this Agreement, it shall not thereby waive any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.

Additional Representations and Warranties. In addition to representations and warranties you make elsewhere in this Agreement, you also represent and warrant that you are at least 18 years of age.

Customer Information: During the term of this Agreement, you have provided and will provide to Polar information that is accurate, complete and current, including without limitation your legal name, address, telephone number(s), the number of computers on which the Service is being accessed and payment data (including without limitation information provided when authorizing recurring payments). You agree to notify us promptly, in accordance with the terms of this Agreement, if there is any change in the information that you have provided to us. If you fail to provide and maintain accurate information, you will breach this Agreement.

Information Provided to Third Parties. Polar is not responsible for any information provided by you to third parties, and this information is not subject to the privacy provisions of this Agreement or the privacy notice for the Services. You assume all privacy, security and other risks associated with providing CPNI or personally identifiable information to third parties via the Services. For a description of the privacy protections associated with providing information to third parties, you should refer to the privacy policies, if any, provided by those third parties.

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



Protection of Polar's Information and Marks. All Service information, documents, and materials on our Web sites are protected by trademark, copyright or other intellectual property laws, and international treaty provisions. All Web sites, corporate names, service marks, trademarks, trade names, logos, and domain names (collectively "marks") of Polar and its affiliates are and shall remain the exclusive property of Polar. Nothing in this Agreement shall grant you the right or license to use any of the marks.

Export Laws. You expressly agree to comply with all applicable export and re-export laws, including but not limited to the Export Administration Act, the Arms Export Control Act, and their implementing regulations. You further expressly agree not to use the Services in any way that violates any provision of these export and re-export laws or their implementing regulations.

Retention of Rights. Nothing contained in this Agreement shall be construed to limit Polar's rights and remedies available at law or in equity. Upon termination of this Agreement for any reason, Polar and its suppliers reserve the right to delete all your data, files, electronic messages or other Customer information that is stored on Polar's or its suppliers' servers or systems. In addition, you may forfeit your account user name and all e-mail, IP, web space addresses and voice mail. We shall have no liability whatsoever as the result of the loss of any such data, names or addresses.

## **Software**

The Services use and include certain software and/or firmware (the "Software"). Some Software resides on the equipment provided to you by Polar.

End User License Agreement. If you downloaded or installed Software, your use of that Software is subject to the End User License Agreement that accompanied that Software. With regard to any Software (including Software upgrades, changes, or supplements) which is not accompanied by an End User License Agreement, Polar, or its applicable third party licensors, grants you a limited, personal, non-transferable, and non-exclusive right and license to use the object code of its Software on the Equipment; provided that you do not (and do not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble, or otherwise attempt to discover any source code or structure, sequence and organization of, sell, assign, sublicense, distribute, rent, lease, grant a security interest in, or otherwise transfer any right in the Software. You acknowledge that this license is not a sale of intellectual property and that Polar or its third party licensors, providers or suppliers continue to own all right, title and interest to the Software and related documentation. The Software is protected by the copyright laws of the United States and international copyright treaties.

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

Intellectual Property. All portions of the Services and Equipment and any firmware or software used to provide the Services or provided to you in conjunction with providing the Services, or embedded in the Equipment, and all Services, information, documents, and materials on related web site(s) are the property of Polar or third-party providers and are protected by trademark, copyright, or other intellectual property laws and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos, and domain names (collectively "Marks") of Polar or third-party providers are and shall remain the exclusive property of Polar or third-party providers, and nothing in this Agreement shall grant you the right or license to use such Marks.

**Additional Limitations on Polar's Liability for Broadband.**

Responsibility for Content. You acknowledge that there is some content and material on the Internet or otherwise available through Broadband which may be offensive to some individuals, may be unsuitable for children, may violate federal, state or local laws, rules or regulations or may violate your protected rights or those of others. We assume no responsibility for this content or material. Anyone who accesses such content and material does so at his or her own risk. NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS ARISING OUT OF OR OTHERWISE RELATING TO ACCESS TO SUCH CONTENT OR MATERIAL BY YOU OR OTHERS. Questions or complaints regarding content or material should be addressed to the content or material provider. You acknowledge that software programs are commercially available that claim to be able to restrict access to sexually explicit or other objectionable material on the Internet. We make no representation or warranty regarding the effectiveness of such programs.

Monitoring of Postings and Transmissions. Polar shall have no obligation to monitor postings or transmissions made in connection with Broadband except as may be required by law. However, you acknowledge and agree that Polar and its agents have the right to monitor, from time to time, any such postings and transmissions, including without limitation e-mail, newsgroups, chat, IP audio and video, and Web space content. Polar may also use and disclose them in accordance with the Polar High-Speed Internet Acceptable Use Policy and other applicable policies, and as otherwise required by law or government request. We reserve the right to refuse to upload, post, publish, transmit or





store any information or materials, in whole or in part, that, in our sole discretion, is unacceptable, undesirable or in violation of this Agreement.

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

NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, OR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS ARISING OUT OF OR OTHERWISE RELATING TO SUCH ACTIONS BY YOU. You acknowledge that software programs are commercially available that claim to be capable of encryption or anonymization. We make no representation or warranty regarding the effectiveness of these programs.

FTP/HTTP Service Setup. You acknowledge that when using Broadband there are certain applications such as FTP (File Transfer Protocol) or HTTP (Hyper Text Transfer Protocol) which may be used by other persons or entities to gain access to Customer's Equipment. You are solely responsible for the security of the Customer Equipment or any other equipment you choose to use in connection with the Service, including without limitation any data stored on such equipment. NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS RESULTING FROM, ARISING OUT OF OR OTHERWISE RELATING TO THE USE OF SUCH APPLICATIONS BY YOU, OR THE ACCESS BY OTHERS TO THE CUSTOMER EQUIPMENT OR OTHER EQUIPMENT OF YOURS.

File and Print Sharing. Broadband may function in some ways as a Local Area Network (LAN) with each Customer constituting a node on the network. As such, users outside of the Premises may be able to access the Customer Equipment and other equipment connected in some way to the Customer Equipment. In addition, some available software includes capabilities that will permit other users to gain access to the Customer Equipment and other equipment connected in some way to the Customer Equipment, and to the software, files and data stored on such equipment. Unless you are subject to a Broadband service plan that expressly provides otherwise, we recommend that you connect only a single computer to Broadband and that you disable file and print sharing and other capabilities that allow outside users to gain access to the Customer Equipment. You acknowledge that if you fail to follow these recommendations and choose to run these applications, you should take appropriate security measures, and that you do so at your sole risk. NEITHER POLAR NOR ITS AFFILIATES, SUPPLIERS, OR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS RESULTING FROM, ARISING



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