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## CARRIER-TO-CARRIER AGREEMENT CHECKLIST

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**INSTRUCTIONS:** Please complete all applicable parts of this form and submit it with related materials when filing a carrier-to-carrier agreement pursuant to 47 U.S.C. 252 and OAR 860-016-0000 et al. The Commission will utilize the information contained in this form to determine how to process the filing. **Unless you request otherwise in writing, the Commission will serve all documents related to the review of this agreement electronically to the e-mail addresses listed below.**

**1. PARTIES**                      *Requesting Carrier*    *Affected Carrier*

Name of Party:

Contact for Processing Questions:

Name:

Telephone:

E-mail:

Contact for Legal Questions (if different):

Name:

Telephone:

E-mail:

Other Persons wanting E-mail service of documents (if any):

Name:

E-mail:

**2. TYPE OF FILING**                      (Check all that apply. For example, parties seeking to adopt a previously approved agreement with new negotiated amendments should check both "Adoption" and "Amendment" categories.)

Adoption: Adopts interconnection agreement previously approved by the Commission.

Parties to prior agreement \_\_\_\_\_ & \_\_\_\_\_

Approved in Docket ARB \_\_\_\_\_, Order No(s). \_\_\_\_\_

- Does filing adopt amendments to base agreement previously approved by the Commission?

NO

YES, approved in Docket ARB \_\_\_\_\_, Order No(s). \_\_\_\_\_

New Agreement: Seeks approval of new negotiated agreement.

- Does this filing replace an agreement between the same parties that was previously approved by the Commission?

NO

YES, approved in Docket ARB \_\_\_\_\_, Order No(s). \_\_\_\_\_

Amendment: Amends an existing carrier-to-carrier agreement.

- If the original agreement was negotiated, has it been approved by Commission?

NO, decision pending in Docket ARB \_\_\_\_\_

YES, approved in Docket ARB \_\_\_\_\_, Order No(s). \_\_\_\_\_

- If original agreement was an adoption, what was its docket number? Docket ARB \_\_\_\_\_

Other: Please explain.

\_\_\_\_\_  
\_\_\_\_\_

**RESALE AGREEMENT**

**BETWEEN**

**CENTURYTEL OF EASTERN OREGON, INC.**

**AND**

**OREGON TRAIL INTERNET, INC.**

**FOR THE STATE OF OREGON**

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This Resale Agreement (the "Agreement"), is by and between CenturyTel of Eastern Oregon, Inc. with its address for purposes of this Agreement at 100 CenturyTel Drive, Monroe, Louisiana 71203 ("CenturyTel"), and Oregon Trail Internet, Inc., in its capacity as a certified Provider of Digital Subscriber Line ("DSL") service ("Oregon Trail"), with its address for this Agreement at 340 South Main Street, P. O. Box 974, Pendleton, Oregon 97801 (CenturyTel and Oregon Trail being referred to collectively as the "Parties" and individually as a "Party"). This Agreement covers services in the State of Oregon only (the "State").

WHEREAS, Section 251 of the Telecommunications Act of 1996 (the "Act") imposes specific obligations on LECs with respect to the resale of their telecommunications services;

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CenturyTel and Oregon Trail hereby covenant and agree as follows:



ARTICLE I  
SCOPE AND INTENT OF AGREEMENT

Pursuant to this Agreement, the Parties will extend certain arrangements to one another within each area in which they both operate within the State for the purchase of certain telecommunications services. This Agreement also governs the purchase by Oregon Trail of certain telecommunications services provided by CenturyTel in its franchise areas for resale by Oregon Trail. This Agreement is an integrated package that reflects a balancing of interests critical to the Parties. This Agreement will be submitted to the Oregon Public Service Commission (the "Commission") for approval. The Parties agree that their entrance into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements and/or matters related to CenturyTel's cost recovery covered in this Agreement. Oregon Trail agrees to negotiate reciprocal terms and conditions with CenturyTel based on this Agreement.

The services and facilities to be provided to Oregon Trail by CenturyTel in satisfaction of this Agreement may be provided pursuant to CenturyTel tariffs and then current practices. Should such services and facilities be modified by tariff or by Order, including any modifications resulting from other Commission proceedings, federal court review or other judicial action, and unless otherwise specified herein, such modifications will be deemed to automatically supersede any rates and terms and conditions of this Agreement. The Parties shall cooperate with one another for the purpose of incorporating required modifications into this Agreement.

ARTICLE II  
DEFINITIONS

1. General Definitions.

Except as otherwise specified herein, the following definitions shall apply to all Articles and Appendices contained in this Agreement. Additional definitions that are specific to the matters covered in a particular Article may appear in that Article. To the extent that there may be any conflict between a definition set forth in this Article II and any definition in a specific Article or Appendix, the definition set forth in the specific Article or Appendix shall control with respect to that Article or Appendix.

1.1 **Act**

The Telecommunications Act of 1996, Public Law 104-104 of the 104th United States Congress effective February 8, 1996.

1.2 **Affiliate**

A person, corporation or other legal entity that, directly or indirectly, owns or controls a Party, or is owned or controlled by, or is under common ownership or control with a Party.

1.3 **Applicable Law**

All laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, and approvals of any Governmental Authority, which apply or relate to the subject matter of this Agreement.

1.4 **As-Is Transfer (AIT)**

The transfer of all telecommunications services and features available for resale, that are currently being provided for a specific account, without the requirements of a specific enumeration of the services and features on the Local Service Request (LSR).

1.5 **Basic Local Exchange Service**

Voice grade access to the network that provides: the ability to place and receive calls; touch-tone service, access to operator services; access to directory assistance; access to emergency services (E911); access to telephone relay service (TRS); access to interexchange carriers of the customer's choice; standard white pages directory listing; and toll blocking for low-income consumers participating in Lifeline (subject to technical feasibility).

1.6 **Business Day**

Monday through Friday, except for holidays on which the U.S. mail is not delivered.

1.7 **Centralized Message Distribution System (CMDS)**

The billing record and clearing house transport system that the Regional Bell Operating Companies (RBOCs) and other incumbent LECs use to efficiently exchange out collects and in collects as well as Carrier Access Billing System (CABS) records.

1.8 **CLLI Codes**

Common Language Location Identifier Codes.

- 1.9 **Commission**  
The Oregon Public Service Commission.
- 1.10 **Competitive Local Exchange Carrier (CLEC)**  
Any company or person authorized to provide local exchange services in competition with an ILEC.
- 1.11 **Compliance**  
Environmental and safety laws and regulations based upon a federal regulatory framework, with certain responsibilities delegated to the States. An environmental/safety compliance program may include review of applicable laws/regulations, development of written procedures, training of employees and auditing.
- 1.12 **Currently Available**  
Existing as part of CenturyTel's network at the time of the requested order or service and does not include any service, feature, function or capability that CenturyTel either does not provide to itself or to its own end users, or does not have the capability to provide.
- 1.13 **Customer**  
CenturyTel or Oregon Trail, depending on the context and which Party is receiving the service from the other Party.
- 1.14 **Exchange Message Record (EMR)**  
An industry standard record used to exchange telecommunications message information among CLECs for billable, non-billable, sample, settlement and study data. EMR format is defined in BR-010-200-010 CRIS Exchange Message Record, published by Telcordia Technologies.
- 1.15 **Exchange Service**  
All basic access line services, or any other services offered to end users which provide end users with a telephonic connection to, and a unique telephone number address on, the Public Switched Telecommunications Network (PSTN), and which enable such end users to place or receive calls to all other stations on the PSTN.
- 1.16 **Facility**  
All buildings, equipment, structures and other items located on a single site or contiguous or adjacent sites owned or operated by the same persons or person as used in Article III, Section 0.
- 1.17 **FCC**  
The Federal Communications Commission.
- 1.18 **Generator**  
Under the Resource Conservation Recovery Act (RCRA), the person whose act produces a hazardous waste (40 CFR 261) or whose act first causes a hazardous waste to become subject to regulation. The generator is legally responsible for the proper management and disposal of hazardous wastes in accordance with regulations (see reference in Article III, Section 46).

- 1.19 **CenturyTel Guide**  
The CenturyTel Guide, which contains CenturyTel's operating procedures for ordering, provisioning, trouble reporting and repair for resold services. Except as specifically provided otherwise in this Agreement, service ordering, provisioning, billing and maintenance shall be governed by the Guide which may be amended from time to time by CenturyTel as needed.
- 1.20 **CTOC**  
CenturyTel Operating Company.
- 1.21 **Hazardous Chemical**  
As defined in the U.S. Occupational Safety and Health (OSHA) hazard communication standard (29 CFR 1910.1200), any chemical which is a health hazard or physical hazard.
- 1.22 **Hazardous Waste**  
As described in Resource Conservation Recovery Act (RCRA), a solid waste(s) which may cause, or significantly contribute to an increase in mortality or illness or pose a substantial hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed because of its quantity, concentration or physical or chemical characteristics.
- 1.23 **Imminent Danger**  
As described in the Occupational Safety and Health Act and expanded for environmental matters, any conditions or practices at a facility which are such that a danger exists which could reasonably be expected to cause death or serious harm or significant damage to the environment or natural resources.
- 1.24 **Incumbent Local Exchange Carrier (ILEC)**  
Any local exchange carrier that was as of February 8, 1996, deemed to be a member of the Exchange Carrier Association as set forth in 47 CFR §69.601(b) of the FCC's regulations.
- 1.25 **Interexchange Carrier (IXC)**  
A telecommunications service provider authorized by the FCC to provide interstate long distance communications services between LATAs and is authorized by the State to provide inter- and/or intraLATA long distance communications services within the State.
- 1.26 **Local Exchange Carrier (LEC)**  
Any company certified by the Commission to provide local exchange telecommunications service. This includes the Parties to this Agreement.
- 1.27 **Local Number Portability (LNP)**  
The ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

1.28 **Local Service Request (LSR)**

The industry standard form, which contains data elements and usage rules, used by the Parties to establish, add, change or disconnect resold services for the purposes of competitive local services.

1.29 **Local Traffic**

Traffic that is originated by an end user of one Party and terminates to the end user of the other Party within CenturyTel's then current local serving area, including mandatory local calling scope arrangements. A mandatory local calling scope arrangement is an arrangement that provides end users a local calling scope, Extended Area Service (EAS), beyond their basic exchange serving area. Local Traffic does not include optional local calling scopes (i.e., optional rate packages that permit the end user to choose a local calling scope beyond their basic exchange serving area for an additional fee), referred to hereafter as "optional EAS". Local Traffic excludes Enhanced Service Provider (ESP) and Internet Service Provider (ISP) traffic, including but not limited to Internet, 900-976, etc., and Internet Protocol based long distance telephony.

1.30 **911 Service**

A universal telephone number which gives the public direct access to the PSAP. Basic 911 service collects 911 calls from one or more local exchange switches that serve a geographic area. The calls are then sent to the correct authority designated to receive such calls.

1.31 **Numbering Plan Area (NPA)**

Also sometimes referred to as an area code, is the three digit indicator which is defined by the "A", "B", and "C" digits of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs". A Geographic NPA is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A Non-Geographic NPA, also known as a "Service Access Code" or "SAC Code" is typically associated with a specialized telecommunications service that may be provided across multiple geographic NPA areas. 800, 900, 700, and 888 are examples of Non-Geographic NPAs.

1.32 **NXX, NXX Code, Central Office Code or CO Code**

The three digit switch entity indicator that is defined by the "D", "E", and "F" digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 station numbers.

1.33 **Owner or Operator**

As used in OSHA regulations, owner is the legal entity, including a lessee, which exercises control over management and record keeping functions relating to a building or facility. As used in the Resource Conservation and Recovery Act (RCRA), operator means the person responsible for the overall (or part of the) operations of a facility (see reference in Article III, Section 0).

1.34 **Party/Parties**

CenturyTel and/or Oregon Trail.

- 1.35 **Provider**  
CenturyTel or Oregon Trail depending on the context and which Party is providing the service to the other Party.
- 1.36 **Subsidiary**  
A corporation or other legal entity that is majority owned by a Party.
- 1.37 **Telecommunications Services**  
The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- 1.38 **Third Party Contamination**  
Environmental pollution that is not generated by the LEC or Oregon Trail but results from off-site activities impacting a facility.
- 1.39 **Undefined Terms**  
Terms that may appear in this Agreement which are not defined. Parties acknowledge and agree that any such terms shall be construed in accordance with customary usage in the telecommunications industry as of the effective date of this Agreement.

ARTICLE III  
GENERAL PROVISIONS

1. Scope of General Provisions.

Except as may otherwise be set forth in a particular Article or Appendix of this Agreement, in which case the provisions of such Article or Appendix shall control, these General Provisions apply to all Articles and Appendices of this Agreement.

2. Term and Termination.

2.1 Term.

Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be for one (1) year from the Effective Date of this Agreement, and thereafter shall continue in effect for consecutive six (6) month terms unless either Party gives the other Party at least ninety (90) calendar days written notice of termination, which termination shall be effective at the end of the then-current term ("Termination Date"). In the event notice is given less than 90 calendar days prior to the end of the current term, this Agreement shall remain in effect for 90 calendar days after such notice is received, provided, that in no case shall the Termination Date be extended beyond 90 calendar days after the end of the current term.

2.2 Post-Termination Arrangements.

Except in the case of termination as a result of either Party's Default under Section 2.3 below, or a termination upon sale, pursuant to Section 2.4, for service arrangements made available under this Agreement and existing at the time of termination, those arrangements may continue:

- (a) As if under this Agreement, if either Party has requested negotiations for a new agreement pursuant to Sections 251 and 252 of the Act, (i) until this Agreement has been replaced by a new agreement, or (ii) for up to one hundred eighty (180) calendar days following the Termination Date, whichever is earlier.
- (b) If this Agreement is not continued pursuant to subsection (a) preceding under (i) a new agreement voluntarily executed by the Parties; (ii) standard terms and conditions approved and made generally effective by the Commission, if any; (iii) tariff terms and conditions made generally available to all Local Providers; or (iv) any rights under Section 252(i) of the Act.

2.3 Termination Upon Default.

Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party; *provided however*, that the non-defaulting Party notifies the defaulting party in writing of the alleged default and that the defaulting Party does not cure the alleged default within sixty (60) calendar days of receipt of written notice thereof. Default is defined to include:

- (a) A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party; or
- (b) A Party's refusal or failure in any material respect properly to perform its obligations under this Agreement, or the violation of any of the material terms or conditions of this Agreement.

2.4 Termination Upon Sale.

Notwithstanding anything to the contrary contained herein, a Party may terminate this Agreement as to a specific operating area or portion thereof if such Party sells or otherwise transfers the area or portion thereof. The selling or transferring Party shall provide the other Party with at least ninety (90) calendar days' prior written notice of such termination, which shall be effective on the date specified in the notice. Notwithstanding termination of this Agreement as to a specific operating area, this Agreement shall remain in full force and effect in the remaining operating areas.

2.5 Liability Upon Termination.

Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

3. Amendments.

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term "this Agreement" shall include future amendments, modifications, and supplements.

4. Assignment.

Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, a Subsidiary or Affiliate of that Party without consent, but with written notification. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party.

5. Authority.

Each person whose signature appears on this Agreement represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement. Each Party represents he or she has had the opportunity to consult with legal counsel of his or her choosing and Oregon Trail has not relied on CenturyTel counsel, pursuant to this Agreement.

6. Responsibility for Payment.

CenturyTel may charge Oregon Trail and Oregon Trail will pay CenturyTel a deposit before CenturyTel is required to perform under this agreement if Oregon Trail has not established a good payment history with CenturyTel. Such deposit will be calculated based on CenturyTel's estimated two-month charges to Oregon Trail using Oregon Trail's forecast of resale lines. Interest will be paid on the deposit in accordance with state requirements for end user deposits.

7. CLEC Profile.

Before orders can be taken, the CLEC Profile must be completed and returned; and, if required, an advanced deposit paid. Oregon Trail will provide CenturyTel with its Operating Company Number (OCN), Company Code (CC), and Customer Carrier Name Abbreviation (CCNA) as described in the CenturyTel Guide. Oregon Trail agrees to warrant to CenturyTel that it is a certified provider of telecommunications service. Oregon Trail will document its Certificate of



Operating Authority on the CLEC Profile and agrees to update this CLEC Profile as required to reflect its current certification.

8. Contact Exchange.

The Parties agree to exchange and to update contact and referral numbers for order inquiry, trouble reporting, billing inquiries, and information required to comply with law enforcement and other security agencies of the government.

9. Electronic Interface.

Electronic interface is not currently available.

10. Billing and Payment.

Oregon Trail and CenturyTel agree to exchange all information to accurately, reliably, and properly order and bill for features, functions and services rendered under this Agreement.

10.1 Back Billing.

Neither Party will bill the other Party for previously unbilled charges that are for more than one-year prior to the current billing date.

10.2 Dispute.

If one Party disputes a billing statement issued by the other Party, the billed Party shall notify Provider in writing regarding the nature and the basis of the dispute within six (6) months of the statement date or the dispute shall be waived. The Parties shall diligently work toward resolution of all billing issues.

10.3 Late Payment Charge.

If any undisputed amount due on the billing statement is not received by Provider on the payment due date, Provider shall calculate and assess, and Customer agrees to pay, at Provider's option, a charge on the past due balance at an interest rate equal to the amount allowed by the applicable CenturyTel state retail/local tariff, in accordance with the service ordered, or the maximum nonusurious rate of interest under applicable law. Late payment charges shall be included on the next statement.

10.4 Due Date.

Payment is due thirty (30) calendar days from the bill date.

10.5 Audits.

Either Party may conduct an audit of the other Party's books and records pertaining to the Services provided under this Agreement, no more frequently than once per twelve (12) month period, to evaluate the other Party's accuracy of billing, data and invoicing in accordance with this Agreement. Any audit shall be performed as follows: (i) following at least thirty (30) Business Days' prior written notice to the audited Party; (ii) subject to the reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense; (iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations; and (vi) in compliance with the audited Party's security rules.

11. Binding Effect.

This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

12. Capacity Planning and Forecasting.

Within thirty (30) days from the effective date of this Agreement, the Parties agree to have met and developed joint planning and forecasting responsibilities that are applicable to Local Services. CenturyTel may delay processing Oregon Trail service orders should the Parties not perform obligations as specified in this Section 12. Such responsibilities shall include but are not limited to the following:

- 12.1 The Parties will establish periodic reviews of network and technology plans and will notify one another no later than six (6) months in advance of changes that would impact either Party's provision of services.
- 12.2 Oregon Trail will furnish to CenturyTel information that provides for facility/demand forecasts.

13. Compliance with Laws and Regulations.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

14. Confidential Information.

14.1 Identification.

Either Party may disclose to the other proprietary or confidential customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information"). In order for information to be considered Confidential Information under this Agreement, it must be marked "Confidential" or "Proprietary," or bear a marking of similar import. Orally or visually disclosed information shall be deemed Confidential Information only if contemporaneously identified as such and reduced to writing and delivered to the other Party with a statement or marking of confidentiality within thirty (30) calendar days after oral or visual disclosure.

Notwithstanding the foregoing, preorders and all orders for services placed by Oregon Trail pursuant to this Agreement, and information that would constitute customer proprietary network information of Oregon Trail end user customers pursuant to the Act and the rules and regulations of the FCC, as well as recorded usage information with respect to Oregon Trail end users, whether disclosed by Oregon Trail to CenturyTel or otherwise acquired by CenturyTel in the course of its performance under this Agreement.

14.2 Handling.

In order to protect such Confidential Information from improper disclosure, each Party agrees:

- (a) That all Confidential Information shall be and shall remain the exclusive property of the source;
- (b) To limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information for performance of this Agreement;

- (c) To keep such Confidential Information confidential and to use the same level of care to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;
- (d) Not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the source;
- (e) To return promptly any copies of such Confidential Information to the source at its request; and
- (f) To use such Confidential Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the Parties in writing.

14.3 Exceptions.

These obligations shall not apply to any Confidential Information that was legally in the recipient's possession prior to receipt from the source, was received in good faith from a third party not subject to a confidential obligation to the source, now is or later becomes publicly known through no breach of confidential obligation by the recipient, was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source, or that is required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction, provided, however, that the recipient shall give prior notice to the source and shall reasonably cooperate if the source deems it necessary to seek protective arrangements.

14.4 Survival.

The obligation of confidentiality and use with respect to Confidential Information disclosed by one Party to the other shall survive any termination of this Agreement for a period of three (3) years from the date of the initial disclosure of the Confidential Information.

15. Consent.

Where consent, approval, or mutual agreement is required of a Party, it shall not be conditional, unreasonably withheld, or delayed.

16. Fraud.

Oregon Trail assumes responsibility for all fraud associated with its end-user customers and accounts. CenturyTel shall bear no responsibility for, nor is it required to investigate or make adjustments to Oregon Trail's account in cases of fraud.

17. Reimbursement of Expenses.

In performing under this Agreement CenturyTel may be required to make expenditures or otherwise incur costs that are not otherwise reimbursed under this Agreement. In such event CenturyTel is entitled to reimbursement from Oregon Trail for all such costs. For all such costs and expenses CenturyTel shall receive through NRCs the actual costs and expenses incurred, including labor costs and expenses, overhead and fixed charges, and may include a reasonable contribution to CenturyTel's common costs.

18. Dispute Resolution.

18.1 Alternative to Litigation.

Except as provided under Section 252 of the Act with respect to the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedures as the sole remedy with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

18.2 Negotiations.

At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.

18.3 Arbitration.

If the negotiations do not resolve the dispute within sixty (60) Business Days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association except that the Parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) Business Days of the demand for arbitration. The arbitration shall be held in a mutually agreeable city. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

18.4 Expedited Arbitration Procedures.

If the issue to be resolved through the negotiations referenced in Section 18.2 directly and materially affects service to either Party's end-user customers, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to

binding arbitration shall be five (5) Business Days. Once such a service affecting dispute is submitted to arbitration, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., rules 53 through 57).

18.5 Costs.

Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party the costs of production of documents (including search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.

18.6 Continuous Service.

The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure, and the Parties shall continue to perform their obligations (including making payments in accordance with Article IV, Section 4 ) in accordance with this Agreement.

19. Entire Agreement.

This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

20. Expenses.

Except as specifically set out in this Agreement, each Party shall be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

21. Force Majeure.

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); *provided however*, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease.

22. Good Faith Performance.

In the performance of their obligations under this Agreement, the Parties shall act in good faith. In situations in which notice, consent, approval or similar action by a Party is permitted or required by any provision of this Agreement, such action shall not be conditional, unreasonably withheld or delayed.

23. Governing Law.

This Agreement shall be governed by and construed in accordance with the Telecommunications Act of 1996, applicable federal and (to the extent not inconsistent therewith) domestic laws of the state where the services are provided or the facilities reside and shall be subject to the exclusive jurisdiction of the courts therein.

24. Standard Practices.

The Parties acknowledge that CenturyTel shall be adopting some industry standard practices and/or establishing its own standard practices to various requirements hereunder applicable to the CLEC industry which may be added in the Guide. Oregon Trail agrees that CenturyTel may implement such practices to satisfy any CenturyTel obligations under this Agreement.

25. Headings.

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

26. Independent Contractor Relationship.

The persons provided by each Party shall be solely that Party's employees and shall be under the sole and exclusive direction and control of that Party. They shall not be considered employees of the other Party for any purpose. Each Party shall remain an independent contractor with respect to the other and shall be responsible for compliance with all laws, rules and regulations involving, but not limited to, employment of labor, hours of labor, health and safety, working conditions and payment of wages. Each Party shall also be responsible for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as Social Security, unemployment, workers' compensation, disability insurance, and federal and state withholding. Each Party shall indemnify the other for any loss, damage, liability, claim, demand, or penalty that may be sustained by reason of its failure to comply with this provision.

27. Law Enforcement Interface.

27.1 Except to the extent not available in connection with CenturyTel's operation of its own business, CenturyTel shall provide seven day a week/twenty-four hour a day assistance to law enforcement persons for emergency traps, assistance involving emergency traces and emergency information retrieval on customer invoked CLASS services.

27.2 CenturyTel agrees to work jointly with Oregon Trail in security matters to support law enforcement agency requirements for taps, traces, court orders, etc. Charges for providing such services for Oregon Trail customers will be billed to Oregon Trail.

27.3 CenturyTel will, in non emergency situations, inform the requesting law enforcement agencies that the end-user to be wire tapped, traced, etc. is an Oregon Trail Customer and shall refer them to Oregon Trail.

27.4 Subsequent to the execution and approval of this Agreement by the Commission, the parties shall establish a separate contract or authorization agreement specific to the Nuisance Call Bureau (NCB) and Security Control Center (SCC) for CLEC procedures, which will be in compliance with applicable state and federal laws.

28. Liability and Indemnity.

28.1 Indemnification.

Subject to the limitations set forth in Section 28.4 of this Article III, each Party agrees to release, indemnify, defend, and hold harmless the other Party from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for losses, damages, or destruction of property, whether or not owned by others, proximately caused by the indemnifying Party's negligence or willful misconduct, regardless of form of action. The indemnified Party agrees to notify the other Party promptly, in writing, of any written claims, lawsuits, or demands for which it is claimed that the indemnifying Party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of claims. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof. The indemnifying Party shall not be liable under this Section for settlement by the indemnified Party or any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.

28.2 End-User and Content-Related Claims.

The Indemnifying Party agrees to release, indemnify, defend, and hold harmless the other Party, its affiliates, and any third-party provider or operator of facilities involved in the provision of services or Facilities under this Agreement (collectively, the "Indemnified Party") from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by the Indemnifying Party's end-users against an Indemnified Party arising from Services or Facilities. The Indemnifying Party further agrees to release, indemnify, defend, and hold harmless the Indemnified Party from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by any third party against an Indemnified Party arising from or in any way related to actual or alleged defamation, libel, slander, interference with or misappropriation of proprietary or creative right, or any other injury to any person or property arising out of content transmitted by the Indemnifying Party and the Indemnified Party or such Party's end-users, or any other act or omission of the Indemnified Party or such Party's end-users.

28.3 DISCLAIMER.

EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES TO CUSTOMER CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES OR FACILITIES PROVIDED UNDER THIS AGREEMENT. PROVIDER DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

28.4 Limitation of Liability.

Each Party's liability, whether in contract, tort or otherwise, shall be limited to direct damages, which shall not exceed the monthly charges, plus any related costs/expenses CenturyTel may recover, including those under Section 17 above, and plus any costs/expenses for which the Parties specify reimbursement in this Agreement for the services or facilities for the month during which the claim of liability arose. Under no circumstance shall either Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or any accessories attached thereto, delay, error, or loss of data. Should either Party provide advice, make recommendations, or supply other analysis related to the services or facilities described in this Agreement, this limitation of liability shall apply to provision of such advice, recommendations, and analysis.

28.5 Intellectual Property.

Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other based on or arising from any claim, demand, or proceeding by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision or use of any facilities by either Party under this Agreement constitutes direct or contributory infringement, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any third party.

29. Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

30. No Third Party Beneficiaries.

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

31. Notices.

Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally, on the date receipt is acknowledged in writing by the recipient if delivered by regular U.S. mail, or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Upon prior immediate oral agreement of the parties' designated recipients identified below, notice may also be provided by facsimile, Internet or electronic messaging system, which shall be effective if sent before 5:00 p.m. on that day, or if sent after 5:00 p.m. it will be effective on the next Business Day following the date sent. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable address or Internet ID indicated below or such address as the Party to be notified has designated by giving notice in compliance with this section:



If to CenturyTel:  
CenturyTel, Inc.  
Attention: Carrier Relations  
100 Century Park Drive  
Monroe, LA 71203  
Telephone number: (318) 388-9000  
Facsimile number: (318) 388-9072

With a copy to:

Western Region Manager  
CenturyTel of Eastern Oregon, Inc.  
P. O. Box 9901  
Vancouver, WA 98668  
Telephone number: (360) 905-6900  
Facsimile number: (360) 905-6811

If to Oregon Trail:

Oregon Trail Internet, Inc.  
Attention: Mr. Steve Winterton  
340 South Main Street  
P. O. Box 974  
Pendleton, OR 97801  
Telephone number: (541) 278-5113  
(541) 278-8829  
Facsimile number: (541) 276-1200

32. Protection.

32.1 Impairment of Service.

The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and concurring carriers involved in its services, cause damage to its plant, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities or create hazards to the employees of either Party or to the public (each hereinafter referred to as an "Impairment of Service").

32.2 Resolution.

If either Party causes an Impairment in Service, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of Service (the "Impairing Party") of the nature and location of the problem and that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, then the Impaired Party may at its option temporarily discontinue the use of the affected circuit, facility or equipment.

33. Publicity.

Any news release, public announcement, advertising, or any form of publicity pertaining to this Agreement, provision of Services or Facilities pursuant to it, or association of the Parties with respect to provision of the services described in this Agreement shall be subject to prior written approval of both CenturyTel and Oregon Trail.

34. Regulatory Agency Control.

This Agreement shall at all times be subject to changes, modifications, orders, and rulings by the Federal Communications Commission and/or the applicable state utility regulatory commission to the extent the substance of this Agreement is or becomes subject to the jurisdiction of such agency.

35. Changes in Legal Requirements.

CenturyTel and Oregon Trail further agree that the terms and conditions of this Agreement were composed in order to effectuate the legal requirements in effect at the time the Agreement was produced. Any modifications to those requirements will be deemed to automatically supersede any terms and conditions of this Agreement.

36. Effective Date.

This Agreement will be effective only upon execution by both Parties and approval by the Commission in accordance with Section 252 of the Act. The "effective date" of this Agreement for all purposes will be as established by the Commission approval order. The Parties agree orders for services will not be submitted or accepted within the first ten (10) business days after the agreement is effective.

37. Regulatory Matters.

Each Party shall be responsible for obtaining and keeping in effect all FCC, state regulatory commission, franchise authority and other regulatory approvals that may be required in connection with the performance of its obligations under this Agreement.

If either Party does not provide necessary filing materials within 90 days of execution of this Agreement, any contract signatures will no longer be effective. If both Parties determine to proceed with filing, negotiations between the Parties will resume.

38. Rule of Construction.

No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

39. Section References.

Except as otherwise specified, references within an Article of this Agreement to a Section refer to Sections within that same Article.

40. Severability.

If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be unenforceable, the rest of the Agreement shall remain in full force and effect and shall not be affected unless removal of that provision results, in the opinion of either Party, in a material change to this Agreement. If a material change as described in this paragraph occurs as a result of action by a court or regulatory agency, the Parties shall negotiate in good faith for replacement language. If replacement language cannot be agreed upon within a reasonable period, either Party may terminate this Agreement without penalty or liability for such termination upon written notice to the other Party.

41. Subcontractors.

Provider may enter into subcontracts with third parties or affiliates for the performance of any of Provider's duties or obligations under this Agreement.

42. Subsequent Law.

The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, or regulations that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed law, rule, or regulation, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, or regulation.

43. Taxes.

Any state or local excise, sales, or use taxes (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes is placed upon the other Party. The collecting Party shall charge and collect from the obligated Party, and the obligated Party agrees to pay to the collecting Party, all applicable taxes, except to the extent that the obligated Party notifies the collecting Party and provides to the collecting Party appropriate documentation as CenturyTel requires that qualifies the obligated Party for a full or partial exemption. Any such taxes shall be shown as separate items on applicable billing documents between the Parties. The obligated Party may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such Party shall not permit any lien to exist on any asset of the other Party by reason of the contest. The collecting Party shall cooperate in any such contest by the other Party. The other Party will indemnify the collecting Party from any sales or use taxes that may be subsequently levied on payments by the other Party to the collecting Party.

43.1 Tax.

A charge which is statutorily imposed by the state or local jurisdiction and is either (a) imposed on the seller with the seller having the right or responsibility to pass the charge(s) on to the purchaser and the seller is responsible for remitting the charge(s) to the state or local jurisdiction or (b) imposed on the purchaser with the seller having an obligation to collect the charge(s) from the purchaser and remit the charge(s) to the state or local jurisdiction.

Taxes shall include but not be limited to: federal excise tax, state/local sales and use tax, state/local utility user tax, state/local telecommunication excise tax, state/local gross receipts tax, and local school taxes. Taxes shall not include income, income-like, gross receipts on the revenue of a Provider, or property taxes. Taxes shall not include payroll withholding taxes unless specifically required by statute or ordinance.

43.2 Fees/Regulatory Surcharges.

A charge imposed by a regulatory authority, other agency, or resulting from a contractual obligation, in which the seller is responsible or required to collect the fee/surcharge from the purchaser and the seller is responsible for remitting the charge to the regulatory authority, other agency, or contracting party.

Fees/Regulatory Surcharges shall include but not be limited to E-911/911, E311/311, franchise fees, and Commission surcharges.

44. Trademarks and Trade Names.

Except as specifically set out in this Agreement, nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever.

45. Waiver.

The failure of either Party to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to it under this Agreement, shall not be construed as a waiver of such provision or any provisions of this Agreement, and the same shall continue in full force and effect.

46. Environmental Responsibility.

46.1 Oregon Trail is responsible for compliance with all laws regarding the handling, use, transport, storage, and disposal of, and for all hazards created by and damages or injuries caused by, any materials brought to or used at the Facility by Oregon Trail. In accordance with Section 46.10, Oregon Trail will indemnify CenturyTel for all claims, fees, penalties, damages, and causes of action with respect to these materials. No new safety or environmental hazards shall be created or new hazardous substances shall be used at a CenturyTel Facility. Oregon Trail must demonstrate adequate training and emergency response capabilities related to materials brought to, used, or existing at the CenturyTel Facility.

46.2 Oregon Trail, its invitees, agents, employees, and contractors agree to comply with such reasonable environmental or safety practices/procedures, whether or not required by law, as requested by CenturyTel when working at a CenturyTel Facility. The Parties acknowledge and agree that nothing in this Agreement or in any of CenturyTel's practices/procedures constitutes a warranty or representation by CenturyTel that Oregon Trail's compliance with CenturyTel's practices/procedures, with this Agreement, or with CenturyTel's directions or recommendations will achieve compliance with any applicable law. Oregon Trail is responsible for ensuring that all activities conducted by Oregon Trail at the Facility are in accordance with all applicable federal, state, and local laws, regulations, permits, and agency orders, approvals, and authorizations relating to safety, health, and the environment.

46.3 CenturyTel and Oregon Trail shall provide to each other notice of known and recognized physical hazards or hazardous substances brought to, used, or existing at the CenturyTel Facility. Each Party is required to promptly provide specific notice of conditions or circumstances potentially posing a threat of imminent danger, including, by way of example only, a defective utility pole or any petroleum contamination in a manhole.

46.4 Oregon Trail shall obtain and use its own environmental permits, approvals, or identification numbers to the extent that such permits, approvals, or identification numbers are required under applicable laws. If the relevant regulatory authority refuses to issue a separate permit, approval, or identification number to Oregon Trail after a complete and proper request by Oregon Trail for same, then CenturyTel's permit, approval, or identification number may be used as authorized by law and upon prior approval by CenturyTel. In that case, Oregon Trail must comply with all of CenturyTel's environmental, health, and safety practices/procedures relating to the activity in question, including, but not limited to, use of environmental "best management practices (BMP)" and selection criteria for vendors and disposal sites. The Parties acknowledge and agree that nothing in this Agreement, use of CenturyTel's permits, approvals, or identification numbers, or compliance with CenturyTel's practices/procedures constitutes a representation or warranty that Oregon Trail's activities will be in compliance with applicable laws, and such compliance or use of CenturyTel's permits, approvals, or identification numbers creates no right of action against CenturyTel.

46.5 If Third Party Contamination is discovered at a CenturyTel Facility, the Party uncovering the contamination must timely notify the proper safety or environmental authorities, to the extent that such notification is required by applicable law. If Oregon Trail discovers Third Party Contamination, Oregon Trail will immediately notify CenturyTel and will consult with

CenturyTel prior to making any required notification, unless the time required for prior consultation would preclude Oregon Trail from complying with an applicable reporting requirement.

- 46.6 CenturyTel and Oregon Trail shall coordinate plans or information required to be submitted to government agencies, such as, by way of example only, emergency response plans and chemical inventory reporting. For fees associated with such filings, CenturyTel and Oregon Trail must develop a cost sharing procedure.
- 46.7 When conducting operations in any CenturyTel manhole or vault area, Oregon Trail shall follow appropriate practices/procedures in evaluating and managing any water, sediment, or other material present in the manhole or vault area so as to ensure compliance with all applicable laws, regulations, permits, and requirements applicable in such circumstances and to ensure safe practices. Oregon Trail shall not disturb building materials containing hazardous substances prior to space or power accessibility. CenturyTel must approve any contracts or agreements to move the materials prior to disturbing the building materials. Oregon Trail shall be responsible for obtaining any permit, regulatory approval, or identification number necessary for any of its operations involving the evaluation, collection, discharge, storage, disposal, or other management of water, sediment, or other material present in a CenturyTel manhole or vault area. CenturyTel shall not be responsible for any costs incurred by Oregon Trail in meeting its obligations under this Section.
- 46.8 Oregon Trail shall provide reasonable and adequate compensation to CenturyTel for any additional or increased costs associated with compliance with any federal, state, or local law, regulation, permit, or agency requirement related to safety, health, or the environment where such additional or increased cost is incurred as a result of providing Oregon Trail with interconnection or collocation, including, but not limited to, costs associated with obtaining appropriate permits or agency authorizations or approvals, remediation or response to any release or threatened release of any regulated substance, investigation or testing related, and training or notification requirements.
- 46.9 Activities impacting safety or the environment of a Right of Way (ROW) must be harmonized with the specific agreement and the relationship between CenturyTel and the land owner. In this regard, Oregon Trail must comply with any limitations associated with a ROW, including, but not limited to, limitations on equipment access due to environmental conditions (e.g., wetland areas having equipment restrictions).
- 46.10 Notwithstanding Section 28, with respect to environmental responsibility under this Section 46, CenturyTel and Oregon Trail shall each indemnify, defend, and hold harmless the other Party from and against any claims (including, without limitation, third-party claims for personal injury or real or personal property damage), judgments, damages (including direct and indirect damage and punitive damages), penalties, fines, forfeitures, cost, liabilities, interest and losses arising from or in connection with (a) the indemnifying Party's negligent or willful misconduct, regardless of form; (b) the violation or alleged violation of any federal, state, or local law, regulation, permit, or agency requirement relating to safety, health, or the environment; or (c) the presence or alleged presence of contamination arising out of the indemnifying Party's acts or omissions concerning its operations at the CenturyTel Facility; it being the parties' express intention that Oregon Trail shall be strictly liable for liabilities arising under parts (b) and (c) of this Section 46.10.

47. TBD Prices.

Numerous provisions in this Agreement and its Attachments refer to pricing principles. If a provision references prices in an Attachment and there are no corresponding prices in such Attachment, such price shall be considered "To Be Determined" (TBD). With respect to all TBD

prices, prior to Oregon Trail ordering any such TBD item, the Parties shall meet and confer to establish a price. If the Parties are unable to reach agreement on a price for such item, an interim price shall be set for such item that is equal to the price for the nearest analogous item for which a price has been established. Any interim prices so set shall be subject to modification by any subsequent decision of the Commission. If an interim price is different from the rate subsequently established by the Commission, any underpayment shall be paid by Oregon Trail to CenturyTel, and any overpayment shall be refunded by CenturyTel to Oregon Trail, within 45 Business Days after the establishment of the price by the Commission.

ARTICLE IV  
GENERAL RULES GOVERNING RESOLD SERVICES

1. General.

General regulations, terms and conditions governing rate applications, technical parameters, service availability, definitions and feature interactions, as described in the appropriate CenturyTel intrastate local, toll and access tariffs, apply to retail services made available by CenturyTel to Oregon Trail for resale provided by CenturyTel to Oregon Trail, when appropriate, unless otherwise specified in this Agreement. As applied to services offered under this Agreement, the term "Customer" contained in the CenturyTel Retail Tariff shall be deemed to mean "Oregon Trail" as defined in this Agreement.

2. Liability of CenturyTel.

2.1 Inapplicability of Tariff Liability.

CenturyTel's general liability, as described in the CenturyTel Retail Tariff, does not extend to Oregon Trail's customers or any other third party. Liability of CenturyTel to Oregon Trail resulting from any and all causes arising out of services, facilities, or any other items relating to this Agreement shall be governed by the liability provisions contained in this Agreement and no other liability whatsoever shall attach to CenturyTel. CenturyTel shall be liable for the individual services, facilities or elements that it separately provides to Oregon Trail and shall not be liable for the integration of components combined by Oregon Trail.

2.2 Oregon Trail Tariffs or Contracts.

Oregon Trail shall, in its tariffs or other contracts for services provided to its end-users using services or, facilities obtained from CenturyTel, provide that in no case shall CenturyTel be liable to Oregon Trail's end-users or any third parties for any indirect, special or consequential damages, including, but not limited to, economic loss or lost business or profits, whether foreseeable or not, and regardless of notification by Oregon Trail of the possibility of such damages and Oregon Trail shall indemnify and hold CenturyTel harmless from any and all claims, demands, causes of action and liabilities based on any reason whatsoever from its customers as provided in this Agreement. Nothing in this Agreement shall be deemed to create a third-party beneficiary relationship with Oregon Trail's end-users.

2.3 No Liability for Errors.

CenturyTel is not liable for mistakes that appear in CenturyTel's listings, 911 and other information databases, or for incorrect referrals of end-users to Oregon Trail for any ongoing Oregon Trail service, sales or repair inquiries, and with respect to such mistakes or incorrect referrals, Oregon Trail shall indemnify and hold CenturyTel harmless from any and all claims, demands, causes of action and liabilities whatsoever, including costs, expenses and reasonable attorney's fees incurred on account thereof, by third parties, including Oregon Trail's end-users or employees. For purposes of this Section 2.3, mistakes and incorrect referrals shall not include matters arising out of the willful misconduct of CenturyTel or its employees or agents.

3. Unauthorized Changes.

3.1 Procedures.

If Oregon Trail submits an order for service(s) under this Agreement in order to provide DSL service to an end-user that at the time the order is submitted is obtaining its DSL services from CenturyTel Internet Services, LLC or another provider of DSL services, and the end-user notifies CenturyTel that the end-user did not authorize Oregon Trail to provide DSL services to the end-user, Oregon Trail must provide CenturyTel with written documentation of authorization from that end-user within thirty (30) Business Days of notification by CenturyTel. If Oregon Trail cannot provide written documentation of authorization within such time frame, Oregon Trail must within three (3) Business Days thereafter:

- (a) notify CenturyTel to change the end-user back to the provider of DSL service to the end-user before the change to Oregon Trail was made; and
- (b) provide any end-user information and billing records Oregon Trail has obtained relating to the end-user to the provider previously serving the end-user; and
- (c) notify the end-user and CenturyTel that the change back to the previous provider has been made.

Furthermore, CenturyTel will bill Oregon Trail fifty dollars (\$50.00) per affected line to compensate CenturyTel for switching the end-user back to the original provider.

4. Impact of Payment of Charges on Service.

Oregon Trail is solely responsible for the payment of all charges for all services and furnished under this Agreement, including, but not limited to, calls originated or accepted at its or its end-users' service locations. If Oregon Trail fails to pay when due any and all charges billed to Oregon Trail under this Agreement, including any late payment charges (collectively, "Unpaid Charges"), and any or all such charges remain unpaid more than forty-five (45) calendar days after the bill date of such Unpaid Charges excepting previously disputed charges for which Oregon Trail may withhold payment, CenturyTel shall notify Oregon Trail in writing that it must pay all Unpaid Charges to CenturyTel within seven (7) Business Days. If Oregon Trail disputes the billed charges, it shall, within said seven (7) day period, inform CenturyTel in writing of which portion of the Unpaid Charges it disputes, including the specific details and reasons for the dispute, unless such reasons have been previously provided, and shall immediately pay to CenturyTel all undisputed charges. If Oregon Trail and CenturyTel are unable, within thirty (30) Business Days thereafter, to resolve issues related to the disputed charges, then either Oregon Trail or CenturyTel may file a request for arbitration under Article III of this Agreement to resolve those issues. Upon resolution of any dispute hereunder, if Oregon Trail owes payment it shall make such payment to CenturyTel with any late payment charge under Article III, Section 10.3, from the original payment due date. If Oregon Trail owes no payment, but has previously paid CenturyTel such disputed payment, then CenturyTel shall credit such payment including any late payment charges. If Oregon Trail fails to pay any undisputed Unpaid Charges, Oregon Trail shall, at its sole expense, within five (5) Business Days notify its end-users that their service may be disconnected for Oregon Trail's failure to pay Unpaid Charges, and that its end-users must select a new provider of DSL services. CenturyTel may discontinue service to Oregon Trail upon failure to pay undisputed charges as provided in this Section 4, and shall have no liability to Oregon Trail or Oregon Trail's end-users in the event of such disconnection. If Oregon Trail fails to provide such notification or any of Oregon Trail's end-users fail to select a new provider of services within the applicable time period, CenturyTel or another provider may provide DSL services to Oregon Trail's end-users under CenturyTel's applicable tariff at the then current charges for the services



being provided. In this circumstance, otherwise applicable service establishment charges will not apply to Oregon Trail's end-user, but will be assessed to Oregon Trail.

5. Unlawful Use of Service.

Services or facilities provided by CenturyTel pursuant to this Agreement shall not be used by Oregon Trail or its end-users for any purpose in violation of law. Oregon Trail, and not CenturyTel, shall be responsible to ensure that Oregon Trail and its end-users use of services or provided hereunder comply at all times with all applicable laws. CenturyTel may refuse to furnish service to Oregon Trail or disconnect particular services or facilities provided under this Agreement to Oregon Trail or, as appropriate, Oregon Trail's end-user when (i) an order is issued by a court of competent jurisdiction finding that probable cause exists to believe that the use made or to be made of the service or , facilities is prohibited by law or (ii) CenturyTel is notified in writing by a law enforcement agency acting within its jurisdiction that any facility furnished by CenturyTel is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of law. Termination of service shall take place after reasonable notice is provided to Oregon Trail, or as ordered by the court. If facilities have been physically disconnected by law enforcement officials at the premises where located, and if there is not presented to CenturyTel the written finding of a court, then upon request of Oregon Trail and agreement to pay restoral of service charges and other applicable service charges, CenturyTel shall promptly restore such service.

6. Timing of Messages.

With respect to CenturyTel resold measured rate local service(s), chargeable time begins when a connection is established between the calling station and the called station. Chargeable time ends when the calling station "hangs up," thereby releasing the network connection. If the called station "hangs up" but the calling station does not, chargeable time ends when the network connection is released by automatic timing equipment in the network.

7. Procedures for Preordering, Ordering, Provisioning, Etc.

Certain procedures for preordering, ordering, provisioning, maintenance and billing for many of these functions are governed by the CenturyTel Guide. In accordance with Article III, Section 7, CenturyTel will not process resale orders until the Oregon Trail Profile has been completed and returned; and, if required, an advanced deposit paid. The Parties agree that they will use a manual service order process throughout the term of the contract and that there will be no charge for such service.

8. Letter of Authorization

8.1 CenturyTel will not release the Customer Service Record (CSR) containing Customer Proprietary Network Information (CPNI) to Oregon Trail on CenturyTel end-user customer accounts unless Oregon Trail first provides to CenturyTel a written Letter of Authorization (LOA). Such LOA may be a blanket LOA or other form agreed upon between CenturyTel and Oregon Trail authorizing the release of such information to Oregon Trail or if state or federal law provides otherwise, in accordance with such law.

8.2 An LOA will be required before CenturyTel will process an order for Services provided in cases in which the subscriber currently receives Exchange Service from CenturyTel or from a local service provider other than Oregon Trail. Such LOA may be a blanket LOA or such other form as agreed upon between CenturyTel and Oregon Trail.

9. Customer Contacts.

Except as otherwise provided in this Agreement or as agreed to in a separate writing by Oregon Trail, Oregon Trail shall provide the exclusive interface with Oregon Trail's end-user customers in connection with the marketing or offering of Oregon Trail services. Except as otherwise provided in this Agreement, in those instances in which CenturyTel personnel are required pursuant to this Agreement to interface directly with Oregon Trail's end-users, such personnel shall not identify themselves as representing CenturyTel. All forms, business cards or other business materials furnished by CenturyTel to Oregon Trail end-users shall be generic in nature. In no event shall CenturyTel personnel acting on behalf of Oregon Trail pursuant to this Agreement provide information to Oregon Trail end-users about CenturyTel products or services unless otherwise authorized by Oregon Trail.

ARTICLE V  
RESALE OF SERVICES

1. General.

The purpose of this Article V is to define the Exchange Services and other Services (collectively referred to for purposes of this Article V as the "Services") that may be purchased from CenturyTel and resold by Oregon Trail and the terms and conditions applicable to such resold Services. Except as specifically provided otherwise in this Agreement, provisioning of Exchange Services for resale will be governed by the CenturyTel Guide.

2. Terms and Conditions.

2.1 Restrictions on Resale.

The following restrictions shall apply to the resale of retail services by Oregon Trail.

2.1.1 Oregon Trail shall not resell to one class of customers a service that is offered by CenturyTel only to another class of customers in accordance with state requirements (e.g., R-1 to B-1, disabled services or lifeline services to non-qualifying customers).

2.1.2 Oregon Trail shall not resell lifeline services and services for the disabled.

2.1.3 Oregon Trail shall not resell promotional offerings of 90 days or less in duration. These promotional offerings are not available to Oregon Trail for resale. CenturyTel will apply any applicable resale discount to the ordinary rate for a retail service rather than the special promotional rate.

2.2 Resale to Other Carriers.

Services available for resale may not be used by Oregon Trail to provide access to the local network as an alternative to tariffed switched and special access by other carriers, including, but not limited to; interexchange carriers, wireless carriers, competitive access providers, or other retail telecommunications providers.

3. Ordering and Billing.

3.1 Service Ordering, Service Provisioning, and Billing.

Oregon Trail will order services for resale directly from CenturyTel through United States Mail or facsimile. The following describes generally the processes CenturyTel will use for ordering, provisioning and billing for resold services. Except as specifically provided otherwise in this Agreement, service ordering, provisioning, billing and maintenance shall be governed by the CenturyTel Guide.

3.2 Local Service Request.

Orders for resale of services will be placed utilizing standard LSR forms. CenturyTel will continue to participate in industry forums for developing service order/disconnect order formats and will incorporate appropriate industry standards. Complete and accurate forms (containing the requisite end-user information as described in the Guide) must be provided by Oregon Trail before a request can be processed.

3.3 Certificate of Operating Authority.

When ordering, Oregon Trail must represent and warrant to CenturyTel that it is a certified provider of telecommunications services. Oregon Trail will provide a copy of its Certificate of Operating Authority or other evidence of its status to CenturyTel upon request.

3.4 Nonrecurring Charges.

Oregon Trail shall be responsible for the payment of all nonrecurring charges (NRCs) applicable to resold Services (e.g., installation, changes, ordering charges) as listed in Appendix A. In addition, NRCs for Field Service work (Installation/Repair requiring on site visits) will be charged from the appropriate tariff. No discount applies to nonrecurring charges.

3.5 Transfers Between Oregon Trail and Another Reseller of CenturyTel Services.

When Oregon Trail has obtained an end-user customer from another reseller of CenturyTel services, Oregon Trail will inform CenturyTel of the transfer by submitting standard LSR forms to CenturyTel.

3.5.1 CenturyTel cannot accept an order for AIT of service from one CLEC reselling CenturyTel services to another reseller of CenturyTel services.

3.6 Local Calling Detail.

Except for those Services and in those areas where measured rate local service is available to end-users, monthly billing to Oregon Trail does not include local calling detail. However, Oregon Trail may request and CenturyTel shall consider developing the capabilities to provide local calling detail in those areas where measured local service is not available for a mutually agreeable charge.

3.7 Originating Line Number Screening (OLNS).

Upon request, CenturyTel will update the database to provide OLNS which indicates to an operator the acceptable billing methods for calls originating from the calling number (e.g., penal institutions, COCOTS).

4. Maintenance.

4.1 Maintenance, Testing and Repair.

CenturyTel will provide repair and maintenance services to Oregon Trail and its end-user customers for resold services in accordance with the same standards and charges used for such services provided to CenturyTel end-user customers. CenturyTel will not initiate a maintenance call or take action in response to a trouble report from a Oregon Trail end-user until such time as trouble is reported to CenturyTel by Oregon Trail. Oregon Trail must provide to CenturyTel all end-user information necessary for the installation, repair and servicing of any facilities used for resold services according to the procedures described in the Guide.

5. Services Available for Resale.

5.1 Description of Services Available for Resale.

Resold services are limited to the following elements:

- (a) Local area data private line

- (a) Network access line connection
- (b) Line conditioning

5.2 Rates.

The prices charged to Oregon Trail for Local Services shall be calculated as follows:

5.2.1 Avoided Cost Discount as shown in Appendix A shall apply to only to those services available for resale as set forth in Section 5.1 herein. The Avoided Cost Discount shall not apply to those services listed in Section 2.1, Section 2.2, and Section 3.4 herein.

5.2.2 The discount dollar amount calculated under Section 5.2.1 above will be deducted from the retail rate.

5.2.3 The resulting rate is the resale rate.

5.3 Grandfathered Services.

Services identified in CenturyTel Tariffs as grandfathered in any manner are available for resale only to end-user customers that already have such grandfathered service. An existing end-user customer may not move a grandfathered service to a new service location. Grandfathered Services are subject to a resale discount.

5.4 Access.

CenturyTel retains all revenue due from other carriers for access to CenturyTel facilities, including both switched and special access charges.

ARTICLE VI  
COORDINATED SERVICE ARRANGEMENTS

1. Information Services Traffic.

1.1 Routing.

Each Party shall route traffic for Information Services (i.e., 900-976, Internet, weather lines, sports providers, etc.) which originates on its network to the appropriate Information Service Platform.

1.2 Billing and Collection and Information Service Provider (ISP) Remuneration.

1.2.1 In the event CenturyTel performs switching of ISP traffic associated with resale for Oregon Trail, CenturyTel shall provide to Oregon Trail the same call detail records that CenturyTel records for its own end-users, so as to allow Oregon Trail to bill its end-users. CenturyTel shall not be responsible or liable to Oregon Trail or ISP for Billing and Collection and/or any receivables of Information Service Providers.

1.2.2 Notwithstanding and in addition to Article III, Section 28, CenturyTel shall be indemnified and held harmless by Oregon Trail from and against any and all suits, actions, losses, damages, claims, or liability of any character, type, or description, including all expenses of litigation and court cost which may arise as a result of the provisions contained in this Article VI, Section 1.2. The indemnity contained in this section shall survive the termination of this Agreement, for whatever reason.

1.2.3 CenturyTel agrees to notify Oregon Trail in writing within ten (10) Business Days, by registered or certified mail at the address specified in Article III, Section 31, of any claim made against CenturyTel on the obligations indemnified against pursuant to Article VI, Section 1.2.2.

1.2.4 It is understood and agreed that the indemnity provided for in this Article VI, Section 1 is to be interpreted and enforced so as to provide indemnification of liability to CenturyTel to the fullest extent now or hereafter permitted by law.

ARTICLE VII  
SIGNATURE PAGE

IN WITNESS WHEREOF, each Party has executed this Agreement to be effective upon approval by the Commission in accordance with Section 252 of the Act. The "effective date" of this Agreement for such purposes will be established by the Commission approval order.

**CenturyTel of Eastern Oregon, Inc.**

**Oregon Trail Internet, Inc.**

By \_\_\_\_\_

By \_\_\_\_\_

Name Carrick B. Inabnett

Name \_\_\_\_\_

Title Corporate Manager – Carrier Relations

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

APPENDIX A

SERVICES AVAILABLE FOR RESALE

General. The rates for resold services described in Article V, Section 5.2 are based upon an avoided cost discount from CenturyTel's retail rates as provided in Article V, Section 5.3 of the Agreement. The avoided cost discount is based upon CenturyTel's most current available cost studies and is subject to change resulting from future Commission or other proceedings, including but not limited to any generic proceeding to determine CenturyTel's unrecovered costs (e.g., historic costs, contribution, undepreciated reserve deficiency, or similar unrecovered CenturyTel's costs), or any appeal or other litigation.

**Avoided Cost Discount**

The Avoided Cost Discount is 8%.

<u>Service</u>	<u>Monthly Rate</u>	<u>Non-Recurring Charges</u>
Local area data private line	\$ 6.00	\$200.00
Network access line connection		\$ 34.50
Conditioning (per leg)	<u>\$ 17.00</u>	<u>\$ 25.00</u>
Total charges per leg	\$ 23.00	\$259.50
Total charges per end user (2 legs)	\$ 46.00	<b><u>\$519.00</u></b>
(Less Avoided Cost Discount (8%))	<u>(\$ 3.68)</u>	N/A
Wholesale pricing	<b><u>\$ 42.32</u></b>	N/A