

**QWEST CORPORATION WHOLESALE DATA SERVICES AGREEMENT  
FOR MONTH-TO-MONTH SERVICE**

**GENERAL TERMS AND CONDITIONS**

**THIS AGREEMENT** is between Qwest Corporation dba CenturyLink QC, including its subsidiary El Paso County Telephone Company ("CenturyLink") and Customer. "Customer" means a customer that previously purchased one or more of the Services under the FCC1 Tariff that was either month-to-month as of April 15, 2009 or that will go month-to-month after April 15, 2009 and is not party to a fully executed Wholesale Data Services Agreement. This Agreement is Effective on the later of either: (a) April 15, 2009 or (b) the date on which Customer's Term Plan ends and Service goes month-to-month. Unless otherwise defined in the Agreement, capitalized terms are defined in Addendum 1. Each CenturyLink entity is responsible only for providing Service in its respective territory, and in no case will one CenturyLink entity be liable to Customer for actions or failures of another CenturyLink entity. The most current version of this Agreement and the Service Exhibits can be found at: [qwest.centurylink.com/legal](http://qwest.centurylink.com/legal).

**WHEN CUSTOMER USES OR PAYS FOR THE SERVICES AFTER THE EFFECTIVE DATE, CUSTOMER IS ACCEPTING THE TERMS OF THIS AGREEMENT. FROM THE EFFECTIVE DATE UNTIL SUCH TIME AS CUSTOMER DISCONNECTS THE SERVICES, CUSTOMER'S PAYMENT FOR AND USE OF THE SERVICES WILL BE GOVERNED BY THE TERMS OF THIS AGREEMENT. IF CUSTOMER DOES NOT WISH TO PROCEED UNDER THESE TERMS, CUSTOMER MUST NOT USE THE SERVICE AND MUST TERMINATE THE SERVICES BEFORE THE EFFECTIVE DATE. TO TERMINATE THE SERVICES, CUSTOMER MUST NOTIFY CENTURYLINK BY ISSUING AN ORDER FORM AT LEAST TWO BUSINESS DAYS PRIOR TO CUSTOMER'S DESIRED TERMINATION DATE. CUSTOMER WILL BE RESPONSIBLE FOR ALL APPLICABLE CHARGES (WHICH MAY INCLUDE PRO RATED MRCs) FOR THE SERVICES INCURRED PRIOR TO TERMINATION. CUSTOMER MAY BE REQUIRED TO RETURN ANY UNEARNED DISCOUNTS, PROMOTIONS, CREDITS, OR REWARDS AND TO PAY TERMINATION LIABILITY CHARGES.**

CenturyLink may rely upon any instruction, instrument, or signature reasonably believed by CenturyLink to be genuine and authorized by the Customer. Each party acknowledges that it has received, or has had opportunity to receive, the advice of competent counsel.

This Agreement incorporates by reference additional material terms and conditions applicable to the Services as set forth in the RSS [http://tariffs.qwest.com:8000/idc/groups/public/documents/rss/htmltoc\\_qc\\_rss1.htm](http://tariffs.qwest.com:8000/idc/groups/public/documents/rss/htmltoc_qc_rss1.htm). Customer has reviewed the RSS. Customer agrees that it is impractical for CenturyLink to list all the terms, conditions and charges applicable to the Services in these General Terms and Conditions and the Service Exhibits. Customer further agrees that CenturyLink has acted reasonably in providing it access to the RSS. CenturyLink will keep an archive of the Web pages of the RSS listing Rates, terms, and conditions, including dates of changes to Rates, terms, and conditions. Customer agrees that CenturyLink's archive is conclusive evidence in the event of dispute.

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**1. Notices.** Customer's current address, facsimile number, and person designated for notices are as shown in CenturyLink's records. Customer must contact CenturyLink via the electronic subscription tool if their notice information changes. Unless otherwise provided in this Agreement, all required notices to CenturyLink must be in writing and sent to the addresses set out below, and to Customer at its then-current address as reflected in CenturyLink's records; Attn.: General Counsel or other person designated for notices. Notice is given when: (a) delivered by facsimile or e-mail, so long as duplicate notification is sent via U.S. Mail; (b) delivered in person; (c) deposited in either registered, overnight or certified U.S. Mail, postage prepaid, if sent in the U.S.; or (d) delivered to an overnight courier service. CenturyLink may provide notice via email without duplicate notification via U.S. Mail for: (w) notices provided under Section 6, (x) rate change notices, (y) notices regarding changes in the RSS, or (z) notices regarding changes in maintenance windows. Customer's continued subscription to, usage of, or payment for Services after the effective date of such changes will be deemed to be Customer's acceptance of such changes. If Customer does not agree to such changes, Customer must contact Customer's CenturyLink sales representative and either terminate Customer's Services or make alternative arrangements with CenturyLink before the effective date of such changes. All required written notices must be sent to the addresses specified below or other addresses as may be specified in writing, or via the electronic subscription tool, by the recipient:

To CenturyLink:  
Qwest Corporation dba CenturyLink QC  
1801 California, 9th Floor  
Denver Colorado, 80202

Facsimile #: (303) 296-4193  
E-Mail: wholesale.contracts@centurylink.com

With copy to:  
Qwest Corporation dba CenturyLink QC  
1801 California Street, 9<sup>th</sup> Floor  
Denver, Colorado 80202  
Facsimile #: 1-888-778-0054  
Attention: Wholesale Legal Department

**2. Applicable Services.** Customer understands that this Agreement is for CenturyLink interstate private line and advanced network services capable of transmitting 200kbps or greater in each direction and listed below. The Service Exhibits included under this Agreement are:

**Asynchronous Transfer Mode Service ("ATM")**  
**Frame Relay ("FR")**  
**GeoMax**  
**HDTV-Net**  
**Metro Ethernet**  
**Self-Healing Network Service ("SHNS")**  
**Synchronous Service Transport ("SST")**

ATM, FR, GeoMax, HDTV-Net, Metro Ethernet, SHNS, and SST are subject to relief from federal tariff requirements as provided *In the Matter of Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, FCC No. 08-168. CenturyLink will continue to provide Customer's Services under the terms set forth in this Agreement and the Service Exhibits. Services are available only in CenturyLink's local service areas in the following states: Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. This Agreement will apply to the provision of any service that is on a month-to-month basis upon detariffing or converts to month-to-month after detariffing. Customer agrees that all amounts and obligations owed to CenturyLink for services provisioned or ordered under the FCC1 Tariff prior to detariffing will be due and owing under this Agreement.

**3. Term and Termination.**

3.1 This Agreement will remain in effect for as long as Customer has month-to-month Service under this Agreement unless this Agreement, or all Service, is terminated. Either party may terminate this Agreement on 30 calendar days prior written notice. Customer may terminate an individual Service by issuing an Order Form at least two business days prior to Customer's desired termination date. Month-to-month Services with a Minimum Service Period are subject to a Termination charge outlined in a Service Exhibit, if terminated

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prior to the expiration of the Minimum Service Period. Cause to terminate the entire Agreement for Service-related claims will exist only if Customer has Cause to terminate all or substantially all of the Services under the applicable SLA, Service Exhibit, or RSS. If Customer terminates this Agreement for Convenience or CenturyLink terminates it for Cause, then Customer will pay to CenturyLink the Termination Charges set forth in the applicable Service Exhibit(s), if any.

3.2 CenturyLink will apply the then-current Rates, terms, and conditions.

3.3 Customer is not entitled to any outage credits due to any Service outage or interruption resulting from a termination by CenturyLink for Cause. If either party terminates any part of this Agreement or any Service, Customer will pay any charges accrued but unpaid as of the termination date. If Customer terminates this Agreement for reasons other than Cause, or if CenturyLink terminates this Agreement for Cause, Customer will also pay any applicable Termination Charge due under this Agreement and the Service Exhibits.

### 4. Service Provisioning

4.1 Customer will complete an Order Form for all service requests (e.g., administrative changes or disconnects).

4.2 CenturyLink may change features or functions of its Services. For material changes, CenturyLink will provide 30 days prior written notice, but may provide a shorter notice period if the change is based upon Regulatory Activity. CenturyLink may at its sole discretion, discontinue providing any part of a Service in, to, or from any: (a) location, (b) particular person or entity because provision of the Services is unlawful or economically unfeasible. CenturyLink will provide Customer notice, if reasonably practicable, prior to discontinuing a Service.

4.3 CenturyLink will provide Customer reasonable notification of Service-affecting activities that may occur in normal operation of its business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements, routine preventative maintenance and major switching machine change-out. Generally, such activities are not individual customer service specific; they affect many customer services. No specific advance notification period is applicable to all Service activities. Services will be available to CenturyLink at times mutually agreed upon in order to permit CenturyLink to make tests and adjustments appropriate for maintaining Services in satisfactory operating condition. No credit will be allowed for any interruptions involved during those tests and adjustments.

4.4 Service is subject to the credit for service interruptions specific to the Service contained in the SLA or RSS. The credits outlined in the SLAs are Customer's sole and exclusive remedy for interruptions of any kind to the Service. Service interruption means a total disruption of the Service subject to restrictions and exclusions outlined in an SLA or in the RSS. Services with a Service-specific SLA are subject to the credit for service interruptions contained in the applicable SLA and described in the RSS posted at [qwest.centurylink.com/legal](http://qwest.centurylink.com/legal). Services without a Service-specific SLA are subject to the credit for service interruptions contained in the RSS.

### 5. Financial Terms.

#### 5.1 Rates and Terms.

(a) Each Service Exhibit references the section of the RSS where the Rates, terms, and conditions for the particular Service are set forth. Customer agrees that the entire RSS, including but not limited to the particular provisions setting forth Rates, terms and conditions for each Service, is a part of this Agreement. Standard Rates are the Rates found in the RSS.

(b) CenturyLink may, upon 30 calendar days written notice, impose discretionary increases to any of the MRCs, NRCs or other charges described in the RSS for month-to-month Services. Customer's continued subscription to, usage of, or payment for Service after the effective date of such changes will be deemed to be Customer's acceptance of such changes. If Customer does not agree to such changes, Customer must contact Customer's CenturyLink sales representative and either terminate Service or make alternative arrangements with CenturyLink before the effective date of such changes. CenturyLink may charge a Termination Charge if Customer terminates a Service prior to the expiration of the Minimum Service Period. CenturyLink may decrease Rates for Services immediately upon notice. Promotional pricing will expire in accordance with the terms applicable to each promotion, without further notice to Customer. In the event of Regulatory Activity, CenturyLink may at any time upon 30 calendar days prior written notice to Customer, unless such notice is not reasonably practicable: (i) pass through to Customer all, or a portion of, any charges or surcharges directly or indirectly related to such Regulatory Activity in connection to the Service; or (ii) modify the Rates and/or other terms and conditions contained in the Agreement to reflect the impact of such Regulatory Activity in connection to the Service. CenturyLink may, upon 30 calendar days prior written notice, adjust its Rates or charges, or impose additional Rates and charges, to recover amounts that governmental or quasi-governmental authorities require it to collect from or pay to others to support statutory or regulatory programs.

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(c) Customer agrees to pay Rates and charges that are in the RSS, but are not referenced in the Service Exhibits, which may include but are not limited to: (i) CPE, (ii) Termination Charges, (iii) charges for labor, testing, or design changes, (iv) inside wiring, or (v) additional administrative charges that may be applied for services not described in the Service Exhibits, or for requests to provision Services in a manner inconsistent with CenturyLink's then-current practices.

(d) Customer may request a technician visit for problems on the CenturyLink side of the Demarcation Point. Customer may retract its request prior to the CenturyLink technician's visit. CenturyLink will provide prior notice to Customer of any dispatch fee that will apply if CenturyLink determines that the problem is not caused by CenturyLink facilities or equipment on CenturyLink's side of the Demarcation Point; or if the problem is on Customer's side of the Demarcation Point.

**5.2 Taxes, Fees, and other Governmental Impositions.**

(a) In addition to other charges for Service, Customer will pay all Taxes set forth on the invoices unless Customer provides CenturyLink with an appropriately completed and valid exemption certificate or other evidence acceptable to CenturyLink that neither the Services nor Customer are subject to such Taxes for which an exemption is claimed. CenturyLink will not issue any exemption, credit or refund of any Tax payment for Services billed prior to the Customer's submission of that evidence. "Taxes" mean any and all applicable federal, state and local taxes, including, without limitation, all use, sales, value-added, goods and services, excise, franchise, commercial, gross receipts, license, privilege or other similar taxes, levies, surcharges, charges for universal support mechanisms, duties and fees, whether charged to or against the Customer, with respect to the supply of the Services or underlying facilities provided by a party under this Agreement, as well as any other imposition by any governmental authority which has the effect of increasing CenturyLink's cost of providing the Services or the underlying facilities. Such term will not include any imposition that is based upon CenturyLink's property, net income, net worth or capital stock.

(b) Customer will pay all amounts due on an invoice free and clear and without deduction or withholding for any and all present or future Taxes.

(c) Each party is solely responsible for all taxes on its own business, including taxes based on net income, property value, capital stock, or net worth. Each party is responsible for any tax filings, payment, protest, audit and litigation that are related to its own business.

**6. Financial Responsibility, Payment and Security.**

6.1 Customer will pay CenturyLink for all Services provided under this Agreement. CenturyLink will invoice Customer monthly for all Services. On or before the due date printed on the invoice ("Due Date"), Customer will pay all invoiced amounts to the address on the invoice, or will wire payment according to instructions provided by CenturyLink. CenturyLink may charge interest on any amounts not received by the Due Date at the rate of 0.000407 per day, compounded daily or, if applicable, the maximum rate allowed by law, until the past due amounts are paid. If CenturyLink does not receive payment in full by the Due Date or if amounts are not properly withheld by Customer under Section 6.2 below, CenturyLink may also take one or more of the following actions 30 calendar days after notifying Customer: (a) refuse to accept additional Order Forms; or (b) temporarily suspend or limit any Services until Customer pays all past due amounts, including interest. If CenturyLink does not refuse to accept additional Order Forms or temporarily suspend or limit any and all Services on the date specified in the 30 days' notice, and Customer's non-compliance continues, nothing contained herein shall preclude CenturyLink's right to refuse to accept additional Order Forms or temporarily suspend or limit any and all Services without further notice. Customer may not claim outage credits for any Service interruptions resulting from CenturyLink exercising its rights under this Section. If a payment default constitutes Cause, CenturyLink may also offset all amounts due, including interest, against: (i) any security instruments provided by Customer to CenturyLink; or (ii) any amounts that CenturyLink owes to Customer under any agreement between the parties.

6.2 Customer may make a good faith assertion, supported by Complete Documentation, of a billing adjustment or credit that Customer reasonably believes it is entitled to under the Agreement ("Bona Fide Dispute"). Bona Fide Disputes, along with Complete Documentation, must be submitted to CenturyLink in accordance with Product Catalog guidelines which can be found at <http://www.centurylink.com/wholesale/clecs/billdisputeprocess.html>, or in such other manner as CenturyLink may specify. The parties will promptly resolve disputed amounts in good faith. CenturyLink may request additional supporting documentation. CenturyLink may reject Customer's dispute as inadequate if not accompanied by Complete Documentation. If CenturyLink resolves such Bona Fide Dispute in CenturyLink's favor, CenturyLink will notify Customer, then either: (a) Customer will pay any withheld portion of the invoice, plus interest applied under Section 6.1 from the Due Date of the invoice, or (b) if Customer disputes CenturyLink's resolution of a Bona Fide Dispute in CenturyLink's favor and Customer and CenturyLink are not able to arrive at an agreeable resolution, then Customer may initiate dispute resolution proceedings under Section 13, and the parties will escrow all disputed amounts under Section 13.2 below.

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6.3 CenturyLink's obligations under this Agreement are contingent upon its continuing credit approval of Customer. If CenturyLink reasonably deems itself insecure with respect to Customer's ability to pay for any reason, including but not limited to Customer's Change of Control or CenturyLink's reasonable belief that a material change in Customer's circumstances or financial condition has occurred or is imminent; CenturyLink may, at its election, take one or more of the following actions: (a) refuse to accept additional Order Forms; (b) temporarily suspend or limit any and all Services; or (c) require that Customer provide to CenturyLink, within ten calendar days, a deposit or other acceptable form of security.

6.4 Customer must not remit payment for the Services with funds obtained through the American Recovery and Reinvestment Act (or ARRA) or other similar stimulus grants or loans that would obligate CenturyLink to provide certain information or perform certain functions unless those functions and obligations are specifically agreed to by the parties in this Agreement or in an amendment to this Agreement.

### **7. Customer's Responsibilities.**

7.1 Customer is solely responsible for obtaining all licenses, approvals, and regulatory authority for using the Services and reselling Services to its End Users, and Customer will have any required regulatory authorities before ordering Service. When reselling the Services, Customer is solely responsible for all billing and collections, customer service, and other requirements of its End Users. Customer's payment obligations to CenturyLink are not contingent upon Customer's ability to collect payments from any third parties, including its End Users.

7.2 Customer agrees that its use of the Services will comply with all applicable laws. Customer will be liable for any intentional or illegal acts of Customer or its End Users related to the Services. Customer will defend and indemnify CenturyLink, its Affiliates, agents, and contractors against any third party claims, costs, judgments or other proceedings, obligations and expenses, including attorney fees, relating to Customer's or an End User's use, resale or modification of the Services or Customer's failure to comply with any regulatory requirements or failure to make any required payments (e.g., universal service support mechanisms).

7.3 If CenturyLink must access a building that houses Customer's premises to install, operate, or maintain Service or associated CenturyLink equipment, Customer will provide or secure, at Customer's expense, the following items: (a) appropriate space and power; and (b) rights or licenses. These items may include, for example, rights to use or install pathways, shafts, risers, conduits, telephone closets, interior wiring, service areas, racks, cages, and utility connections or entries required to reach point of termination.

7.4 Any facility or equipment repairs on Customer's side of the Demarcation Point are Customer's responsibility. If Customer requests a technician visit for a problem that CenturyLink determines: (a) not to be caused by CenturyLink facilities or equipment on the CenturyLink side of the Demarcation Point; or (b) is on Customer's side of the Demarcation Point, CenturyLink will assess a separate dispatch fee. CenturyLink will notify Customer and obtain Customer's authorization of charges before dispatching a technician. Any requested repairs of Customer facilities and/or equipment are not included in the dispatch fee and will be charged on a time and materials basis.

7.5 If a service interruption occurs due to Customer's failure to fulfill the obligations in this section, CenturyLink will be exempt from meeting the specified SLAs for that service interruption.

7.6 Upon CenturyLink's reasonable request, Customer will assist CenturyLink in complying with all reporting obligations or requirements imposed on CenturyLink by any third party or regulatory agency relating to this Agreement or the Services.

**8 Jurisdiction.** Customer understands that Service is an interstate telecommunications service, as defined by Federal Communications Commission regulations and represents that during the Term more than 10% of its usage will be interstate usage.

**9. Confidentiality.** Except as permitted by this Agreement or if required by law, or to achieve the purposes of this Agreement in any proceeding, neither party will, without the prior written consent of the other party: (a) disclose negotiated terms or pricing, if any, in this Agreement, or (b) disclose or use any other Confidential Information of the other party. If required or permitted by law to disclose Confidential Information, the receiving party will promptly notify the disclosing party (prior to the disclosure, if possible). The receiving party will cooperate with the disclosing party to seek or take appropriate protective measures; and will make such disclosure in a manner to best protect the Confidential Information from further disclosure. Each party will use reasonable efforts to protect the other's Confidential Information and will use at least the same degree of care that it would to protect its own Confidential Information. Only CenturyLink's Legal Department may provide consent to disclose CenturyLink Confidential Information.

### **10. Use of Name, Trademarks and Publicity.**

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10.1 When marketing the Services for resale, Customer, including its employees, representatives and agents, must not: (a) use the CenturyLink name, brand or identity in any way, or (b) otherwise indicate, directly or indirectly, that Customer's End Users will have any relationship with CenturyLink. But Customer may in its advertising collateral make a statement to the effect that CenturyLink is one of the underlying carriers from which Customer purchases services. Customer must not use a name, trademark, service mark, copyright or other intellectual property owned by CenturyLink or its Affiliates without the prior written consent of the CenturyLink Law Department.

10.2 Customer must not make any disclosure to any third party or publicize the existence or terms of this Agreement without CenturyLink's prior written consent and approval. Only CenturyLink's Executive Vice President of Corporate Communications or an authorized designee may grant authorization to disclose or publicize this Agreement or its terms, and if such authorization is granted, the parties must jointly approve and develop the content and timing of any press releases and all other publicity regarding the subject matter of this Agreement or Customer's relationship with CenturyLink.

11. **Relationship.** Neither party may bind the other by contract or otherwise, nor make any representations or guarantees on behalf of the other. The relationship arising from this Agreement does not constitute an agency, joint venture, partnership, employee relationship or franchise.

12 **Limitation of Liability and Disclaimer of Warranties.**

12.1 **Regardless of the legal theory of liability that is asserted, neither party will be liable for any consequential, incidental, or indirect damages for any cause of action, whether or not the other party was aware or should have been aware of the possibility of these damages. Consequential damages include, but are not limited to, lost profits, lost revenue, loss of business opportunity. Indemnification obligations and Customer's payment obligations are excluded from this provision. The outage credits outlined in the SLA or RSS are Customer's exclusive remedy for any breach by CenturyLink and CenturyLink's total liability will not exceed the aggregate amount of any applicable outage credits due under the SLA or RSS for the affected Service.**

12.2 **CenturyLink disclaims all warranties, including without limitation, implied warranties of title, non-infringement, merchantability or fitness for a particular purpose. CenturyLink disclaims (a) any liability for loss, damage, or injury to any party as a result of any CPE; and (b) all warranties for CPE.**

13. **Dispute Resolution.**

13.1 A party must bring any legal proceeding relating to this Agreement in a United States District Court, or absent federal court jurisdiction, in a state court of competent jurisdiction, in the location of the non-initiating party's principal place of business. But CenturyLink may initiate proceedings in Denver, Colorado to collect undisputed amounts billed. In such event, Customer consents to jurisdiction and venue for any such court proceeding in Denver, Colorado.

13.2 If either party initiates a legal proceeding to resolve a billing dispute, the parties will, within five business days, place any disputed and withheld amounts with an Escrow Agent under a mutually agreeable escrow agreement.

13.3 Each party, to the extent permitted by law, knowingly, voluntarily, and intentionally waives its right to a jury trial and any right to pursue any claim relating to this Agreement on a class or consolidated basis or in a representative capacity.

14. **Governing Law.** Colorado state law, without regard to choice-of-law principles, governs all matters relating to this Agreement.

15. **Assignment or Sale.** Neither party may assign this Agreement without the other party's prior written consent (which will not be unreasonably withheld or delayed), except: (a) in connection with the sale of all or substantially all of its assets; (b) to the surviving entity in any merger or consolidation; (c) to an Affiliate; or (d) to satisfy a regulatory requirement imposed upon a party by a governmental body with appropriate authority; provided that in each case such party gives the other party 30 days prior written notice of such assignment. Additionally, CenturyLink may assign this Agreement or it rights hereunder, without notice or consent to disclose Confidential Information, for the purpose of: (x) collecting unpaid Customer balances or other funds due and owing CenturyLink or (y) factoring, financing or assigning its accounts receivable. Any assignee of the Customer must have a financial standing and creditworthiness equal to or better than Customer's, as reasonably determined by CenturyLink, through a generally accepted, third party credit rating index (i.e. D&B, S&P, etc.)

16. **Survival.** All terms that by their context are intended to survive the termination of this Agreement will survive.

17. **Waiver.** A party may waive a right under this Agreement only in a writing signed by an authorized representative of the waiving party. Such a waiver does not waive any future rights.

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- 18. Severability.** Any provision of this Agreement held to be unenforceable must be construed as nearly as possible to reflect the original intent of the parties. The remainder of the Agreement will remain in full force and effect.
- 19. Force Majeure.** Neither party is liable for any delay or failure to perform that is caused by an unforeseeable event (other than a failure to comply with payment obligations) beyond the reasonable control of a party (e.g., act of God; fire; flood; labor strike; sabotage; cable cut; material shortages or unavailability; lack of or delay in transportation; government codes, ordinances, laws, rules, regulations or restrictions; war or civil disorder) (a "Force Majeure Event"). The affected party will send notice to the other party and is excused from performing under this Agreement only to the extent limited by such Force Majeure Event.
- 20. Headings.** Headings are for convenience only and do not affect the meaning of any terms of this Agreement.
- 21. Remedies.** No right specified in this Agreement limits CenturyLink's other rights or remedies under this Agreement, at law, or in equity.
- 22. Third Party Beneficiaries.** This Agreement is intended solely for CenturyLink and Customer, and will not benefit or be enforceable by any other person or entity (e.g., Customer's Affiliates and End Users).
- 23. Compliance with Laws.** In performing its obligations under this Agreement, each party will comply with applicable federal, state, or local laws or regulations relating to the subject matter of this Agreement.
- 24. Counterparts and Facsimile Signatures.** The parties may execute this Agreement by facsimile copy or in any number of counterparts, which together will constitute one agreement. Only CenturyLink will provide the final version of the Agreement or any amendment for execution.
- 25. Integration.** These General Terms and Conditions, the Service Exhibits, the RSS, Tech Pubs, and CenturyLink-accepted Order Forms constitute the entire agreement between the Parties and supersede all prior offers or agreements or communications between the parties relating to the subject matter of those documents. The following order of precedence will apply in descending order of control: a Service Exhibit, these General Terms and Conditions, the RSS, a CenturyLink-accepted Order Form, CenturyLink records, and if applicable, Tech Pubs. Amendments to this Agreement must be in writing and signed by the Parties. Electronic signatures will be accepted only in the form and manner prescribed by CenturyLink. Notwithstanding the foregoing, any non-disclosure or confidentiality agreement previously entered into by the Parties remains effective according to its terms for information shared between the Parties not covered by the Section of this Agreement entitled "Confidential Information."

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**ADDENDUM 1-DEFINITIONS:**

"Affiliate(s)" means, with respect to any party, any entity that directly, or indirectly controls, is controlled by, or is under common control with, that party (e.g., directly or indirectly, has power to direct the affairs or management of a party, by ownership of voting securities, as trustee, by contract or otherwise).

"Agreement" means these General Terms And Conditions, and all Addenda, Service Exhibits, RSS, and CenturyLink-accepted Order Forms.

"Cause" means the failure of a party to perform a material obligation under this Agreement that is not remedied, if curable: (a) in the event of a payment or security default, within five calendar days written notice, or (b) for any other default, upon 30 calendar days written notice (unless a different notice period is set forth in this Agreement). Cause includes, but is not limited to: (a) the Insolvency of a Customer that is a foreign entity (i.e. not incorporated, formed or organized in the United States); (b) any violation of the Sections of this Agreement entitled "Confidentiality" and "Use of Name, Trademarks and Publicity"; (c) failure to comply with any applicable federal, state, or local law or regulation relating to the subject matter of this Agreement; or (d) use of the Services for any purpose or in any manner other than as prescribed in this Agreement. Violations of the sections of this Agreement entitled "Confidentiality" and "Use of Name, Trademarks and Publicity" are not curable.

"Change of Control" means an instance when: (a) any entity having previously Controlled Customer, ceases to do so; (b) any entity acquires Control, or all, or substantially all, of the assets of Customer (e.g., by acquisition, merger, reorganization, operation of law or otherwise) or (c) Customer combines by merger with any other entity. Change of Control excludes any assignment permitted under this agreement.

"Control" or "Controlled" means ownership of 50% or more of any equity interests e.g., voting shares or partnership interests, or the right to exercise 50% or more of the voting rights, of any entity.

"Complete Documentation" means: (a) reasonable detail for the basis of the dispute and the charges subject to the Bona Fide Dispute, (b) the credit to which Customer reasonably believes itself entitled, (c) details of the amounts withheld by Customer pending resolution of such Bona Fide Dispute; and (d) any additional information that CenturyLink, in its discretion, requires as necessary to support a particular type of dispute. .

"Confidential Information" means any information that is not publicly available, whether of a technical, business, or other nature, including customer information or Customer Proprietary Network Information, and that: (a) the receiving party knows or has reason to know is confidential, proprietary, or trade secret information of the disclosing party; or (b) is of a nature that the receiving party should reasonably understand that the disclosing party desires to protect against unrestricted disclosure. Confidential Information does not include information that is in the public domain through no breach of this Agreement by the receiving party or is already known or is independently developed by the receiving party.

"Construction" means when Service may not be available due to facilities limitations and it is necessary for CenturyLink to construct facilities.

"Convenience" means any reason other than Cause.

"CPE" means Customer premise equipment, software and/or other materials associated with the Service.

"Demarcation Point" means the CenturyLink designated: (a) physical interface between the CenturyLink Domestic Network and Customer's telecommunications equipment; or (b) physical interface between a third-party carrier connecting the CenturyLink Domestic Network to Customer's telecommunications equipment.

"End User(s)" mean Customer's end-users or customers.

"Escrow Agent" means U.S Bank, unless CenturyLink notifies Customer otherwise in writing.

"FCC1 Tariff" means Qwest Interstate Access Tariff F.C.C. No. 1., which can be viewed at <http://tariffs.qwest.com:8000>.

"Insolvent" means any of the following events Customer: (a) becomes or is declared insolvent or bankrupt; (b) is the subject of any proceedings related to its liquidation, insolvency or for the appointment of a receiver or similar officer for it; (c) makes an assignment for the benefit of all or substantially all of its creditors; or (d) enters into an agreement for the extension or readjustment of all or substantially all of its obligations.



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"Minimum Service Period" means 12 months following the date Service is made available to Customer, as evidenced by CenturyLink records. In the case of FR, this means 6 months following the date Service is made available to Customer.

"MRC" means monthly recurring charge.

"NRC" means nonrecurring charge.

"Order Form" means the form of Service order request provided by CenturyLink, such as an Access Service Request or ASR; or other method of ordering Service as may be prescribed by CenturyLink.

"CenturyLink Domestic Network" means the CenturyLink operated facilities located within CenturyLink's 14-state local service area listed above in the Section headed Applicable Services, and which consists of transport POPs, physical media, switches, circuits and/or ports that are operated solely by CenturyLink.

"Rates" means the MRCs and NRCs for the Service.

"Rates and Services Schedule" or "RSS" means the Qwest Corporation Rates and Services Schedule Interstate No. 1, and is the document that contains the standard descriptions, pricing and other terms and conditions for the Services, which can be found at [http://tariffs.qwest.com:8000/idc/groups/public/documents/rss/htmltoc\\_qc\\_rss1.htm](http://tariffs.qwest.com:8000/idc/groups/public/documents/rss/htmltoc_qc_rss1.htm). CenturyLink reserves the right to modify the RSS.

"Regulatory Activity" means any regulation or ruling by any regulatory agency, legislative body or court of competent jurisdiction.

"Service" means Customer's existing month-to-month ATM, LSS, GeoMax, SHNS, FR, Metro Ethernet, HDTV-Net, or SST capable of transmitting 200 kbps or greater in each direction that was purchased under the FCC1 Tariff.

"Service Exhibit" means the contract document specific to an individual Service.

"SLA" means the service level agreement for each Service, if applicable, located at [qwest.centurylink.com/legal](http://qwest.centurylink.com/legal); SLAs are subject to change. Each SLA provides Customer's sole and exclusive remedy for Service interruptions or Service deficiencies of any kind whatsoever for the applicable Service. Not all Services have a Service-specific SLA.

"SONET" means Synchronous Optical Network.

"Tariff(s)" are documents that contain the standard descriptions, pricing and other terms and conditions for any services that CenturyLink files with a regulatory commission. You can find CenturyLink's Tariffs at <http://tariffs.qwest.com:8000> and such other places as CenturyLink may from time to time designate.

"Tech Pub" means each technical publication specific to a Service, all of which are located at <http://www.centurylink.com/techpub/>. Each Service Exhibit stipulates the Tech Pub that applies to that Service, if any.

"Term Plan" means a fixed period service rate plan.

"Termination Charge" means the termination charges detailed in the Service Exhibits.