

## GOLDEN WEST AGREEMENT FOR NON-CONTRACTUAL SERVICES

### About this Agreement

Golden West's non-contractual telephone, internet, and cable TV services ("Service" or "Services"), and any other services Golden West may determine are ancillary to these telephone, internet, and cable TV services, will be provided to you and all persons who use the Service(s) ("You", "Your", "Customer") on the terms and conditions set forth in this Agreement (the Agreement). You may not modify this Agreement by making any typed, handwritten, or any other changes for any purpose.

### General Terms and Conditions

- 1.) **Services:** Golden West offers non-contractual Services described on the Product Pages found at [www.goldenwest.com](http://www.goldenwest.com). The descriptions found on these product pages assume that the Service(s) are provisioned in the best possible environment. It may not be possible for the Service, as utilized by Customer, to meet or reach these descriptions.
- 2.) **Acceptance and Term of this Agreement:** If you use or otherwise indicate your acceptance of the Service(s), you have accepted this Agreement and agree to be bound by its terms. The Term of this Agreement will commence on the date Customer orders services (Effective Date) and continue through termination of Service(s) (Termination Date).
- 3.) **Use of Services:** You acknowledge that you are accepting this Agreement on behalf of all persons who use the Golden West Equipment and/or Service(s) at the Premises or at other locations authorized by Golden West 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 policies including, but not limited to, Golden West's acceptable use and privacy policies. You are liable for all authorized and unauthorized use of the Service(s) and you agree to notify Golden West immediately in writing or by calling Golden West during normal business hours if the Golden West Equipment has been stolen or the Service(s) is used without your authorization. If you fail to notify Golden West in a timely manner, the Service(s) may be terminated without notice and you may incur additional charges. The acceptable use policy ("AUP") and other policies concerning Service(s) are posted at <https://www.goldenwest.com/support/policies-and-information/> (or an alternative website if Golden West so notifies you). You agree that Golden West may modify the AUP or other policies from time to time with or without notice, by posting a new version of the AUP or other policy. You and other users of the service(s) should consult the AUP and all other posted policies regularly to conform to the most recent version. Golden West reserves the right to limit or block any service usage as Golden West deems necessary to prevent harm to Golden West's network, fraud, or other abuse of the service(s).
- 4.) **Charges and Billings:**
  - a. **Payments:** Customer will pay, without deduction or set-off, the fees set out on the Product Page and disclosed at point of sale for each of the Services purchased by Customer. Invoices are delivered monthly. Golden West bills in advance for Services to be provided during the upcoming month, except for charges that are dependent upon usage of Services, which are billed in arrears. Billing for partial months is prorated to the next billing statement. Current charges are due upon receipt.
  - b. **Billing & Collection Dates:**

<b>Golden West Billing Cycles</b>	<b>Cycle 1</b>	<b>Example</b>	<b>Cycle 10</b>	<b>Example</b>
<b>Bills Mailed</b>	<b>1st</b> Current Month	<b>Jan. 1st</b>	<b>10th</b> Current Month	<b>Jan. 10th</b>
<b>Payments Due</b> A 1.5% late charge is assessed on unpaid balances after this date. Past Due notices will appear on the next month's bill for accounts with unpaid balances.	<b>20th</b> Current Month	<b>Jan. 20th</b>	<b>1st</b> Next Month	<b>Feb. 1st</b>
<b>Final Notices Sent</b> for Past Due Accounts	<b>25th</b> Current Month	<b>Jan. 25th</b>	<b>5th</b> Next Month	<b>Feb. 5th</b>
<b>Late Payment Arrangements Required</b> to Avoid Disconnection	<b>6th</b> Next Month	<b>Feb. 6th</b>	<b>16th</b> Next Month	<b>Feb. 16th</b>
<b>Past Due Accounts Disconnected</b> in Accordance with South Dakota PUC and FCC Rules	<b>7th</b> Next Month	<b>Feb. 7th</b>	<b>17th</b> Next Month	<b>Feb. 17th</b>

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- c. **Other Billing and Collection Guidelines:**

1. Once a service is disconnected for nonpayment, the entire billing amount owed plus reconnect fees must be paid prior to reconnecting service(s). An advance payment may also be required at this time.
  2. Unbundled services (telephone, cable TV, internet or long distance) will not be reconnected until the individual service has been paid in full.
  3. Bundled services disconnected due to nonpayment must be paid in full plus reconnection fees to reconnect any type of service.
  4. Deniable and Non-Deniable Charges:
    - Non-payment of the following charges will result in the disconnection of basic local telephone service: local telephone service or subscription to a bundled service.
    - Non-payment of the following charges will not result in the disconnection of local telephone service: cable TV, internet and long-distance services.
  5. An administrative service fee up to the maximum allowed by the state shall be assessed for each non-sufficient fund check issued by a customer.
  6. Golden West does not accept post-dated or two-party checks.
- d. Customer shall pay any and all applicable federal, state and local sales, use, value added, excise, duty and any other taxes of any nature assessed on the Services.
- e. Customer may choose to add Services that are provided by Third Parties (Third Party Services). As a convenience to Customer, Golden West may agree to add the fees for the Third Party Services to Customer's invoice. Customer is responsible for these fees regardless of when they are invoiced to Customer.
- f. **Bill Disputes.** Customer has up to twenty-five days (commencing five days after the date of Golden West's bill, or on the date on which Customer's credit card is charged) to initiate a dispute over charges, or to receive credits, if applicable. In order to dispute Customer's bill, Customer must provide Golden West a written itemized description of the specific items it disputes in its bill. This itemization must be in sufficient detail for Golden West to identify the items in dispute. Golden West must receive this information prior to the date set out above. Customer agrees to pay all charges not specifically itemized in Customer's written notice of dispute by the Due Date.

5.) **Changes to Services:** Subject to applicable law, Golden West has the right to change its Service(s) Equipment, rates, and charges at any time with or without notice to you. Golden West also may rearrange, delete, add to, or otherwise change programming or features or offerings contained in the Service(s), including, but not limited to, content, functionality, hours of availability, Equipment requirements, speed, and upstream and downstream rate limitations. Golden West may deliver any notice concerning changes to the Service(s) and Golden West's relationship with you, including notice of any change to this Agreement, in any one or more of the following ways, as determined by Golden West's sole discretion: 1.) by posting on [www.goldenwest.com](http://www.goldenwest.com); 2.) by mail to your address of record; 3.) by e-mail to the e-mail address of record; 4.) message on your Golden West bill. You agree that any one of the foregoing will constitute sufficient and effective notice under this Agreement. If any material change negatively affects your Service(s), you have the right to cancel your Service(s). Your continued receipt of the Service(s) for more than 30 days after the change, however, will constitute your acceptance of the change.

6.) **Maintenance and Ownership of Equipment and Software**

- a. **Golden West Equipment:** Golden West Equipment (also "Equipment") means all new or reconditioned equipment that Golden West or its agent provides or leases to you, including, but not limited to, cabling or wiring (except for Inside Wiring, as defined in Section 6(c) below) and related electronic devices, modems, routers, set-top boxes, and any other hardware and includes all software and programs contained within Golden West Equipment or downloaded to Customer Equipment by Golden West. You expressly agree that you will use the Golden West Equipment exclusively in connection with the Service(s). You agree that all Golden West Equipment belongs to Golden West or other third parties and will not be deemed fixtures or in any way part of the Premises. Golden West may remove or change the Golden West Equipment at its discretion at any time the Service(s) are active or following the termination of your Service(s). You acknowledge that any addition to, removal of or change to the Golden West Equipment may interrupt your Service(s). You may not sell, lease, abandon, or give away the Golden West Equipment, or permit any other service provider to use the Golden West Equipment, including Golden West Equipment for which an Unreturned Equipment Fee has been paid. The Golden West Equipment may only be used in the Premises unless expressly permitted by Golden West. At your request, Golden West may relocate the Golden West Equipment for an additional charge. You understand and acknowledge that if you attempt to install or use the Golden West Equipment or service(s) at a location other than the premises or otherwise expressly authorized

by Golden West, the service(s) may fail to function or may function improperly. You agree that you will not allow anyone other than Golden West or its agents to service the Golden West Equipment. You are responsible for loss, repair, replacement and other costs, damages, fees and charges if you do not return the Golden West Equipment to Golden West in an undamaged condition. For avoidance of doubt, Golden West Equipment remains Golden West-owned equipment, and Golden West retains title to all Golden West Equipment, at all times, including but not limited to after payment of an Unreturned Equipment Fee.

- b. **Customer Equipment:** "Customer Equipment" means software, hardware or services that you choose to use in connection with the Service(s) and that is not provided or leased by Golden West. Notwithstanding the last sentence, any equipment purchased by you from Golden West shall constitute "Customer Equipment". Golden West has no responsibility for the operation, support, maintenance or repair of any inside wiring or Customer Equipment including, but not limited to, Customer Equipment to which Golden West or a third party has sent software or downloads. You agree that by using the Service(s), Golden West, or its authorized agents and equipment manufacturers, are authorized to send updates to the Customer Equipment.
- c. **Inside Wiring:** You may install wiring inside the Premises ("Inside Wiring"), such as additional cable wiring and outlets, provided that doing so does not interfere with the normal operations of Golden West's network. If you have Golden West install, repair or maintain Inside Wiring, Golden West may charge you for that service. Regardless of who installed it, the Inside Wiring is your property or the property of whomever owns the Premises. If you do not own the Premises, contact your landlord or building manager about the installation, repair or maintenance of Inside Wiring.
- d. **End User Software Licenses:** Software or applications may be required to use certain features of the Service(s). You agree to comply with the terms and conditions of all end user license agreements accompanying any software or plug-ins to such software distributed or used in connection with the Service(s). All such agreements are incorporated in this Agreement by reference. When this Agreement terminates, all end user licenses also terminate and you agree to destroy all versions and copies of all software received by you in connection with the Service(s).
- e. **Revocable License:** The Service(s) and Golden West Equipment, including, but not limited to, any firmware or software embedded in the Golden West Equipment or used to provide the Service(s), 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 Golden West Equipment or used to provide the Service(s). You shall not take any action nor allow anyone else to take any action that will reverse compile, disassemble, reverse engineer, or otherwise attempt to derive the source code from the binary code of the firmware or software.

#### 7.) Access to Your Premises and Customer Equipment:

- a. **Premises:** You agree to allow Golden West and its agents the right to enter your property at which the Service(s) and Equipment will be provided (the "Premises") at reasonable times, for purposes of installing, configuring, maintaining, inspecting, upgrading, replacing and removing the Service(s) and/or Equipment used to receive any of the Service(s). You warrant that you are either the owner of the Premises or that you have the authority to give Golden West access to the Premises. If you are not the owner of the Premises, you are responsible for obtaining any necessary approval from the owner to allow Golden West and its agents into the Premises to perform the activities specified above. In addition, you agree to supply Golden West or its agent, if requested, the owner's name, address, and phone number and/or evidence that the owner has provided such authorization. You also agree that children will not be left unattended and pets will be secured in kennels or otherwise safely confined for the entire time Golden West is on your property.
- b. **Customer Equipment:** You agree to allow Golden West and its agents the rights to insert hardware in the Customer Equipment, send software and/or "downloads" to the Customer Equipment and install, configure, maintain, inspect and upgrade the Customer Equipment. You warrant you are either the owner of the Customer Equipment or that you have the authority to give Golden West access to the Customer Equipment. If you are not the owner of the Customer Equipment, you are responsible for obtaining any necessary approval from the owner to allow Golden West and its agents access to the Customer Equipment to perform the activities described in this paragraph. In addition, you agree to supply Golden West or its agents, if Golden West asks, the owner's name, address and phone number and/or evidence that the owner provided such

authorization. For avoidance of doubt, "Customer Equipment" does not include "Golden West Equipment" or "Equipment" for which you will be required to return or pay for upon termination in accordance with Section 3.c.

- 8.) Assignability:** Either Party may assign this Agreement pursuant to a merger, acquisition, sale of all or substantially all assets, corporate reorganization, or other similar transaction, provided that assignee assumes, and is capable of assuming, all obligations (including financial) of the assigning party, and in the case of Customer, the scope of use of any Services provided hereunder will not be expanded beyond the business of Customer and its majority-owned subsidiaries and such an assignment is not to a competitor of Golden West. Golden West may assign its right to payment hereunder or grant a security interest in this Agreement or such payment right to any third party.
- 9.) Termination of this Agreement:**
- a. Termination by You.** Unless your Service(s) are subject to a minimum term agreement, you may terminate this Agreement for any reason at any time by notifying Golden West in one of the following ways: (1) mailing a written notice to Golden West's local business office; (2) send an electronic notice to the email address specified on [www.goldenwest.com](http://www.goldenwest.com); or (3) calling Golden West customer service during normal business hours at 1-855-888-7777. Prior to effecting such termination, or any other change to your account, Golden West may verify your identity and confirm your election. Subject to applicable law or the terms of any agreements with governmental authorities, all applicable fees and charges for the Service(s) will accrue until this Agreement has terminated, the Service(s) has been disconnected, and all Golden West Equipment has been returned. Except for non-refundable fees and charges, Golden West will refund all prepaid monthly service fees charged for Service(s) after the date of termination (less any outstanding amounts due us for the Service(s), affiliate services, Golden West Equipment, or other applicable fees and charges).
    - **For Telephone,** Telephone service will be terminated if your phone number is switched to another service provider. If there is Golden West provided internet service at the location, the price of the internet service will increase upon termination of telephone service. Pricing for stand-alone internet service can be located on the product pages on Golden West's website.
  - b. Suspension and Termination by Golden West.** Subject to applicable law, Golden West reserves the right to act immediately and without notice to terminate or suspend the Service(s) and/or to remove from the Service(s) any information transmitted by or to any users (e.g., email or voicemail). Golden West may take these actions if Golden West: (1) determines your account is not current according Golden West's Charges and Billings requirements defined in Section 4, (2) determine that your use of the Service(s) does not conform with the requirements set forth in this Agreement or the AUP, (3) determine that your use of the Service(s) interferes with Golden West's ability to provide the Service(s) to you or others, (4) reasonably believe that your use of the Service(s) may violate any laws, regulations, or written and electronic instructions for use, (5) reasonably believe that your use of the Service(s) interferes with or endangers the health and/or safety of Golden West personnel or third parties or (6) you threaten, harass, or use vulgar and/or inappropriate language toward Golden West personnel. Our action or inaction under this Section shall not constitute review or approval of your or any other users' use of the Service(s) or information transmitted by or to you or other users.
  - c. Upon Termination by You or Golden West:**
    1. Prospective fees under this Agreement shall cease; provided, however, Golden West shall be entitled to immediate payment for fees due for periods and partial periods that occur before the effective date of termination and for which Golden West has not yet been paid.
    2. Golden West has no responsibility to forward email, or other communications, once Customer's account is closed. Any information stored by Golden West as part of a backup service will be deleted or otherwise made inaccessible. Customer is encouraged to keep the Services active during a transition period should Customer seek to forward its email or other communications. Customer is responsible for any Fees during that time.
    3. If Golden West provides Equipment ("Golden West Equipment" or "Equipment") to Customer to facilitate its access to the Service, Customer is required to return this Equipment to Golden West within ten days of the date the Service is terminated. Customer will be charged for the Equipment upon disconnect. Once the Equipment is received by Golden West, the charge will be removed. It is Customer's obligation to ensure that the Equipment arrives in working order. If Customer has not previously notified Golden West that the Equipment no longer operates, Customer agrees that the Equipment was damaged in transit. Customer agrees to pay for the cost of replacement of any damaged Equipment.

## 10.) Default and Effect of Default

- a. **Default By Golden West:** For the purposes of this Agreement, Golden West shall be deemed in default in the event that Golden West fails to observe and perform any material term (as understood within the internet industry) of this Agreement and such failure continues for a period of thirty days after written notice from Customer; then Customer may terminate this Agreement and any Order Form in whole or in part, in which event Customer shall have no further duties or obligations under this Master Agreement.
- b. **Default By Customer:** For the purposes of this Agreement, Customer shall be deemed in default in the event that: (i) Customer becomes the subject of a voluntary or involuntary bankruptcy, insolvency, reorganization or liquidation proceeding; (ii) Customer makes an assignment for the benefit of creditors; (iii) Customer admits in writing its inability to pay debts when due; (iv) Customer fails to observe and perform any material term of this Agreement and such failure continues for a period of thirty days after written notice from Golden West; (v) Customer fails to make any payment required hereunder when due; (vi) Customer violates the AUP, Privacy Policy, or any other agreement incorporated into this Agreement; In the event of Customer's default hereunder, Golden West may (A) suspend performance and/or terminate this Agreement, after which Golden West shall have no further duties or obligations under this Master Agreement, and/or (B) pursue any remedies Golden West may have under this Agreement, at law or in equity.

**11.) Confidentiality:** Any nonpublic information disclosed by a party or its affiliates, its related entities and/or agents (collectively, "Disclosing Party") designated confidential or that, under the circumstances surrounding receipt, the receiving party ("Receiving Party") should or would be reasonably expected to know is treated as confidential by Disclosing Party ("Confidential Information"), will be kept strictly confidential by Receiving Party and will not, without the Disclosing Party's authorization, be disclosed to any third party or used by the Receiving Party for its own benefit except as set out in this Agreement. Confidential Information does not include information: (i) known to Receiving Party before receipt hereunder or later independently developed without reference to the Confidential Information; (ii) lawfully obtained from a third party without restriction and without breach of an obligation to keep it confidential; or (iii) that becomes publicly available other than as a result of an act or omission of Receiving Party. If this Agreement expires or terminates for any reason, Receiving Party will delete, destroy, or return to Disclosing Party, at Disclosing Party's option, all copies and partial copies of any Confidential Information, and certify that it has done so by an officer's affidavit.

**12.) Contact Information:** Customer agrees to provide Golden West accurate, current and complete information as may be required to order service. Golden West relies on this information to contact Customer and administer its account. Customer's failure to provide current, accurate and complete information releases Golden West from any damages Customer may sustain, or claims made by Customer based on Golden West's inability to contact Customer or otherwise provide the Service(s).

## 13.) Limited Warranty

The Golden West equipment and residential service(s) are provided "as is," without warranty of any kind, either express or implied. Neither Golden West nor its affiliates, suppliers, employees, agents, contractors, distributors, licensors or business partners warrant that the Golden West equipment or the service(s) will meet your requirements, that any communications will be transmitted in uncorrupted form, provide uninterrupted use, or operate as required, without delay, or without error. 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.

## 14.) Limitation of Our Liability

- a. **Application.** The limitations of liability set forth in this Section apply to any acts, omissions, and negligence of Golden West and its underlying third-party service providers, agents, suppliers, distributors, licensors and business partners (and their respective officers, employees, agents, contractors or representatives) which, but for that provision, would give rise to a cause of action in contract, tort or under any other legal doctrine.
- b. **One Year Limitation Period.** You must commence your action within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute or you waive the right to pursue any claim based on such events or facts. As provided in section 4(f), you must notify us of any billing dispute within 25 days of receiving the charges you dispute or you waive the right to pursue any claim based on such event or facts. If following such notification the dispute is not resolved to your satisfaction you may commence an action in accordance with this agreement for up to one (1) year from receipt of the disputed charges.
- c. **Customer Equipment.** You understand that customer equipment may need to be opened, updated, accessed or

used either by you or by us or our affiliates, employees, agents, contractors, distributors, licensors or business partners, in connection with the installation, updating or repair of the service(s). The opening, accessing or use of customer equipment used in connection with the service(s) may void warranties provided by the manufacturer or other parties relating to the customer equipment hardware or software. Neither Golden West nor any of its affiliates, employees, agents, contractors, distributors, licensors or business partners, shall have any liability whatsoever as the result of the voiding of any such warranties, damage, loss, or destruction to the customer equipment except as may be caused by gross negligence or willful misconduct.

- d. Other Services or Equipment.** By accepting this agreement, you waive all claims against us for interference, disruption, or incompatibility between the Golden West equipment or the service(s) and any other service, systems, or equipment. In the event of such interference, disruption, or incompatibility, your sole remedy shall be to terminate the service(s) in accordance with section 9.
- e. Software.** Golden West makes no representation or warranty that any software or application installed on Customer Equipment, downloaded to Customer Equipment, 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. Golden West may, but is not required to, terminate all or any portion of the Service(s) if a virus or other harmful feature or software is present on your Customer Equipment. If Golden West decides, in its sole discretion, to install or run virus check software on your Customer Equipment, Golden West makes 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 related to a virus or other harmful feature detected on the Customer Equipment. Neither Golden West nor its affiliates, suppliers, employees, agents, contractors, distributors, licensors or business partners 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(s), system files on the Customer Equipment may be modified. Golden West does not represent, warrant or covenant that these modifications will not disrupt the normal operations of any of the Customer Equipment including the loss of files. Golden West 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 of the Customer Equipment. For these and other reasons, you acknowledge and understand the importance of backing up all files to another storage mechanism and you understand and accept the risks if you decide not to back up files. Neither Golden West nor its affiliates, suppliers, employees, agents, contractors, distributors, licensors or business partners shall have any liability whatsoever for any damage to or loss of any software, files, or data.
- f. Disruption of Service.** The Service(s) 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 Service(s) 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. Golden West shall not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the Service(s), directly or indirectly caused by, or proximately resulting from, any circumstances beyond our immediate control, including, but not limited to, causes attributable to you or your property; inability to obtain access to the Premises; failure of any signal at the transmitter; failure of a communications satellite; loss of use of poles, or other utility facilities; labor disputes; riot or insurrection; war; explosion; malicious mischief; fire, flood, lightning, earthquake, 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 Service(s). In all other cases of an interruption of the Service(s), you shall be entitled upon a request made within 120 days of such interruption, to a pro rata credit for any Service(s) 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 provided by law, such credit shall not exceed the fixed monthly charges for the month of such Service(s) 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 services(s). Any additional credits, if any, provided by us are at our sole discretion and in no event shall constitute or be construed as a course of conduct by us.
- g. Third Parties.** Notwithstanding anything to the contrary in this Agreement, you acknowledge and understand

that Golden West may use third parties to provide components of the Service(s), including without limitation, their services, equipment, infrastructure, or content. Golden West shall not be bound by any undertaking, representation or warranty made by an agent, or employee of Golden West's or of its underlying third-party providers and suppliers in connection with the installation, maintenance, or provision of the Service(s), if that undertaking, representation, or warranty is inconsistent with the terms of this Agreement. Golden West is not responsible for any services, equipment, infrastructure, and content that are not provided by Golden West, or the performance (or non-performance) of third-party services, equipment, infrastructure, or content, even if they are components of the Service(s), and Golden West 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 providers of such services, equipment, infrastructure, and content. Golden West does not endorse or warrant any third-party products, services, or content that are distributed or advertised over the Service(s).

**h. Damages.** Except as specifically provided in this agreement, neither Golden West nor its affiliates, suppliers, employees, agents, contractors, distributors, licensors or business partners shall under any circumstances or under any legal theory (including, but not limited to, tort or contract) have any liability to you or to any other person or entity for the following losses, damages, or costs:

- 1.) 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 Golden West equipment, the Customer Equipment or the service(s) or (b) the installation, self-installation, maintenance, failure, or removal of the Golden West equipment, the Customer Equipment or the service(s) (including, but not limited to, any mistakes, omissions, interruptions, 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(s), the Golden West, or the Customer Equipment, or any other mistakes, omissions, loss of call detail, e-mail, voicemail, or other information or data); or
- 2.) 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 Golden West equipment, the Customer Equipment or the service(s) by you or any other person or entity infringes upon the contractual rights, privacy, confidentiality, copyright, patent, trademark, trade secret, or other intellectual property rights of any third party.

**i. Customer's Remedies.** Your sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement.

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

## 15.) Indemnification and Liability

You agree that you shall be responsible for and shall defend, indemnify, and hold harmless Golden West and its employees, affiliates, suppliers, agents, contractors, distributors, licensors and business partners and shall reimburse us for any damages, losses or expenses (including without limitation, reasonable attorneys' fees and costs) incurred by Golden West in connection with any claims, suits, judgments, and causes of action arising out of (a) your use of the service(s), the Golden West equipment or the Customer Equipment; (b) 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(s) or any unauthorized apparatus or system; (c) any claims or damages arising out of the lack of 911/e911 or dialing associated with a home security, home detention, or medical monitoring system; and (d) your breach of any provision of this agreement or any AUP.

## 16.) General

**a. Entire Agreement.** This Agreement and any other documents incorporated by reference constitute the entire agreement and understanding between you and Golden West with respect to the subject matter of this Agreement, and 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. Golden West does not waive any provision or right if Golden West fails to insist

upon or enforce strict performance of any provision of this Agreement. Neither the course of conduct between you and Golden West nor trade practice shall act to modify any provision of this Agreement.

- b. **Waiver of Jury Trial.** Whether in court or in arbitration, you and Golden West agree to waive the right to a trial by jury.
- c. **Additional Representations and Warranties.** In addition to representations and warranties you make elsewhere in this Agreement, you also represent and warrant that:
  - 1. Age: You are at least 18 years of age.
  - 2. Customer Information: You represent and warrant that you have provided Golden West with information that is accurate, complete and current, including without limitation your legal name, address, telephone number(s), social security number, government issued photo identification, the number of devices on which or through the Service(s) is being used, and payment data (including without limitation information provided when authorizing recurring payments). You agree to notify Golden West immediately if there is any change in the information that you have provided to Golden West, including without limitation any change in your telephone number or mobile telephone number. Failure to do so is a breach of this agreement. If you owe any outstanding amounts for the service(s) or have any unreturned equipment, this obligation shall survive the termination of this agreement and shall continue until you pay all outstanding amounts in full and return all equipment. You agree that you shall indemnify, defend and hold us harmless from any claim or liability resulting from your failure to notify Golden West of a change in the information you have provided, including any claim or liability under the telephone consumer protection act (47 U.S.C. sec. 227), and any regulations promulgated thereunder resulting from Golden West attempting to contact you at the mobile telephone number you provided.
- d. **Information Provided to Third Parties.** Golden West is not responsible for any information provided by you to third parties including credit/debit card or banking information, and this information is not subject to the privacy provisions of this Agreement or the privacy notice for the Service(s). You assume all privacy, security, and other risks associated with providing any information, including customer proprietary network information ("CPNI") or personally identifiable information, to third parties via the Service(s). 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.
- e. **Protection of Golden West's Information and Marks.** All Service(s) information, documents, and materials on Golden West's websites 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 Golden West's and its affiliates are and shall remain our exclusive property. Nothing in this Agreement shall grant you the right or license to use any of the marks.
- f. **Retention of Rights.** Nothing contained in this Agreement shall be construed to limit Golden West's rights and remedies available at law or in equity. Upon termination of this Agreement for any reason, Golden West and its agents reserve the right to delete all your data, files, electronic messages or other information that is stored on Golden West's or its suppliers' servers or systems. In addition, you may forfeit your account username and all e-mail, IP and Web space addresses, and voicemail. In the event you cancel telephone without porting your telephone number to another service provider, you will forfeit the telephone number. Golden West shall have no liability whatsoever as the result of the loss of any such data, names, addresses, or numbers.
- g. **Cooperation with Law Enforcement and Legal Documents**
  - 1. Golden West may disclose information, including information that you may consider confidential, to comply with a court order, subpoena, summons, discovery request, warrant, regulation, or governmental requests.
  - 2. Golden West assumes no obligation to inform you that information has been so provided, and in some cases may be prohibited by law from giving such notice.
  - 3. Golden West may also disclose such information when it is necessary for Golden West to protect its business, or others, from harm.

