

## HOMEOWNER AGREEMENT

THIS AGREEMENT (“Agreement”) describes certain billing and other arrangements relating to the communications services provided to homeowners at Southern Walk at Broadlands (“you”) in accordance with the First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Southern Walk at Broadlands dated June 18, 2001, as amended (the “Declaration”).

1. **Telecommunication Services Generally.** As a homeowner in Southern Walk at Broadlands (the “Development”), you will receive a number of services from the Southern Walk at Broadlands Homeowners Association, Inc. (the “HOA”). These services will be provided to you in accordance with the terms of the Declaration and they include basic telephone, internet and video services (the “Basic Communication Services”). The Basic Communication Services are more fully described in the initial disclosure package that you received from the HOA prior to signing your home contract (the “Disclosure Package”). The HOA will provide the Basic Communication Services to you through a contract with OpenBand at Broadlands, LLC (“OBB”) entitled Agreement to Obtain Basic Communication Services and dated November 16, 2001 (the “HOA Contract”). OBB will provide Basic Communication Services to the HOA through a subcontract with OpenBand of Virginia, LLC (“OBV”) and OpenBand Multimedia, LLC (“OBM”). “OBV” and “OBM” are referred to in this Agreement collectively as “OpenBand”.

2. **Premium Services.** You have received information from OpenBand concerning certain premium video, telephone and internet services (the “Premium Services”) that are available from OpenBand. You are free to purchase or reject the Premium Services as you wish. Any Premium Services that you select will be purchased directly from OpenBand and the terms and conditions for these services will be set forth in a separate agreement between you and OpenBand.

3. **Billing.** You will be billed for the Basic Communication Services as part of the monthly fee that you are required to pay as a homeowner in the Development (the “HOA Dues”). The HOA Dues are more specifically described in the Declaration and are subject to change as provided in the Declaration. PLEASE REMEMBER THAT YOU WILL BE REQUIRED TO PAY FOR THE BASIC COMMUNICATION SERVICES EVEN IF YOU DO NOT USE THEM. OpenBand will bill you separately for the following, which are not covered by the HOA Dues: (1) installation and activation charges relating to the Basic Communication Services, (2) equipment rentals (see Section 5) and (3) all charges due in connection with any Premium Services that you elect to purchase from OpenBand (see Section 2). If the HOA Contract is terminated for any reason, OBB and/or OpenBand may continue to provide Basic Communication Service to you and, as long as you do not elect to terminate those services, you will be responsible to pay for them directly.

4. **Acknowledgement.** By signing this Agreement, you acknowledge that:

- (A) you have received prior notice of your obligation to pay for the Basic Communication Services as that obligation is described in Section 3;
- (B) you understand that OBB and OpenBand have incurred significant costs to construct a sophisticated fiber-optic

communications network to provide Basic Communication Services to the Development;

(C) you understand that OBB and OpenBand will incur additional costs to construct, operate and maintain this network;

(D) you understand that affiliates of the real estate developer who is developing the Development, Broadlands Associates, hold an ownership interest in OBB through its wholly-owned subsidiary, Broadlands Communications, LLC;

(E) you agree that making the payments described in this Agreement and the Declaration will benefit you by making the network and the Basic Communication Services available to you;

(F) you understand that the Basic Communication Services are purchased for you by the HOA in the manner described in the Declaration;

(G) in the event that you have problems with the Basic Communication Services, you should contact OpenBand directly to resolve those problems;

(H) you understand that OpenBand will have no direct legal obligations to you with respect to the Basic Communication Services;

(I) you agree to notify any future purchaser of your home of the fact that Basic Communication Services are provided by the HOA pursuant to the Declaration, fees for these services are included as part of the HOA Dues and that these payments must be made even if the Basic Communications Services are not used; and

(J) you have the option to obtain any services (including Basic Communication Services) from any other provider serving the Development, but selecting another service provider and discontinuing use of all or any portion of the Basic Communication Services will not relieve you from your obligation to pay for the Basic Communication Services as part of your HOA Dues in accordance with Section 3.

5. **Special Provision Relating to Video Services.** The Basic Communication Services include video services and one digital converter. If you want to receive video services on more than one television and your other television(s) are not “digital cable ready,” you may need to rent additional digital converters from OpenBand to receive the full spectrum of Basic Communication Services. This rental will be provided at OpenBand’s then-current rates and on OpenBand’s then-current terms and conditions (see Section 3). If you sell your home, you must return all digital converters (including any rented converters) and other equipment prior to the sale.

6. **Special Provisions Relating to Internet Services.**

6.1. The Basic Communication Services include Internet access services (“Internet Services”). To use the Internet Services, your computer must possess the minimum technical specifications listed in Schedule A. OpenBand may change these specifications from time to time by providing you with advance written notice -updated specifications will be available at [www.openband.net](http://www.openband.net).

6.2. Your use of Internet Services will be subject to OpenBand’s acceptable use policy which can be found at [www.openband.net](http://www.openband.net) or may be obtained by sending a written request to OpenBand, Attention: Customer Service, 3725 Concorde Parkway, Suite 100, Chantilly, VA 20151. OpenBand may change this policy from time to time by providing you with advance written notice and updated policies will be available at the website listed above or by written request at the address set forth above.

## HOMEOWNER AGREEMENT

7. Privacy. OpenBand's Privacy Policy is available on the OpenBand website at [www.openband.net](http://www.openband.net). Applicable federal regulations restrict the ability of telephone companies to use, disclose or give other parties access to customer proprietary network information ("CPNI"). CPNI is the information a telephone company may obtain from your use of telecommunications services including items such as the technical configuration of your services, the type of services that you use, the amount of services that you use and the destination of your calls. By signing this Agreement, you agree to waive applicable CPNI restrictions and you authorize OpenBand to use your CPNI to market additional services to you. You can revoke this waiver at any time by providing written notice to OpenBand.

8. Indemnity. You will indemnify and hold harmless OpenBand, OBB, the HOA and their respective affiliates, agents, employees, officers or directors (collectively, the Indemnified Parties") against claims (including, but not limited to, claims for damage to any business or property, or injury to, or death of, any person), actions, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorney's fees) caused by or resulting from any act or omission by you or your contractors, agents, employees or invitees in connection with the Basic Communication Services, Premium Services and/or the facilities and equipment used in connection therewith (collectively, the "Services").

9. Limitation of Liability. The liability of the Indemnified Parties for damages of any nature arising from errors, mistakes, omissions, interruptions, or delays of any Indemnified Party, or their respective contractors, agents, or employees (collectively, "Agents") in the course of establishing, furnishing, rearranging, moving, terminating or changing the Services will not exceed an amount equal to the amounts paid by you for the applicable Service (calculated on a proportional basis where appropriate) during the period during which such error, mistake, omission, interruption or delay occurs. The Indemnified Parties will not be liable for any failure of performance if such failure is due to any cause or causes beyond

the reasonable control of the Indemnified Parties and these causes will include, but are not limited to, acts of God, fire, explosion, vandalism, cable cut, any act of a civil or military authority, terrorism, labor difficulties, supplier failures, and national emergencies. The Indemnified Parties will not be liable for interruptions, delays, errors, or defects in transmissions or for any injury whatsoever, caused by you, or your Agents or invitees or by facilities or equipment provided by you or on your behalf. In no event will the Indemnified Parties be liable for any incidental, indirect, special, or consequential damages (including lost revenue or profits) of any kind whatsoever regardless of the cause or foreseeability of those damages. When the services or facilities of other communication carriers are used separately or in conjunction with the facilities used to provide the Services, the Indemnified Parties will not be liable for any act or omission of such other common carriers or their Agents.

10. Miscellaneous. This Agreement may be amended only by a written amendment executed by all of the parties to this Agreement (each, a "Party" and collectively, the "Parties"). No failure or delay by any Party in exercising any right or remedy under this Agreement and no course of dealing between the Parties shall operate as a waiver of any right, except as otherwise provided herein. No single or partial exercise of any right or remedy by any Party shall preclude any other or further exercise of such right or remedy, except as otherwise provided herein. If any portion of this Agreement is declared invalid or unenforceable by a court or governmental authority of competent jurisdiction, this shall not affect the validity or enforceability of any remaining portion, which such remaining portion(s) shall remain in full force and effect as if this Agreement had been executed with the invalid or unenforceable portions(s) eliminated. This Agreement will be binding upon the Parties and their respective successors in interest and permitted assigns. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Virginia without regard to the conflict of law provisions thereof.

[Signature Page Follows]

**HOMEOWNER AGREEMENT**

In consideration of the promises and the mutual covenants and agreements contained in this Agreement and the Declaration, and intending to be legally bound hereby, the parties listed below execute this Agreement as of the day written below, with the intent and expectation of being legally bound hereby.

**OPENBAND AT BROADLANDS, LLC**

By: \_\_\_\_\_  
Name: William H. Dean  
Title:

**OPENBAND OF VIRGINIA, LLC  
OPENBAND MULTIMEDIA, LLC**

By: \_\_\_\_\_  
Name: William H. Dean  
Title: President

**SOUTHERN WALK AT BROADLANDS HOMEOWNERS ASSOCIATION, INC.**

By: \_\_\_\_\_  
Name: Patricia M. Leader  
Title: President

**HOMEOWNER(S)**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

## **HOMEOWNER AGREEMENT**

### **Schedule A**

PC: Windows Me/95/98/2000/NT 4.0 minimum; CPU with Pentium (133MHz or higher) or equivalent; Memory/System RAM with 32MB; 150MB of Free Disk Space; CD-ROM drive; Ethernet Port.

MAC: Operating system 8.5; CPU with 120MHz or greater; Memory/System RAM of 32MB; 50MB in Free Disk Space; CD-ROM drive; Ethernet Port.