

# CenturyLink™ High-Speed Internet and Internet Access Services Residential Terms and Conditions

We are pleased to provide you with the Services herein described, subject to these terms and conditions (the "Agreement"). PLEASE READ THIS AGREEMENT IN FULL BEFORE USING THE SERVICES. ACCEPTANCE OF THIS AGREEMENT OCCURS WHEN YOU: (1) AFFIRMATIVELY ACCEPT THIS AGREEMENT, (2) USE THE SERVICES, OR (3) RETAIN SOFTWARE OR EQUIPMENT WE PROVIDE BEYOND 30 DAYS FOLLOWING DELIVERY. BY ACCEPTING THIS AGREEMENT, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO ABIDE BY THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, DO NOT USE THE SERVICES AND CONTACT US IMMEDIATELY TO TERMINATE IT. **You should carefully read all terms in this Agreement, including a Mandatory Arbitration of disputes provision.**

**If you have agreed to keep the Services for a one or two-year term period and you terminate the Services before the end of that term period, you will be responsible for all charges related to the Services, including an early termination fee described further in Section 9 of this Agreement.**

## 1. DEFINITIONS.

- A. "Broadband Services" means Company's DSL-based Internet access services. Company's DSL-based Internet service is also known as "High Speed Internet Service" or "HSI Service."
- B. "Company" and "we" refer to CenturyTel Broadband Services, LLC or the applicable CenturyLink operating company providing the Services described in this Agreement in your service area.
- C. "Content" means content provided by Company or its third party licensors or suppliers and accessible on the Services, including without limitation images, photographs, animations, video, audio, music, and text in any format.
- D. "Customer" and "you" refer to the individual or entity purchasing Services hereunder, as well as any individual(s) whom the individual or entity purchasing Services hereunder gives access to, or otherwise authorize use of, the Services. All capitalized terms used herein and not otherwise defined in this Section 1 shall have the meanings ascribed to them in this Agreement.
- E. "Equipment" means the modem, router and/or other equipment provided by Company for use with the Service. Unless you and Company specifically agree otherwise, Company owns the Equipment regardless of who installed the Equipment. Any monthly rental payments, periodic use payments, or similar arrangements related to Equipment between you and Company are not purchases of Equipment.
- F. "Pure Broadband Services" means Broadband Services without an accompanying residential telephone access line having the ability to make outbound calls (other than 911 and 711 calls).
- G. "Service" or "Services" means all Company dial-up Internet access services, Broadband Services, Pure Broadband Services, Company portal websites, and related websites and functionality provided through or in connection with those websites, and any personal webpages created through a Company-provided website, related websites, or other Company-provided services for residential customers, Software, Equipment, Content, IP addresses, technical support, email, domain name server (DNS) and related services, and other products and services provided by Company under the plan applicable to your Service. The Services do not include voice telephony services. Regarding DNS, we reroute DNS error searches to other websites, including non-Company websites.

## 2. REVISIONS TO THIS AGREEMENT.

From time to time, Company will make revisions to this Agreement and the policies relating to the Services. We will provide notice of such revisions by posting revisions to [www.centurylink.com](http://www.centurylink.com) or [www.centurylink.net](http://www.centurylink.net) (collectively, the "Company Website"), or sending an email to your primary embarqmail.com, centurytel.net, or centurylink.com email address. You agree to visit the Company Website periodically to review any such revisions. Material changes and increases to the monthly price of the Services shall be effective thirty (30) days after we provide notice to you via any of the following methods: bill messages, bill inserts, separate mailings to you, email notification, recorded announcement, posting to the Company Website, or any other reasonable method of notice at our sole discretion; revisions to any other terms and conditions shall be effective on the date noted in the posting and/or email we send you. By continuing to use the Services after revisions are effective, you accept and agree to abide by the terms and conditions set forth in such revisions. We will not provide notice of changes to promotional prices, offers, and applicable taxes, fees, or surcharges (unless required by law or regulation).

### **3. TERM AND ACCEPTANCE OF AGREEMENT; AGREEMENT TERMS GENERALLY INCLUDED.**

The term of this Agreement will be either month-to-month or for a one or two year term (depending on the Service plan you select) (the "Term"). The Term begins when you accept this Agreement and ends when you or we terminate this Agreement as permitted herein. If you change Service plans, your Term and monthly rate may change (depending on the plan you select), but all other provisions of this Agreement will remain in effect unless otherwise noted.

This Agreement consists of the terms and conditions herein contained, as well as (a) the specific terms of your Service plan (including the plan's pricing, duration and applicable Early Termination Fee ("ETF")); (b) our Acceptable Use Policy, as posted to the Company Website; and (c) other Company policies referred to in this Agreement (including our Privacy Policy), as posted to the Company Website, all of which are incorporated herein by reference.

### **4. AUTHORIZED USER, ACCOUNT USE, AND RESPONSIBILITIES.**

A. Acknowledgements. You acknowledge that you are eighteen (18) years of age or older and that you have the legal authority to enter into this Agreement. You agree promptly to notify Company whenever your personal or billing information changes.

B. Your Responsibility. You are responsible for all use of your Services and account, whether by you or someone using your account with or without your permission, including all secondary or sub-accounts associated with your primary account, and to pay for all activity associated with your account. You agree to comply with all applicable laws, rules and regulations regarding your use of the Services. **You agree that we, in our sole discretion, may place restrictions on use of your Services, and immediately disrupt, suspend, or terminate your Services without notice for violations, suspected violations, or to prevent violations of this Agreement.**

C. Restrictions on Use. The Service is a consumer grade service, and you may not resell the Service, use it for high volume purposes, or engage in similar activities that constitute such use (commercial or non-commercial). If you subscribe to a Broadband Service, you may connect multiple computers/devices within a single home to your modem and/or router to access the Service. You also may not exceed the bandwidth usage limitations that Company may establish from time to time for the Service, or use the Service to host any type of server. Violation of this section may result in bandwidth restrictions on your Service or suspension or termination of your Service.

D. Dial-Up Accounts. If you subscribe to Company's dial-up Internet access service ("Dial-Up Service"), your Service may be subject to log-off automatically and without notice if your account is idle for a certain period of time. An account session may be deemed to be idle if there appears to be no interactive, human generated data received from your computer system within a prescribed amount of time. Use of automatic re-dialer, script or other programs for the purpose of avoiding inactivity disconnects is a violation of this Agreement. You may only use your account for one log-on session per connection type at a time and you

may not use more than one IP address for each log-on session. If your pricing plan includes an hourly usage allocation, unused hours will not carry over to another billing cycle.

E. Broadband Accounts. If you use your account to connect through a dial-up connection, you are responsible for any dial-up usage charges above any monthly dial-up allotment that may apply. Additional User IDs provided for Broadband customers' email boxes may not be used as dial-up connections.

F. Storage Availability. Certain Services have limited storage capacities and/or capabilities. Company reserves the right to delete, without prior notice, files from any directory or mailbox if the associated storage limitations are exceeded. You should contact a Company customer service representative to determine whether additional storage space can be obtained for a particular Service. The current storage limitations for Broadband Service, Pure Broadband Service, and Dial-Up Service are as follows:

- (1) Free personal Web space (not for commercial use): 20MB of personal Web space is included with the Services
- (2) Other Web space: 5MB per Web site unless purchased separately or supplied with your applicable Service plan
- (3) Email: Unlimited storage of read email per mailbox. Unread messages may be removed from your inbox 90 days after delivery. All email may be removed from your Trash or SPAM folders after 2 days. Read email in your inbox and all personal folders, except Trash and SPAM folders, will be retained indefinitely. Furthermore, Company reserves the right to deactivate embarqemail.com, centurytel.net, and centurylink.net email accounts that have not been accessed for a period of 120 consecutive days.

G. Company Installation. For Company -provided installation of Services, the following applies:

- (1) Company Responsibilities. Company will provide a list of requirements and a pre-installation checklist that you must confirm at your premise(s) before installation; and install the Equipment and Software necessary to initiate the Services. Company reserves the right to employ third parties for the actual on-site installation.
- (2) Your Responsibilities. You will:
  - (a) Meet each of the requirements set forth in the Services welcome packet. If these requirements are not met before a Company-provided installation date and cause the installation to be delayed, Company may charge you a fee for each additional installation attempt.
  - (b) Warrant and represent that you own the premises or you have received permission from the owner of the premises to allow us to make any changes to the premises needed to install the Equipment and provide the Services to you and that the use of any equipment space and associated facilities, conduits and rights-of-way comply with all applicable laws, rules and regulations, as well as any existing leases or other contractual agreements or rights of others.
  - (c) Grant to Company or its subcontractors the right to enter the premises during normal business hours Monday through Friday to perform installation, repair or maintenance services in support of the Services.
  - (d) Configure any Local Area Network, if applicable, so that Services are available to you at the premises. You will configure equipment to interface with the Services, including PCs, printers, other routers, switches, servers and hubs. You will configure routers that are different from our standard installation configuration. Company will not be responsible for interference with the performance of Services caused by your configuration of routers.

- (3) Completion of Installation. Company will use commercially reasonable efforts to complete installation of Services at your premise within any agreed-upon timeframes. Installation will be complete if the post-installation performance check that we conduct confirms that an end-user at you may properly access the Company network via the Services. If we determine that the test is successful, we consider you as "In Service" and we will begin billing you as of that "In Service" date.

H. Self Installation. "Self Installation" means you install the Services. In locations where Self-Installation is available, Company will ship the Equipment and instructions necessary for you to initiate Services. You will install Equipment according to Company-provided instructions. Company will provide customer service representatives to assist you with installation via a local or toll-free number. If you require that Company install the necessary Equipment and Software for Services at your location, you may be billed separately for those installation services.

## **5. PRIVACY POLICY; LEGAL COMPLIANCE.**

Personal information you provide to Company is governed by our Privacy Policy, which is posted on the Company Website and is subject to change from time to time. Company reserves the right to provide account and user information, including email, to third parties as required or permitted by law (such as in response to a subpoena or court order), and to cooperate with law enforcement authorities in the investigation of any criminal or civil matter. Such cooperation may include, but is not limited to, monitoring of the Company network consistent with applicable law. In addition, Company is required by law to report any facts or circumstances reported to us or that we discover from which it appears there may be a violation of the child pornography laws. We reserve the right to report any such information, including the identity of users, account information, images and other facts to law enforcement personnel.

## **6. AVAILABILITY OF AND CHANGES TO SERVICE.**

A. Service and Bandwidth Availability and Speed. The Service you select may not be available in all areas or at the rates, speeds, or bandwidth generally marketed, and some locations may not qualify for the Service even if initial testing showed that your line was qualified. We will provision qualified HSI Service lines at the maximum line rate available to your location based on our standard line qualification procedures, unless you have selected a level of service with a lower maximum line rate. Bandwidth is provided on a per-line (not a per-device) basis. The bandwidth available to each device connected to the network will vary depending upon the number, type and configuration of devices using the Service and the type of use (e.g., streaming media), among other factors. The speed of the Service will vary based on network or Internet congestion, your computer configuration, the condition of your telephone line and the wiring inside your location, among other factors. We make no guarantees or representations related to download or upload speeds. We and our suppliers reserve the right, at any time, with or without prior notice to you, to restrict or suspend the Services to perform maintenance activities and to maintain session control. We assume no responsibility or liability for interruption of the Services or Service performance differences.

B. Dial-Up Service Upgrade. Company, at its option, reserves the right to upgrade your existing Dial-Up Service to Broadband Service at no charge to you. If you do not wish to accept such an upgrade, you may contact Company Customer Service to revert back to Dial-Up Service.

C. Changes to your local voice telephony service. If you change your local telephone company or discontinue your local telephone service, we may in our discretion either terminate your Service or continue to provide Broadband Service without local Company voice service at the then-current rates, terms and conditions applicable to your new Service plan and you agree to pay any new or higher monthly fee that may apply to your new Service plan. If we elect to terminate your Service under this section, then we reserve the right to charge any early termination fees and to apply the Equipment return terms under Section 9.

D. Changes to Service or Features. Company reserves the right to change any of the features, Content or applications of the Service at any time with or without notice to you. This includes the portal services we may make available as part of the Service or for an additional charge. Company also may change your IP address, either static or dynamic, at any time. If Company changes your static IP address, Company will make reasonable efforts to provide you with prior notice of the change.

E. Protection of Services. We may take any action we deem appropriate without notice to protect the Services and its facilities for provision of the Services. If we deny you access to the Services pursuant to this section, you will have no right or ability to access any materials stored on or available through the Internet through us, and we will have no responsibility to notify any third-party providers of services, merchandise or information nor any responsibility for consequences resulting from the lack of notification. You will protect our network by either disabling or password-protecting files on your computer(s) or have a firewall solution that prohibits unauthorized access to your computer.

## **7. OPTIONAL SERVICES, SOFTWARE LICENSES AND THIRD PARTY SERVICES.**

A. CenturyLink @Ease™ Plans. CenturyLink @Ease is available to residential Broadband Services customers, subject to certain restrictions and limitations. The CenturyLink @Ease \$0.00 Plan is provided at no additional charge to residential Broadband Services customers, however not all features of the CenturyLink @Ease \$0.00 plan are available to Customers with CenturyLink Internet Basics. Other CenturyLink @Ease plans with additional features are available to residential Broadband Services customers for an additional charge. Details regarding restrictions and the specific services included in each plan are located on <http://www.centurylink.com/home/internet/ease/>. Certain software used in connection with CenturyLink @Ease plans, which is owned by Company or its third party licensors, providers and suppliers (“Software”), and other portions of CenturyLink @Ease plans provided by third parties may require you to agree to additional terms and conditions or accept an end user license agreement (“EULA”) from Company or a third party. Your use of the Software and some services under the CenturyLink @Ease plans are governed by the terms of the EULA and/or other terms and conditions and by this Agreement, where applicable. You may not install or use any Software that is accompanied by or includes a EULA unless you first agree to the terms of the EULA and conditions related to some services under the CenturyLink @Ease plans at the time of installation or first use of those services.

Certain CenturyLink @Ease™ plan(s) include advanced home networking setup and maintenance Service as further described at <http://www.centurylink.com/home/internet/ease/> (“Advanced Service”), and for which the following additional terms and conditions apply:

- (1) Advanced Service is only available with those CenturyLink @Ease plans which specifically include it. Advanced Service is available to residential Customers only and must be purchased per physical location and per high-speed Internet line of service. Advanced Service is only available with networking equipment (e.g., modems and other wireless networking devices) leased from Company. Company certified technician results may vary, depending on a number of factors, including but not limited to, the type and condition of customer-provided software, equipment and other peripherals. Company will use reasonable efforts to connect customer devices to the network device. However, successful networking setup and maintenance are not guaranteed. Modem port forwarding may need to be configured for specific network devices. Configuration of network devices for specific functionality and demonstration of how to use network devices is not included in the Advanced Service.
- (2) Advanced Service does not include any items not specifically listed as included above, including without limitation:
  - Issues related to the establishment or use of a wireless fidelity (“WiFi”) hotspot.
  - Issues that exist prior to successful installation of networking equipment, establishment of an operating network, or prior to ordering Advanced Service.
  - Issues reported after the termination of Advanced Service.

- On-site support prior to successful installation of networking equipment and establishment of an operating network.
- Issues resulting from your intentional abuse, misuse, or negligence.
- Repair or replacement of any equipment or connections (whether Company certified or not), except as provided in the limited warranty provisions below.
- Installation of devices that are not part of the network, including without limitation fax machines, scanners, routers, hubs and switches.
- Support of a network that contains any devices not currently supported by Company.
- Support of a network on an operating system that does not meet Company's minimum system requirements.
- Security of your network and data.
- Issues with software, other than software support provided as part of your CenturyLink @Ease plan.
- Removal of viruses, spy ware, and ad ware, other than via PC Tune Up or one of the Norton™ products provided as part of your CenturyLink @Ease Plan.
- Configuration of network devices for specific functionality and demonstration of how to use network devices
- Printer drivers, cables to connect Customer equipment to the networking modem, NIC card or wireless equivalent.

B. Misuse or Abuse. Suspected misuse or abuse of any computer support may result in termination of your CenturyLink @Ease plan or any Advanced Service. Company reserves the right to limit the amount of time spent on any single issue and recommend the dispatch of an in-home technician, at additional costs to you, in order to resolve the issue, and may decline certain services or operations outside of the scope of your CenturyLink @Ease plan or any Advanced Service.

C. We may provide you, for a fee or at no charge, software for use in connection with the Service which is owned by Company or its third party licensors, providers and suppliers ("Software"). We reserve the right periodically to update, upgrade or change the Software remotely or otherwise and to make related changes to the settings and software on your computer or Equipment, and you agree to permit such changes and access to your computer and Equipment. You may use the Software only in connection with the Service and for no other purpose.

D. Certain Software may be accompanied by an end user license agreement ("EULA") from Company or a third party. Your use of the Software is governed by the terms of that EULA and by this Agreement, where applicable. You may not install or use any Software that is accompanied by or includes a EULA unless you first agree to the terms of the EULA.

E. For Software not accompanied by a EULA, you are hereby granted a revocable, non-exclusive, non-transferable license by Company or its applicable third party licensor(s) to use the Software (and any corrections, updates and upgrades thereto). You may not make any copies of the Software. You agree that the Software is confidential information of Company or its third party licensors and that you will not disclose or use the Software except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents, and proprietary information owned by Company or its third party licensors. You may not de-compile, reverse engineer, disassemble, attempt to discover any source code or underlying ideas or algorithms of the Software, otherwise reduce the Software to a human readable form, modify, rent, lease, loan, use for timesharing or service bureau purposes, reproduce, sublicense or distribute copies of the Software, or otherwise transfer the Software to any third party. You may not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software. You are not granted any title or rights of ownership in the Software. You acknowledge that this license is not a sale of intellectual property and that Company or its third party licensors continue to own all right, title and interest, including but not limited to all copyright, patent, trademark, trade secret, and moral rights, to the Software and related documentation, as well as any corrections, updates and upgrades to it. The Software may be used in the United States only, and any export of the Software is strictly prohibited.

F. Your license to use the Software or any Additional Services will remain in effect until terminated by Company or its third party licensors, or until your Service is terminated. Upon termination of your Service, you must cease all use of and immediately delete the Software from your computer.

G. If you subscribe to or otherwise use any third party services offered by Company, your use of such services is subject to the EULA of that third party provider. Violation of those terms may, in our sole discretion, result in the termination of your Service.

## **8. PRICING, CHANGES TO SERVICE PLANS AND PAYMENT.**

A. Prices and Fees; Billing. You agree to pay the monthly fees applicable to your Service, including any monthly usage charges, any additional per-usage charges, Equipment charges (including Equipment rental charges), Software charges, shipping and handling fees, applicable taxes, surcharges, recovery fees, telephone charges, activation fees, installation fees, set-up fees, applicable equipment charges, ETFs, and all other recurring and nonrecurring charges for your Service plan. The taxes, fees and other charges detailed in this section may vary on a monthly basis. Surcharges and recovery fees are not taxes and are not required by law, but are set by Company and may change. Taxes and government surcharges will be in the amounts that federal, state, and local authorities require or permit us to bill you. You agree to pay all taxes, surcharges, assessments, and other fees that are related to the Services and included on your bill, unless you are exempt from these payments and can provide documentary evidence of such exemption to us. In the event of conflict among prices and charges, the most-current prices and charges govern. You also agree to pay any additional charges or fees applied to your account, including interest and charges due to insufficient credit or insufficient funds. Non-recurring charges such as set up, activation and installation fees, and equipment charges, will be included in your first bill. Monthly Service recurring charges will be billed one month in advance; any usage charges will be billed in arrears. Based on your election and subject to our approval, Company or its agent will bill you directly, or bill your charge card or local Company telephone bill (where available). **IF YOU ELECT TO BE BILLED ON YOUR COMPANY PHONE BILL, BY USING THE SERVICES YOU AGREE TO HAVE ALL SERVICE CHARGES INCLUDED ON YOUR PHONE BILL.** Billing for Dial-up Service will automatically begin upon registration of your account. Billing for Broadband Services will automatically begin on the date provisioning of your Broadband Service is complete ("Service Ready Date"). Upon the expiration or termination of Services for any reason prior to the end of a billing cycle, we will charge you the full monthly recurring charges for Services during the billing cycle (along with all applicable nonrecurring charges, taxes, surcharges, and fees) and will not pro-rate these charges. If your monthly charges net to \$0, you may not be mailed a paper invoice. Invoice information will remain available in your account information or by calling us at the Company customer service number listed on your invoice, and an additional fee may be charged for invoice reprints.

B. Pricing Plans with Minimum Terms. You agree to maintain your Service for the one or two year term that applies to the plan you have selected (a "Term Plan"). Your Term Plan begins on the later of: (i) the date you change your existing Broadband Service plan to a Term Plan; or (ii) your Service Ready Date. At the end of any Term Plan you may be given the option to select a new Term Plan. If you do not select a new Term Plan, your Service will automatically convert to a month-to-month Service plan at a monthly fee that may be higher than your current rate. If you select a new Term Plan, the terms of that plan will apply.

C. Payment. You must pay all charges applicable to your Services, including all applicable taxes, fees, activation fees, and surcharges, in U.S. currency within 30 days of the invoice date. Any additional charges will be applied to the entire unpaid balance. If we don't receive your payment before the next billing cycle, you agree to pay any costs and expenses associated with our collections efforts, including attorneys' fees. We may charge you an insufficient funds or returned check fee, up to the maximum rate allowed by law, if your check, bank draft, electronic funds transfer, or other order for payment is dishonored or returned for insufficient funds or any other reason. Our acceptance of late or partial payment (even those marked, "PAID IN FULL") and late payment charges will not constitute waiver of any of our rights to collect the full amount due under this Agreement.

D. Discontinuation of Service for Nonpayment. We may discontinue your Service without notice if Service charges on your telephone bill or charge card are refused for any reason, or if you fail to make payment when due or to provide us with a new charge card expiration date before the existing date expires.

E. Billing Disputes. You must notify Company in writing within thirty (30) days from the date of the bill if you dispute any invoiced charge, otherwise such dispute will be deemed waived. You shall have no right to withhold, set off, or reduce any invoiced amount - whether disputed or undisputed. You accept all charges not disputed within 30 days. Company and you waive all rights of subrogation against each other in connection with Services. To dispute a charge on your invoice, you must follow the dispute procedures in this Agreement.

F. Late Fees. For each month in which any portion of your Service charges are not paid by the due date listed on your bill, Company may charge you a late fee on unpaid balances and may also terminate or suspend your Service without notice. Depending on the state where Company provides Services to you, the late fee is a combination of a flat amount (up to \$15.00 per month), and a fixed percentage on the total, unpaid amount of your bill (up to 5% per month in all states except Indiana, where the percentage is 10% on the first \$3 owed and then 3% on the remaining balance). If Company uses a collection agency or initiates any legal action to recover amounts due, you agree to reimburse us for all expenses we incur to recover such monies, including attorneys' fees.

G. Local Telephone, Toll and Long Distance Charges. COMPANY IS NOT RESPONSIBLE FOR ANY CHARGES, INCLUDING BUT NOT LIMITED TO, LONG DISTANCE AND METERED LOCAL OR TOLL CHARGES INCURRED WHEN YOU ACCESS THE SERVICE. YOU SHOULD CHECK WITH THE LOCAL PHONE COMPANY TO DETERMINE WHETHER A DIAL-UP NUMBER YOU HAVE SELECTED IS A LOCAL CALL FROM YOUR LOCATION AND WHETHER ANY CHARGES APPLY. COMPANY DOES NOT GUARANTEE THAT ANY DIAL-UP ACCESS NUMBERS WE PROVIDE WILL BE A LOCAL CALL FROM YOUR LOCATION. ADDITIONAL CHARGES, WHICH MAY BE SUBSTANTIAL, APPLY TO REMOTE DIAL UP ACCESS, WHICH IS AVAILABLE FROM CERTAIN LOCATIONS ONLY.

H. Credit Check; Refundable Deposit; Credit Limits. Our provision of Services to you is subject to our approval of your credit. You give us permission to check and verify your credit as needed in our sole discretion. We may require that you provide us with a refundable deposit, which will be specified at the time of your order ("Subscriber Deposit"). We may also require an additional deposit or advanced payment after activation of the Service at any time if you fail to pay any amounts when due or if we determine you are a credit risk at any time during your Service period with us. If you fail to pay for Services when due, we may, without providing notice to you, apply your deposit or advance payment to the amount owed. If you refuse to make a deposit or advance payment or otherwise establish credit as provided by applicable state law, we reserve the right to refuse to provide you Service. Within ninety (90) days after termination of your Service, we will return your Subscriber Deposit, less any unpaid amounts due on your account, including any amounts owed for unreturned or damaged Equipment. Amounts held on deposit will not accrue interest except as required by law. As we determine in our sole discretion and to the extent permitted by applicable law, we may set a credit limit on your account at any time. We may restrict the Services to which you have access if you exceed this credit limit.

## **9. TERMINATION OR SUSPENSION OF SERVICE.**

### **A. Termination of Service.**

(1) Broadband or Dial-up Subscribers with Month-to-Month Accounts. If you are a month-to-month Broadband Service or Dial-Up Service customer, either you or Company may terminate this Agreement any time by giving notice to the other as set forth in this Agreement. Termination by you will be effective upon your notice to us. Activation or set-up fees paid at the initiation of your Service, if any, are not refundable.

(2) Broadband Services and Pure Broadband Services with Term Plans; Early Termination Fee.

EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, IF YOUR BROADBAND SERVICE OR PURE BROADBAND SERVICE IS TERMINATED BY YOU OR BY US BEFORE COMPLETING YOUR TERM PLAN, THEN YOU AGREE TO PAY COMPANY THE FOLLOWING EARLY TERMINATION FEE: for all Broadband Services under a Term, an amount equal to the monthly recurring Service charge multiplied by the number of months remaining in the then-current Term, up to a maximum of \$200.00. If you terminate Service at your location, you may be able to carry over your existing Term Plan to a new Service location; ask your Company Customer Service representative for further details.

(3) Termination and/or Suspension by Company. Company reserves the right to change, limit, terminate, modify or temporarily or permanently cease providing the Service or any part of it with or without prior notice if we elect to change the Service or a part thereof or if you violate the terms of this Agreement. If Company terminates your Service under this Section 9(A)(3), you must immediately stop using the Service and you will be responsible for the applicable fees and/or Equipment charges set forth in Sections 8, 9(A)(1), and/or 9(A)(2). If your Service is reconnected, a reconnection fee may apply.

(4) Force Majeure. We will not be responsible for any delay, interruption, or other failure to perform under the Agreement due to acts beyond our control. Force majeure events include, but are not limited to: natural disasters (e.g. lightning, earthquakes, hurricanes, floods); wars, riots, terrorist activities, and civil commotions; inability to obtain parts or equipment from third party suppliers; cable cuts by third parties, a local exchange carrier's activities, and other acts of third parties; explosions and fires; embargoes, strikes, and labor disputes; and governmental decrees and any other cause beyond our reasonable control.

(5) Disconnection Timeline. It may take up to 30 days to disconnect your Services. Regardless of the reason for disconnection, you must pay all charges incurred until our disconnection of your Services. You will be charged the full monthly recurring charges for your Services and all other charges for the month in which your Services terminate. Promotional credits or discounts may not be provided on your final invoice. If you reinstate Services following cancellation or termination, we may require you to pay a deposit or an activation fee.

**B. Deletion of Data upon Termination.** YOU AGREE THAT IF YOUR SERVICE IS TERMINATED FOR ANY REASON, COMPANY HAS THE RIGHT TO IMMEDIATELY DELETE ALL DATA, FILES AND OTHER INFORMATION (INCLUDING EMAILS, ADDRESS BOOK AND WEB STORAGE CONTENT) STORED IN OR FOR YOUR ACCOUNT WITHOUT FURTHER NOTICE TO YOU.

**C. Return of Equipment upon Termination.** If your Service is terminated for any reason prior to the end of the first year of Service and you received Equipment at no charge from Company, you must return the Equipment to Company or you will be charged for the Equipment.

## **10. MANAGEMENT OF YOUR DATA AND COMPUTER.**

**A. Your Responsibilities Regarding Management of Your Computer and Data.** You are solely responsible for obtaining, maintaining and updating all equipment and software necessary to use the Service, and for management of your information, including but not limited to back-up and restoration of your data. YOU AGREE THAT COMPANY IS NOT RESPONSIBLE FOR THE LOSS OF YOUR DATA OR FOR THE BACK-UP OR RESTORATION OF YOUR DATA REGARDLESS OF WHETHER THIS DATA IS MAINTAINED ON OUR SERVERS OR YOUR DEVICE(S). YOU SHOULD ALWAYS BACK-UP ANY IMPORTANT INFORMATION SEPARATELY FROM DATA STORED ON COMPANY'S OR ANY THIRD PARTY'S SERVERS.

**B. Content and Data Management by Company.** We reserve the right to: (i) use, copy, display, store, transmit and reformat data transmitted over our network and to distribute such content to multiple Company servers for back-up and maintenance purposes; and (ii) block or remove any unlawful content

you store on or transmit to or from any Company server. We do not guarantee the protection of your content or data located on our servers or transmitted across our network (or other networks) against loss, alteration or improper access.

C. Your Responsibilities Regarding Security. You agree that you are solely responsible for maintaining the security of your computer(s) and data, including without limitation, encryption of data and protection of your User ID, password and personal and other data. WE STRONGLY RECOMMEND THE USE (AND APPROPRIATE UPDATING) OF COMMERCIAL ANTI-VIRUS, ANTI-SPYWARE AND FIREWALL SOFTWARE. You understand that it may be possible for unauthorized third parties to monitor data traffic. If you wish to secure your usage in connection with the Services, you have the obligation to obtain, at your own cost, encryption software or other transmission security protections. You assume full responsibility for the establishment of appropriate security measures to control or limit access to your information.

D. Monitoring of Network Performance by Company. Company automatically measures and monitors network performance and the performance of your Internet connection and our network. We also will access and record information about your computer and Equipment's profile and settings and the installation of software we provide. You agree to permit us to access your computer and Equipment and to monitor, adjust and record such data, profiles and settings for the purpose of providing the Services. You also consent to Company's monitoring of your Internet connection and network performance, and to our accessing and adjusting your computer settings, as they relate to the Services, Software, or other services, which we may offer from time to time. We do not share information collected for the purpose of network or computer performance monitoring or for providing customized technical support outside of Company or its authorized vendors, contractors and agents.

E. Internet Usage. Company gathers information about your Internet usage such as the sites visited, session lengths, bit rates, and number of messages and bytes passed. Company aggregates this information with similar information from other customers and may share such aggregated information with other, trusted third parties from time to time. Company also collects and uses such information obtained from you and from other sources for billing purposes, to provide and change Service, to anticipate and resolve problems with your Service, or to identify, create and inform you of products and services from Company or other companies that might be of interest to you. Except as otherwise provided, Company will not use or disclose any of your personally identifiable information unless compelled by a court order or subpoena, you specifically consent to the use or disclosure, or to protect its broadband services and facilities. When Company uses agents, contractors or other companies to perform services on its behalf, it will require that they protect your personally identifiable information in a manner consistent with this Agreement.

F. Location-Based Advertising. You may receive advertisements based on the geographic area associated with your IP address, unless you specifically opt-out at <http://LocationBasedAdvertising.Centurylink.com>. Company does not share your address or any personally identifiable information with advertisers and you will not see additional advertisements as a result of this program, but you may see advertisements that are more relevant to your geographic area.

**11. LIMITATIONS ON USE OF THE SERVICE.** At Company's sole discretion, failure to comply with the following subsections may result in immediate suspension or termination of Services.

A. You acknowledge and agree that Company: (1) is not responsible for invalid destinations, transmission errors, or the corruption of your data; and (2) does not guarantee your ability to access all websites, servers or other facilities or that the Service is secure or will meet your needs.

B. You will not restrict, inhibit, or engage in any conduct that prevents others from using the Internet or interferes with our ability to provide the Services including, but not limited to hacking, circumvention of user authentication or security of any host network, or account, use of any Company products and services, or any "denial of service" attacks (port scans, deliberate overload attempts, etc.).

C. You acknowledge that the Service will allow access to information which may be sexually explicit,

obscene or offensive, or otherwise unsuitable for children. You agree that the supervision of use of the Service by children is your responsibility and that Company is not responsible for access by you or any other users to objectionable or offensive content. COMPANY STRONGLY RECOMMENDS THE USE OF COMMERCIALY AVAILABLE CONTENT FILTERING SOFTWARE. You will not post or transmit any unlawful, threatening, abusive, libelous, defamatory, vulgar, obscene, indecent, profane, hateful, bigoted or otherwise objectionable information of any kind, including without limitation any transmissions, constituting or encouraging, conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, national or international law, including without limitation U.S. export control laws and regulations. You will not post or transmit any information or software that contains a virus, trojan horse, worm or other harmful component.

D. You are not authorized to use any Company name or mark as a hypertext link to any Company Web site or in any advertising, publicity or in any other commercial manner without the prior written consent of Company.

E. You agree that Company assumes no responsibility for the accuracy, integrity, quality completeness, usefulness or value of any Content, advice or opinions contained in any emails, message boards, chat rooms or community services, or in any other public services or social networks, and that Company does not endorse any advice or opinion contained therein, whether or not Company provides such service(s). Company does not monitor or control such services, although we reserve the right to do so.

F. You will not transmit, upload, post, submit, transmit, publish, reproduce, distribute, or in any way exploit any content, images or data obtained using the Service for commercial purposes, engage in any commercial or business activities using the Service, or use such data or content in a manner that violates copyright or trademark laws or any other third party's rights.

G. You will not send unsolicited e-mail causing complaints from the recipients of the unsolicited e-mail, send large quantities of unsolicited e-mail to individual e-mail accounts (a/k/a, spamming or mailbombing), make any unauthorized attempt to gain access to any account or computer resource not belonging to that user, or attempt to send e-mail or newsgroup articles or postings using a name or address of someone other than yourself, attempting to impersonate any person or using forged headers or other identifying information.

H. You will not run programs or servers that provide services to others through the Services which include web hosting, multi-user interactive forums, game servers, operating an internal mail/http/ftp/irc/dhcp server for external connections or supporting multi-user forums, or engage in excessive peer-to-peer file sharing activities.

I. Websites linked to or from the Service are not reviewed, controlled, or examined by Company and you acknowledge and agree that Company is not responsible for any losses you incur or claims you may have against the owner of third party websites. The inclusion of any linked websites or content from the Service, including websites or content advertised on the Service, does not imply endorsement of them by Company.

## **12. WARRANTIES AND LIMITATION OF LIABILITY.**

A. COMPANY PROVIDES ALL SERVICES, EQUIPMENT, AND SOFTWARE "AS IS" AND DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES RELATED TO THE SERVICES, EQUIPMENT, AND SOFTWARE, INCLUDING ANY IMPLIED WARRANTY OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT PROMISE UNINTERRUPTED OR ERROR-FREE SERVICE OR EQUIPMENT AND YOU AGREE TO HOLD EMBARQ HARMLESS FOR ALL SUCH PROBLEMS. NO ADVICE OR INFORMATION GIVEN BY COMPANY OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY WITH RESPECT TO ADVICE PROVIDED.

B. COMPANY DOES NOT WARRANT OR GUARANTEE THAT SERVICE CAN BE PROVISIONED

TO YOUR LOCATION, OR THAT PROVISIONING WILL OCCUR ACCORDING TO A SPECIFIED SCHEDULE, EVEN IF COMPANY HAS ACCEPTED YOUR ORDER FOR SERVICE. THE PROVISIONING OF SERVICE IS SUBJECT TO NETWORK AVAILABILITY, CIRCUIT AVAILABILITY, LOOP LENGTH, THE CONDITION OF YOUR TELEPHONE LINE AND WIRING INSIDE YOUR LOCATION, AND YOUR COMPUTER/DEVICE CONFIGURATION AND CAPABILITIES, AMONG OTHER FACTORS. IN THE EVENT YOUR LINE IS NOT PROVISIONED FOR ANY REASON, NEITHER YOU NOR COMPANY SHALL HAVE ANY DUTIES OR OBLIGATIONS UNDER THIS AGREEMENT (OTHER THAN YOUR OBLIGATION TO RETURN ANY COMPANY-PROVIDED EQUIPMENT).

C. UNDER NO CIRCUMSTANCES IS COMPANY LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES OF ANY NATURE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH PROVIDING OR FAILING TO PROVIDE SERVICES, EQUIPMENT OR SOFTWARE USED IN CONNECTION WITH THE SERVICES, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR REVENUE, LOSS OF OPPORTUNITY, OR COST OF REPLACEMENT SERVICES.

D. Company is not liable for any damages arising out of or in connection with any: (A) act or omission by you, or another person or company; (B) provision or failure to provide Services, Equipment, or Software, including deficiencies or problems with any Equipment or Software used in connection with the Services, the network or Services (for example, transmission failures, interruptions in Service, etc.); (C) Content or information accessed while using the Services or Equipment; or (D) interruption or failure in accessing or attempting to access Services or information through your use of the Services, including any failures caused by Equipment. IF, FOR ANY REASON, COMPANY IS FOUND TO BE RESPONSIBLE TO YOU FOR MONETARY DAMAGES RELATING TO ANY SERVICES, EQUIPMENT, OR SOFTWARE OBTAINED THROUGH COMPANY AND IF THIS LIMITATION IS FOUND TO BE UNENFORCEABLE FOR ANY REASON, YOU AGREE THAT ANY SUCH DAMAGES WILL NOT EXCEED A PRO RATA CREDIT FOR THE MONTHLY FEES (EXCLUDING ALL NONRECURRING CHARGES, REGULATORY FEES, SURCHARGES, FEES AND TAXES) YOU HAVE PAID TO COMPANY FOR THE AFFECTED SERVICE(S) DURING THE SIX (6) MONTH PERIOD PRIOR TO WHEN SUCH CLAIM AROSE.

E. ALL LIMITATIONS AND DISCLAIMERS STATED IN THIS SECTION ALSO APPLY TO COMPANY'S THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, AS THIRD PARTY BENEFICIARIES OF THIS AGREEMENT.

F. THE REMEDIES EXPRESSLY SET FORTH IN THIS AGREEMENT ARE YOUR SOLE AND EXCLUSIVE REMEDIES. YOU MAY HAVE ADDITIONAL RIGHTS UNDER CERTAIN LAWS (SUCH AS CONSUMER LAWS), WHICH DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY, OUR EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU.

### **13. INDEMNIFICATION.**

You agree to defend, indemnify and hold harmless the Company, its directors, officers, employees, affiliates, subsidiaries, agents, and their successors and assigns from and against all liabilities, costs and expenses, including reasonable attorneys' and experts' fees, related to or arising from your use of the Services, Equipment, or Software (or the use of your Services, Equipment, or Software by anyone else): (a) in violation of applicable laws, regulations or this Agreement; (b) to access the Internet or to transmit or post any message, information, software, images or other materials via the Internet; (c) in any manner that harms any person or results in the personal injury or death of any person or in damage to or loss of any tangible or intangible (including data) property; (d) claims for infringement of any intellectual property rights arising from or in connection with use of the Services, or (e) claims of incorrect or misleading information, libel, slander, invasion of privacy, or identity theft.

## 14. NOTICES.

A. Notices required under this Agreement by you must be provided to us at 100 CenturyTel Drive, Monroe, Louisiana 71203, Attention: Legal Department. Notice by Company to you (including notice of changes to this Agreement under Section 2) shall be deemed given when: (i) transmitted to your primary embarqmail.com email address; or (ii) mailed via the US mail or hand-delivered to your address on file with us; or (iii) when posted to the Company Website.

B. If you send us an email, you agree that the User ID and/or alias contained in the email is legally sufficient to verify you as the sender and the authenticity of the communication.

## 15. DISPUTE RESOLUTION

A. Dispute Process. If you have a dispute with us relating to any matter, you agree to first notify Company customer service at the number listed on your invoice or to write us at 5454 W. 110<sup>th</sup> Street, Overland Park, KS 66211, Attn: Assistant General Counsel - Commercial Law, in an attempt to resolve your dispute. You must describe your dispute with specificity and provide us with any supporting documentation. If we have a dispute with you, it will notify you in writing sent to your billing address in an attempt to resolve the dispute. If after following this process, either party is unable to resolve its dispute within 60 days of notifying the other party, either party may take the dispute to small claims court, if appropriate under applicable state or local rules or laws. Alternatively, either party may pursue the dispute only as set forth below.

B. MANDATORY ARBITRATION OF DISPUTES. INSTEAD OF SUING IN COURT, YOU AND COMPANY AGREE TO ARBITRATE ANY AND ALL CLAIMS, CONTROVERSIES OR DISPUTES OF ANY KIND ("CLAIMS") AGAINST EACH OTHER. THIS INCLUDES BUT IS NOT LIMITED TO CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, AS WELL AS CLAIMS ARISING OUT OF OR RELATING TO COMPANY'S SERVICES OR SOFTWARE, BILLING OR ADVERTISING, OR ARISING OUT OF OR RELATING TO EQUIPMENT YOU OR COMPANY MAY USE IN CONNECTION WITH COMPANY'S SERVICES. THE REQUIREMENT TO ARBITRATE APPLIES EVEN IF A CLAIM ARISES AFTER YOUR SERVICES HAVE TERMINATED; APPLIES TO ALL CLAIMS YOU MAY BRING AGAINST COMPANY'S EMPLOYEES, AGENTS, AFFILIATES OR OTHER REPRESENTATIVES; AND APPLIES TO ALL CLAIMS THAT COMPANY MAY BRING AGAINST YOU. THE FEDERAL ARBITRATION ACT, NOT STATE LAW, APPLIES TO THIS AGREEMENT AND ITS PROVISIONS AND, GOVERNS ALL QUESTIONS OF WHETHER A CLAIM IS SUBJECT TO ARBITRATION. THIS PROVISION DOES NOT PREVENT EITHER YOU OR COMPANY FROM BRINGING APPROPRIATE CLAIMS IN A SMALL CLAIMS COURT HAVING VALID JURISDICTION, OR BEFORE THE FEDERAL COMMUNICATIONS COMMISSION OR A STATE PUBLIC UTILITIES COMMISSION.

YOU AND COMPANY FURTHER AGREE THAT NEITHER COMPANY NOR YOU WILL JOIN ANY CLAIM WITH A CLAIM OR CLAIMS OF ANY OTHER PERSON(S) OR ENTITY(IES), WHETHER IN A LAWSUIT, ARBITRATION, OR ANY OTHER PROCEEDING. YOU AND COMPANY AGREE THAT NO CLAIMS WILL BE ASSERTED IN ANY REPRESENTATIVE CAPACITY ON BEHALF OF ANYONE ELSE, THAT NO CLAIMS WILL BE RESOLVED ON A CLASS-WIDE OR COLLECTIVE BASIS, THAT NO ARBITRATOR OR ARBITRATION FORUM WILL HAVE JURISDICTION TO ACCEPT OR DETERMINE ANY CLAIMS ON A CLASS-WIDE OR COLLECTIVE BASIS, AND THAT NO RULES FOR CLASS-WIDE OR COLLECTIVE ARBITRATION WILL APPLY. THIS PARAGRAPH AND EACH OF ITS PROVISIONS ARE INTEGRAL TO, AND NOT SEVERABLE FROM, THIS SECTION ON MANDATORY ARBITRATION OF DISPUTES.

A single arbitrator engaged in the practice of law will conduct the arbitration. The arbitration will be filed with and the arbitrator will be selected according to the rules of the CPR Institute for Dispute Resolution ("CPR") and 9 U.S.C. Sec. 1, et. seq. We agree to act in good faith in selecting an arbitrator. Except as

expressly provided in the preceding paragraph, the arbitration will be conducted by and under the then-applicable rules of CPR and United States Code, wherever the arbitration is filed or, if the arbitrator is chosen by mutual agreement of the parties, the then-applicable rules of CPR will apply unless the parties agree otherwise. All expedited procedures prescribed by the applicable rules will apply. We agree to pay our respective arbitration costs, except as otherwise required by rules of CPR, as applicable, but the arbitrator can apportion these costs as appropriate. The arbitrator's decision and award is final and binding, and judgment on the award may be entered in any court with jurisdiction.

IF FOR ANY REASON, THE ABOVE PROVISIONS ON ARBITRATION ARE HELD UNENFORCEABLE OR ARE FOUND NOT TO APPLY TO A CLAIM, YOU AND COMPANY AGREE TO WAIVE TRIAL BY JURY. If any party files a judicial or administrative action asserting a claim that is subject to arbitration and another party successfully stays such action or compels arbitration, the party filing that action must pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including attorneys' fees.

**Except as expressly provided above, if any portion of this Mandatory Arbitration of Disputes section is determined to be invalid or unenforceable, the remainder of the section remains in full force and effect.**

## 16. GENERAL PROVISIONS.

A. All obligations of the parties under this Agreement, which, by their nature, would continue beyond the termination of this Agreement, including without limitation, those relating to Limitation of Liability and Indemnification, shall survive such termination.

B. If required, you will provide reasonable cooperation to enable us or our agents to repair the Services, Equipment, and Software. You are responsible for damage to Company-owned Equipment, Software, and Services located on you premises, excluding reasonable wear and tear or damage we cause

**C. You and Company agree that the substantive laws of the State of Louisiana, without reference to its principles of conflicts of laws, will be applied to govern, construe and enforce all of the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement. YOU AND COMPANY CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION OF AND VENUE IN A COURT LOCATED IN OUACHITA PARISH, LOUISIANA FOR ANY SUITS OR CAUSES OF ACTION CONNECTED IN ANY WAY, DIRECTLY OR INDIRECTLY, TO THE SUBJECT MATTER OF THIS AGREEMENT OR TO THE SERVICE. Except as otherwise required by law, including Louisiana laws relating to consumer transactions, any cause of action or claim you may have with respect to the Services must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is barred.**

D. Company's failure at any time to insist upon strict compliance with any of the provisions of this Agreement shall not be construed to be a waiver of such terms in the future. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and the unenforceable portion shall be construed as nearly as possible to reflect the original intentions of the parties.

E. This Agreement, including all policies referred to herein and posted on the Company Website, constitutes the entire agreement between you and Company with respect to the subject matter hereto and supersedes any and all prior or contemporaneous agreements whether written or oral. No changes by you to this Agreement shall be effective unless agreed to in a writing signed by an authorized person at Company.