

## CENTURYLINK MDU MARKETING TERMS AND CONDITIONS ("MDU TERMS AND CONDITIONS")

1. **APPLICABILITY.** These MDU Terms and Conditions contain general provisions that apply to all marketing and sales agreements between a CenturyLink-affiliated entity and another party. "Agreement" means a signed agreement between a CenturyLink-affiliated entity and the party, these MDU Terms and Conditions, and any other documents incorporated by reference. Capitalized terms not defined in these MDU Terms and Conditions are defined in the signed Agreement.
2. **CONFIDENTIALITY.** "Confidential Information" means any information that is not generally available to the public, whether of a technical, business, or other nature, 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 such a nature that the receiving party should reasonably understand that the disclosing party desires to protect the information from disclosure. Confidential Information will not include information that is in the public domain through no breach of the Agreement by the receiving party or is already known or is independently developed by the receiving party. Neither party will, without the prior written consent of the other party: (a) disclose any of the terms of the Agreement; or (b) disclose or use (except as expressly permitted by, or required to achieve the purposes of, the Agreement) the Confidential Information of the other party. Each party will use reasonable efforts to protect the other's Confidential Information, and will use at least the same efforts to protect such Confidential Information as the party would use to protect its own. CenturyLink's consent may only be given by its Legal Department. A party may disclose Confidential Information if required to do so by a governmental agency, by operation of law, or if necessary in any proceeding to establish rights or obligations under the Agreement.
3. **REPRESENTATIONS AND WARRANTIES.** Each party represents and warrants that (a) it is authorized to enter into the Agreement; (b) the Agreement constitutes the legal, valid, and binding obligation of the parties; and (c) the execution of the Agreement and performance of its obligations does not, and will not, violate any law or result in any breach of or default under the terms of any contract or agreement by which it is bound. In addition, Referral Agent represents and warrants that it has a valid fee title to the Property and otherwise has the authority to perform its obligations.
4. **RESTRICTIONS.** Referral Agent will not:
  - a. accept any other compensation except for the Compensation described in the Agreement, directly or indirectly, for marketing, promoting, and referring potential subscribers to the Services. Any additional compensation, whether in the form of cash, service credits or otherwise, obtained by Referral Agent, any Referral Agent employee or independent contractor must be reversed or immediately reimbursed;
  - b. make any representations or warranties with respect to the Services, except that Referral Agent may provide the CenturyLink Materials Materials provided or approved by CenturyLink to Residents;
  - c. rebate, split or otherwise share the Compensation with any Residents, unless expressly authorized in writing by CenturyLink;
  - d. sponsor or participate in any pyramid or multilevel marketing system;
  - e. conduct its business activities in such a manner that Residents pay any amounts to Referral Agent for Services; or
  - f. market/recommend adult-oriented services or products, as defined by CenturyLink in its sole discretion, to Residents during the Term of the Agreement.
5. **LIMITATION OF LIABILITY.** EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS, NEITHER PARTY, ITS AFFILIATES OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES OR LOST DATA OR COSTS OF COVER RELATED TO THIS AGREEMENT, OR EITHER PARTY'S PERFORMANCE OR NONPERFORMANCE UNDER THE AGREEMENT REGARDLESS OF THE LEGAL THEORY ASSERTED AND REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY LIABILITY, LOSS OR DAMAGE.
6. **INDEMNIFICATION.** Each party will defend and indemnify the other party, its Affiliates, agents, and contractors against all third party claims for damages, liabilities, or expenses, including reasonable attorneys' fees, arising directly from performance of the Agreement and related to personal injury or death, or damage to personal tangible property that is alleged to have been caused by the negligence or willful misconduct of the indemnifying party. Referral Agent will also defend and indemnify CenturyLink, its Affiliates, agents, and contractors against all third party claims for damages, liabilities, or expenses, including reasonable attorneys' fees, related to the modification or resale of the Services by Referral Agent or end users, or any AUP violation.
7. **TERMINATION.** Either party may terminate this agreement (and seek any available legal or equitable remedies) for breach by the other party that is not cured within 30 days from written notice from the non-breaching party. Either party may terminate this agreement immediately, in whole or in part, upon written notice if the other party: (a) makes or is discovered to have made any material false representations, report, or claims resulting in damage or loss in connection with this agreement; (b) if a party or its officers, directors or major stockholders are indicted or involved in a criminal proceeding that affects the party's ability to carry out its obligations under the Agreement; or (c) becomes involved in a proceeding in bankruptcy, reorganization, insolvency, liquidation, or receivership, whether voluntarily or involuntarily, or makes a general assignment for the benefit of creditors.

- 8. MARKETING; TRADEMARKS, SERVICE MARKS, AND TRADENAMES.** CenturyLink may provide Referral Agent with CenturyLink Marketing Materials for Referral Agent's use. All CenturyLink Marketing Materials provided by CenturyLink to Referral Agent, and CenturyLink's name, trademarks, service marks, label designs, product identifications, artwork, and other symbols and devices associated with the Agreement (collectively, the "CenturyLink Marks") are and will remain the property of CenturyLink. Referral Agent is authorized to use the CenturyLink Marks provided by CenturyLink as described in the Agreement only with CenturyLink's prior written consent. Referral Agent's right to use the CenturyLink Marks is non-exclusive, non-assignable and non-transferable. All uses by Referral Agent of the CenturyLink Marks inure solely to the benefit of CenturyLink. If Referral Agent uses the CenturyLink Marks, Referral Agent will strictly comply with any CenturyLink content or brand usage policies CenturyLink provides. CenturyLink will have use of Referral Agent's marks and trade designations for the duration of the Term of the Agreement to communicate its association with Referral Agent.
- 9. CONVERSION.** If Referral Agent elects to convert any of the Units from its existing status as a rental or privately owned Unit, Referral Agent will provide CenturyLink with written notice no later than 90 days before the conversion. If the Referral Agent converts any of the Units, CenturyLink may, in its sole discretion, terminate the Agreement by providing no less than 30 days Notice to Referral Agent.
- 10. NEW CONSTRUCTION.** If any Units are not completed or ready for occupancy within twelve months of the Effective Date of the Agreement CenturyLink may, in its sole discretion, terminate the Agreement by providing no less than 30 days Notice to Referral Agent.
- 11. GOVERNING LAW; DISPUTE RESOLUTION.**
- a. **Billing Disputes.** If Referral Agent disputes a charge in good faith, Referral Agent may withhold payment of that charge if Referral Agent makes timely payment of all undisputed charges when due and provides CenturyLink with a written explanation of the reasons for Referral Agent's dispute of the charge within 90 days after the invoice date of such amount. If CenturyLink determines, in its good faith, that the disputed charge is valid, CenturyLink will notify Referral Agent and within five business days after CenturyLink's notification, Referral Agent must pay the charge and accrued interest.
- b. **Governing Law; Forum.** Delaware state law, without regard to choice-of-law principles, governs all matters relating to the Agreement. Any legal proceeding relating to the Agreement will be brought in a U.S. District Court, or absent federal jurisdiction, in a state court of competent jurisdiction, in Denver, Colorado.
- c. **Waiver of Jury Trial and Class Action.** 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 or action relating to the Agreement on a class or consolidated basis or in a representative capacity. If for any reason the jury trial waiver is held to be unenforceable, the parties agree to binding arbitration for any dispute relating to the Agreement under the Federal Arbitration Act, 9 U.S.C. § 1, et. seq. The arbitration will be conducted in accordance with the JAMS Comprehensive Arbitration Rules. Judgment upon the arbitration award may be entered in any court having jurisdiction.
- d. **Limitations Period.** Any claim relating to the Agreement must be brought within two years after the claim arises other than Referral Agent disputing an amount in an invoice, which must be done by Referral Agent within 90 days after the invoice date of the disputed amount.
- 12. INSURANCE.**
- a. CenturyLink will, at its own cost and expense, maintain during the term of this Agreement, such insurance as required hereunder. The insurance coverage will be from a company, or companies, with an A.M. Best's rating of A-VII or better and authorized to do business in each state where CenturyLink will perform work under this Agreement. CenturyLink may obtain all insurance limits through any combination of primary and excess or umbrella liability insurance. CenturyLink will require its subcontractors to maintain proper insurance applicable to the type and scope of Work to be performed under this Agreement.
- b. Workers' Compensation insurance with statutory limits applicable in each state where the work is to be performed including Employer's Liability or "Stop Gap" insurance with limits not less than \$1,000,000 each accident.
- c. Commercial General Liability with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate covering personal injury, bodily injury, death, property damage, products/completed operations, and contractual liability.
- d. Commercial Automobile Liability with limits not less than \$1,000,000 combined single limit per occurrence covering bodily injury and property damage for all owned, non-owned and hired vehicles used in connection with the performance of this Agreement.
- e. Customer, its Affiliates, subsidiaries, and parent, as well as the officers, directors, employees and agents of all such entities will be included as additional insureds on the Commercial General and Commercial Auto Liability policies. The coverage described will be primary and not contributory to insurance which may be maintained by Customer, subject to the Indemnification provisions of this Agreement. Prior to commencement of work under this Agreement, CenturyLink will make available evidence of the insurance required herein, at [www.centurylink.com/moi](http://www.centurylink.com/moi).

- 13. HAZARDOUS MATERIAL DISCLOSURE.** Referral Agent will inform CenturyLink of any known existence, location, and condition of Hazardous Materials (including asbestos and lead-based paint) that may affect CenturyLink's work on the Property. If available, Referral Agent will provide to CenturyLink any Hazardous Materials survey conducted on the Property. If unidentified Hazardous Materials are discovered during the course of work, CenturyLink will stop work and provide notice to Referral Agent of discovered material. If Hazardous Materials are discovered, CenturyLink may: (a) reroute planned work to avoid the Hazardous Materials; (b) require that Referral Agent abate or remove Hazardous Materials; (c) adjust work to exclude areas with Hazardous Materials; or (d) terminate the Agreement without liability.
- 14. SEVERABILITY.** If any term of the Agreement is held unenforceable, the remaining terms will remain in effect.
- 15. LAWFULNESS.** This Agreement and the parties' actions under the Agreement will comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders.
- 16. MISCELLANEOUS.** This Agreement and its exhibits and attachments contain the entire agreement between the parties and supersede all prior oral or written agreements between the parties with respect to the subject matter of the Agreement. This Agreement may only be amended by written agreement signed by authorized representatives of both parties. Each party may, at any time, reject any handwritten change or other alteration to the Agreement. The parties are independent parties and nothing in the Agreement may be construed as creating an employment relationship, association, joint venture, partnership, or other business enterprise. "Force Majeure Event" means an unforeseeable event beyond the reasonable control of that party, including without limitation: act of God, fire, explosion, lightning, hurricane, labor dispute, cable cuts by third parties, failure by any third party that provides video services, acts of terror, material shortages or unavailability, government laws or regulations, war or civil disorder, or failures of suppliers of goods and services. Each party is not responsible for any delay or other failure to perform due to a Force Majeure Event. The terms and conditions of the Agreement regarding confidentiality, indemnification, limitation of liability, warranties, payment, dispute resolution, and all other terms of the Agreement that should by their nature survive the termination of the Agreement will survive. A party's failure or delay to exercise any right is not a waiver of that right and partial exercise of any right does not preclude further the exercise of that right. The parties further agree to take whatever other actions and to execute whatever other documents are needed to fulfill the intent of the Agreement.